

EXHIBIT E



MAYOR & COUNCIL COMMUNICATION

October 26, 2010

Subject: **PUBLIC HEARING** – C8-10-07 Amendment to the City's Land Use Code (LUC) Related to Medical Marijuana (City Wide)

Page: 1 of 3

Issue – This item is for public hearing and consideration for adoption by the Mayor and Council. On September 8, 2010, Mayor and Council directed staff to prepare a Land Use Code amendment to address medical marijuana dispensaries and cultivation locations as contemplated by Proposition 203, the Arizona Medical Marijuana Act, appearing on the November 2, 2010, statewide ballot. The proposed amendment will allow medical marijuana dispensaries and cultivation in certain commercial and industrial zones and will establish performance criteria, including, but not limited to, setbacks from schools, churches, and other locations and maximum size limits of a dispensary and a cultivation location.

City Manager's Office Recommendation – It is recommended that the Mayor and Council adopt the proposed LUC text amendment.

Planning Commission's Recommendation – The Planning Commission voted unanimously to forward this LUC amendment to the Mayor and Council with a recommendation for approval. A copy of the recommendation letter from the Planning Commission is attached (Attachment A).

Background – The provisions of Proposition 203, the Arizona Medical Marijuana Act, A.R.S. § 36-2806.01, an initiative on the November 2, 2010 general election ballot, allows Cities and Counties to enact reasonable zoning regulation of medical marijuana dispensaries and cultivation locations. Medical marijuana dispensaries and medical marijuana cultivation locations are not currently a permitted use in the City of Tucson and are not addressed by any regulations of the Tucson Land Use Code.

The proposed amendment will regulate the use of property as a medical marijuana dispensary or medical marijuana cultivation location in the event the provisions of Proposition 203, the Arizona Medical Marijuana Act, are approved and become law.

September 8, 2010 – The Mayor and Council held a study session and directed staff to prepare a Land Use Code amendment to address medical marijuana dispensaries and cultivation locations.

September 22, 2010 – The Planning Commission discussed the proposed amendment during a Study Session and set the item for public hearing.

October 6, 2010 - The Planning Commission heard testimony and discussed the proposed amendment during a public hearing. At the close of the public hearing the Planning Commission unanimously recommended that the proposed ordinance be forwarded to the Mayor and Council for their consideration with a recommendation for ordinance adoption.

OCT26-10-488(2)

PUBLIC HEARING – C8-10-07 Amendment to the City's Land Use Code (LUC) Related to Medical Marijuana (City Wide)

Present Considerations - The proposed amendment will allow the addition of a new land use class for medical marijuana dispensaries and cultivation locations in Article II *Zones*, Divisions 5, *Commercial Zones*, and Division 7, *Industrial Zones* and provide new regulations and review processes. The amendment also includes a new definition for medical marijuana dispensaries, medical marijuana dispensary off-site cultivation locations, medical marijuana qualifying patient cultivation locations and medical marijuana designated caregiver cultivation locations in Article VI *Definitions*, Division 3 *Land Use Groups* and new performance criteria for medical marijuana dispensaries and cultivation locations in Article III *Development Regulations*, Division 5 *Performance Criteria*. A medical marijuana dispensary and a medical marijuana cultivation location will be considered a new land use class in the Retail Trade Use Group in the Tucson Land Use Code.

A medical marijuana dispensary will be allowed in the C-2 and C-3 commercial zones and a medical marijuana cultivation location will be allowed in the C-2 and C-3 commercial zones in conjunction with a medical marijuana dispensary and in the I-1 and I-2 Industrial zones as an off-site medical marijuana cultivation location. A medical marijuana dispensary will be allowed up to 2500 square feet of gross floor area (including up to 500 square feet of secure storage area) with a minimum separation of 2000 feet from any other medical marijuana dispensary or licensed residential substance abuse diagnostic and treatment facility or other licensed drug or alcohol rehabilitation facility and a 1000 foot separation from a public, private or charter school, licensed childcare center, church, library or public park, and shall comply with all applicable health regulations including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency. A medical marijuana cultivation location will be allowed up to 3000 square feet of gross floor area (including up to 1000 square feet of secure storage area) and will be required to meet similar separation requirements as a medical marijuana dispensary, except that a medical marijuana cultivation location may be located in conjunction with a medical marijuana dispensary.

Stakeholder Input – The Tucson Police Department has worked with staff on establishing the recommended criteria and supports the proposed amendment. City staff also coordinated with Pima County and other surrounding jurisdictions and used the proposed Pima County ordinance as a basis for the proposed City amendment.

Financial Considerations – N/A

Operating Cost and Maintenance Input – N/A

MAYOR AND COUNCIL COMMUNICATION
PUBLIC HEARING – C8-10-07 Amendment to the City's Land
Use Code (LUC) Related to Medical Marijuana (City Wide)

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Legal Considerations – The City Attorney has reviewed the LUC text amendments and prepared the attached ordinance.

