

**FINAL MINUTES  
REGULAR PLANNING COMMISSION MEETING  
MAY 11, 2010  
CORTE MADERA TOWN HALL  
CORTE MADERA**

**COMMISSIONERS**

**PRESENT:**

Chair Bruce Mace  
Commissioner Patrick Pagnillo  
Commissioner Richard Esteb  
Commissioner Sloan Bailey

**STAFF**

**PRESENT:**

Dan Bell, Interim Planning Director  
Nancy Salcedo, Minute Recorder

**1. OPENING**

**A. Call to Order**

**B. Pledge of Allegiance**

**C. Roll Call**

All Commissioners were present with the exception of Commissioner Peter Schwartz.

**2. PUBLIC COMMENT:** None

**3. CONSENT CALENDAR:** None

**4. CONTINUED HEARINGS:** None

**5. NEW HEARINGS**

**A. AMENDMENT TO THE MUNICIPAL CODE TO ALLOW A MEDICAL MARIJUANA DISPENSARY LICENSE IN THE M (LIGHT INDUSTRIAL) ZONING DISTRICT)** - To consider a recommendation to the Town Council to regulate Medical Marijuana Dispensaries through a new Licensing Ordinance and amending the Zoning Ordinance to allow Medical Marijuana Dispensary in the M (Light Industrial District) as a Permitted Use with approval of an Operating License and repealing Section 18.02.110 of the Zoning Ordinance. (Planner: Dan Bell.)

Interim Planning Director Bell presented the staff report. He explained that in 1996 California voters adopted Proposition 215 entitled the Compassionate Use Act to ensure

that seriously ill patients have the right to use medical marijuana for medical purposes. It ensured that patients upon a physician's recommendation would not be subject to criminal prosecution. In 2003 Senate Bill 420, the Medical Marijuana Program Act was adopted by the California legislature. The bill developed a voluntary program for the issuance of statewide identification cards. In August 2008 the Attorney General adopted the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Purposes, intended for the lawful operation of a Cooperative or Collective to lawfully distribute medical marijuana to qualified patients.

Two dispensaries have opened without authorization at Tamal Plaza in Corte Madera, known as Going Green and Marin Holistic Solutions. Both businesses obtained Town business licenses only after improperly describing their businesses on the Business License Application. Presently the Zoning Ordinance does not allow Medical Marijuana Dispensaries. They are not listed as Permitted or Conditional uses in any Zoning District, and the use is specifically precluded in Section 18.02.110 of the Zoning Ordinance, since such use is technically in violation of federal law.

The Town Council has been advised of the two dispensaries. The Council has directed the Town Attorney to draft a License Ordinance for discussion purposes which specifies terms and conditions for the issuance of a Medical Marijuana Dispensary operating license. This is a separate License Ordinance, and would not be part of the Town's Zoning Ordinance. If this Ordinance were adopted, Medical Marijuana Dispensaries would be listed as a Permitted Use in the M District with the approval of an Operating License.

Attachment 1 of the staff report includes the Draft Ordinance developed by the Town Attorney. Exhibit A of the Draft Ordinance includes the specific operating regulations and application procedures. The staff report included a summary of the proposed operating regulations which were developed by the Town Attorney after reviewing standards from other jurisdictions, SB 420, the Attorney General's Guidelines and input from the Twin Cities Police Department.

Attachments 6 and 7 are letters drafted from the attorneys of both Going Green and Marin Holistic Solutions in response to the Draft Ordinance. Attachment 8 is a MEMORANDUM from the Town Attorney in response to Attachments 6 and 7. The Draft Ordinance itself was slightly modified as a result of the memorandum.

Bell explained that the Commission's responsibility this evening is to make a recommendation to the Town Council who has the authority to adopt or deny any amendment to the Municipal Code and the Zoning Ordinance. The Commission shall make a specific finding as to whether the Zoning Ordinance amendment is consistent with objectives of the Zoning Ordinance and with the General Plan. If the Commission

finds that the amendment is consistent, it shall transmit a report in writing to the Town Council recommending that the amendment be adopted and that Medical Marijuana Dispensaries be added to the list of permitted uses in the M District. required findings per Section 18.36.090 must be made.

The report could also include feedback and recommendations regarding the proposed terms and conditions of the Operating License. Staff will draft the necessary report in the form of Resolution and present it to the Planning Commission Chairman for signature.

If the Commission favors recommending that the Town Council not approve the Draft Ordinance and Zoning Ordinance Amendments, a report shall be transmitted that includes the necessary Findings per Section 18.36.090. Staff will draft the necessary report in the form of a Resolution and present it to the Planning Commission Chairman for signature.

Staff has received three faxes regarding the proposal. One is from David Wright, a client of one of the existing dispensaries recommending approval. The other two are commenting on the proposed employment age limit condition. One is from the father of a 19 year-old receptionist employed at one of the clubs, who suggested that the minimum age not be limited to 21. The second letter from Supervisor Harold Brown said the same. He concluded that Howard Stern, Town Counsel, and Todd Cusimano of the Twin Cities Police Department were in attendance to answer questions.

Mr. Stern described a change he wished to make to the Draft Ordinance in Attachment 1, paragraph 10, page 8 of 23. To remove the strike out marks on "type and source...".

Commissioner Esteb asked for clarification regarding why two existing dispensaries are permitted if they apply and are approved, but if one fails, the Town will allow only the one remaining to operate. He asked how the appropriate number was determined.

Interim Planning Director Bell said if the Ordinance passes, the two existing facilities would not be grandfathered, rather they would have to apply and have the opportunity to do so. If one or both of the existing facilities met qualifications, that would be maximum allowed.

Commissioner Esteb asked how this maximum as determined.

Interim Planning Director Bell explained that this was the directive from Town Council to the Town Attorney in the event that an Ordinance is adopted.

Commissioner Esteb asked how the revision of individual conditions might affect the draft ordinance as a whole.

Interim Planning Director Bell each condition is up for discussion.

Commissioner Esteb asked about the businesses being organized as a collective or cooperative.

Interim planning Director Bell said the dispensaries would be required to show that they operate either a cooperative or a collective.

Commissioner Pagnillo said he had overall questions, such as why existing businesses would not be grandfathered; why businesses would be licensed yearly through Planning Commission review, when this seems more a staff job; and why a 1,000 sq. ft. floor area is specified. He asked what other towns are doing regarding numbers of enrolled patients and amounts of on-site marijuana, and whether these clubs are servicing in other jurisdictions with similar constraints. He said a security system would be nice, pending approval through the Police Department. Litter removal within 100 feet should be required for all businesses. He noted signs were mentioned but their sized not disclosed.

Mr. Stern said he did try to give information about the experiences in other jurisdictions with examples of Santa Rosa and Cotati.

Chair Mace called for public comments. He explained to the audience that this was a hearing regarding whether an ordinance to manage medical marijuana dispensaries in Corte Madera should be created and not an application process for clubs existing or proposed.

Susan Crane of 122 Crescent Road in Corte Madera said she had three issues with the Draft Ordinance. She would like to see increased public noticing, and pointed out that the two businesses currently in operation in Town never did this. She said they should be regulated and required to make their presence known. The public and adjacent businesses need to know they're there. She cautioned that the Town must exercise due diligence when issuing the licenses. She said there is a zoning issue in keeping it all within one spot if there are ultimately two or three such businesses, perhaps they should be dispersed around the city.

Commissioner Esteb asked whether an increase in traffic had been noticed during the existence of the dispensary. (Subsequent testimony cited no traffic or parking problems at Tamal Plaza.).

George Miakini of San Geronimo said many towns are outlawing dispensaries and there have been resulting lawsuits that will control towns that have not been proactive. He appreciated the Town's forward thought to the new use.

Daren Fotty of San Rafael said he had concerns on limiting the number of patient visits. On average, 1,000 patients/month is roughly 16/day, and he knows there to be more traffic than that. He said he appreciated that there are different clubs in the area, as he appreciates having choices.

Maryanne Kassler of Novato said she could not support the 21 year-old age requirement for employees, but could support a requirement of minimum 18 years of age. She explained that the clients have to be at least 18 years old, and that her daughter who is currently an employee is 20. She said working at the dispensary has been a good experience for her daughter.

Herb Wade of Mill Valley representing Earthly Cares, a non-profit mobile dispensary said he can deliver. He asked about the limit of 1,000 patient visits per month.

Lynette Shaw of Fairfax said she owns the Marin Alliance for Medical Marijuana in Fairfax and that they were originally required to meet 84 conditions, which is now down to 72 conditions. She feels it is excessive regulation, and that she is audited by the Planning Commission to prove honesty. She said playing by all the rules is hard, but that she is in support of those who do.