Respectfully submitted,



for

Richard Miranda
Deputy City Manager

RM:Ernie Duarte/CLG
Planning & Development Services Department

Attachments: A: Planning Commission Recommendation Letter
Ordinance

OCT26-10-488(2)

October 6, 2010



City of Tucson
Planning & Development
Services

Planning Commission

The Honorable Mayor and
Members of the Council
City of Tucson
P.O. Box 27210
Tucson, AZ 85726-7210

SUBJECT: Land Use Code Amendment – Medical Marijuana

On October 6, 2010, a public hearing was held before the Planning Commission to discuss a proposed amendment to the Land Use Code concerning zoning regulations regarding medical marijuana distribution and cultivation contemplated by proposed Proposition 203.

At the public hearing, staff presented an overview of the proposed amendments. Thirteen (13) people spoke at the public hearing including representatives and supporters of the medical marijuana initiative and representatives of the Pima County Attorney's Office and the Tucson Police Department.

RECOMMENDATION

Following closure of the public hearing, the Planning Commission unanimously voted to forward the item to Mayor and Council with a recommendation for approval of the proposed amendments, with the following changes:

1. That the separation between a medical marijuana dispensary or off-site cultivation location and a licensed residential substance abuse diagnostic and treatment facility or other licensed drug or alcohol rehabilitation facility be increased from 1000 feet to 2000 feet;
2. That when health department regulations are promulgated by Arizona Department of Health Services and/or Pima County Health Department all City review procedures prior to permitting medical marijuana uses verify Arizona Department of Health Services and/or Pima County Health Department approval prior to the issuance of a City Permit. That it is not necessary or desirable that this procedural requirement be added to the Land use Code; and
3. That the ordinance be returned to the Planning Commission in one (1) year to review the effectiveness of the ordinance and consideration of any needed changes.

FINDINGS

It is necessary to prepare for the possibility that Proposition 203, The Arizona Medical Marijuana Act becomes law.

These proposed Land Use Code amendments are necessary for the protection of the Public Health, Safety and Welfare in order to restrict or prohibit those uses of land in the City of Tucson for the purposes of medical marijuana dispensaries and medical marijuana cultivation facilities as well as home cultivation of medical marijuana.

The proposed Land Use Code amendments will reasonably limit the uncontrolled proliferation of medical marijuana dispensaries and cultivation sites in the City.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Lavaty', with a long horizontal flourish extending to the right.

Rick Lavaty, Chair
Planning Commission



MAYOR & COUNCIL COMMUNICATION

November 23, 2010

Subject: C8-10-07 Amendment to the City's Land Use Code (LUC)
Related to Medical Marijuana (Continued from the meeting of
November 9, 2010) (City Wide)

Page: 1 of 3

Issue – This item is continued from October 26, 2010. The Mayor and Council held a Public Hearing on that day. Twelve individuals spoke at the Public Hearing. All spoke in favor of some level of regulation of medical marijuana dispensaries. Several speakers recommended changes to the proposed Land Use Code ordinance language. Many speakers felt that there was sufficient time to review the language and make appropriate modifications.

The Mayor and Council closed the Public Hearing. No action was taken in order for Council Members to meet individually with some of the speakers. Additionally, some Council Members also expressed a desire to consult further with the Police Chief on the matter.

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City Manager's Office Recommendation – It is recommended that the Mayor and Council adopt the proposed LUC text amendment.

Planning Commission's Recommendation – The Planning Commission voted unanimously to forward this LUC amendment to the Mayor and Council with a recommendation for approval. A copy of the recommendation letter from the Planning Commission is attached (Attachment A).

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The proposed amendment will regulate the use of property as a medical marijuana dispensary or medical marijuana cultivation location in the event the provisions of Proposition 203, the Arizona Medical Marijuana Act, are approved and become law.

NOV23-10-526

September 8, 2010 – The Mayor and Council held a study session and directed staff to prepare a Land Use Code amendment to address medical marijuana dispensaries and cultivation locations.

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October 6, 2010 - The Planning Commission heard testimony and discussed the proposed amendment during a public hearing. At the close of the public hearing the Planning Commission unanimously recommended that the proposed ordinance be forwarded to the Mayor and Council for their consideration with a recommendation for ordinance adoption.

Present Considerations - The proposed amendment will allow the addition of a new land use class for medical marijuana dispensaries and cultivation locations in Article II *Zones*, Divisions 5, *Commercial Zones*, and Division 7, *Industrial Zones* and provide new regulations and review processes. The amendment also includes a new definition for medical marijuana dispensaries, medical marijuana dispensary off-site cultivation locations, medical marijuana qualifying patient cultivation locations and medical marijuana designated caregiver cultivation locations in Article VI *Definitions*, Division 3 *Land Use Groups* and new performance criteria for medical marijuana dispensaries and cultivation locations in Article III *Development Regulations*, Division 5 *Performance Criteria*. A medical marijuana dispensary and a medical marijuana cultivation location will be considered a new land use class in the Retail Trade Use Group in the Tucson Land Use Code.

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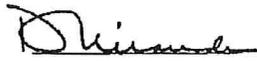
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Financial Considerations – N/A

Operating Cost and Maintenance Input – N/A

Legal Considerations – The City Attorney has reviewed the LUC text amendments and prepared the attached ordinance.

Respectfully submitted,



Richard Miranda
Deputy City Manager

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