Peter Gessberg of Mill Valley asked about the reasoning behind allowing only one dispensary in town and limiting that to 1,000 patients each month, adding that this is prohibitive.

Rob Robbing of Kentfield said he is a patient, and is concerned about the limit of 1,000 patients/month, which could run a business down. He suggested that with such a limit, deliveries should be possible. He said allowing only one business is problematic and conducive to monopoly.

Roger Palson of Mohawk Avenue in Corte Madera said he noted that no one who spoke before him was actually from Corte Madera. He said that he is the parent of a teenager attending Redwood High School. He said there is a real problem with drug abuse in the high school, and that the dispensaries are within walking distance of the high school. He said the Fairfax dispensary is not allowed to service minors, but that our Draft Ordinance doesn't mention that. There is a woman in the audience from Corte Madera who would be a better candidate for running a dispensary in town than the two businesses who set up without town approval. He asked why the Draft Ordinance did not allow her to apply.

Athena Christopolis of Corte Madera said she also appreciates that there are two dispensaries in town, both of which she said are very professionally run, do not produce a lot of traffic, and are convenient.

Brian Somione of Mill Valley said he is a patient at Marin Holistic Services and reiterated that it is a very professional operation. He said they are strict as opposed to some in San Francisco that are looser. He said that he had not noticed litter or loitering, but that if the Ordinance requires such restrictions on Medical Marijuana dispensaries, it should require that of everyone.

George Roberts of San Rafael said he is an attorney with concerns regarding the review criteria, which is subjective and not reasonable. He said that folks won't know what to comply with, offering for example the criteria suggested at the bottom of page 17 and on page 18, sections B, G and H of the Ordinance containing the words "significant" crime issues, "significant" numbers of calls for police service, "appropriate" limits on size, and "justified" to meet needs. He said values for significance and appropriateness need to be assigned. We need to know what the rules are and who decides what is justified. He offered his assistance in producing objective standards.

Karen Gerbosse of 111 Parkview Circle in Corte Madera said she would like to have the patient identification requirement redacted from the document. She said she could not understand from the summary how police can verify employees have had background checks, but that a substantial amount of documentation is to occur, and police will need to verify that it happens.

Scott Candell of Larkspur and the attorney representing Marin Holistic Solutions asked to waive the three-minute limit for his presentation.

Chair Mace explained that two letters from attorneys had been received, and that he would allow each of them extra time.

Mr. Candell thanked the Commission for dealing with the issue. He said the Santa Rosa and Cotati ordinances are not good examples for regulating medical marijuana. The Cotati dispensary has only operated three months. Santa Rosa has had problems and two collectives went under. San Francisco, Berkeley and Oakland have excellent examples of success, with businesses that have been doing this for 10 years, and have evolved.

He said the proposed regulations have issues. There is no appropriate patient limit, as patients don't stay active, and as a collective you don't know how long patients will come. If the reason for limiting patients is parking, loitering, or litter, it is most effective to address that reason. The 1,000 patients/month issue is also problematic as some

patients have financial difficulty getting 1 month's worth at once, and others have pacing issues, whereby they received one month's medicine all at once they wouldn't pace themselves. He said it is better to address the Town's underlying concerns. Another major issue is police involvement, and the ordinance needs to balance public safety with the patients' privacy rights. The Police Department should be required to obtain a court order, in which case a judge determines whether police need to know who is coming and going and view video tapes. He said none of the other cities with use-permitting ordinances have the 21 year-old minimum age requirement for employees. He said these are volunteer positions, and that the demographic of people willing to do this work includes 18 year-olds. He said the Ordinance should set the hours of operation to accommodate patients who may find it difficult to visit during work hours, and that the Town's interest in closing on holidays is unknown to him. Background checks in this industry are agreed upon only for those in charge, but because there are a lot of volunteers, and high turnover, background checks should not be required for all employees. He noted that background checks are not required for liquor store employees and that these are onerous requirements.

Colleen Dougherty of San Anselmo said she was an attorney representing Going Green and Kim Pellam, its owner. She said some things proposed in the Draft Ordinance wouldn't work, specifically the limiting numbers. She thanked the Commission for looking at other jurisdiction's ordinances, but agreed that they could've chosen better examples. Public process is a good way to do it. She voiced a concern about ledgers kept with patients' names, and security cameras turned over at any request. She said this infringes on both normal privacy rights and HEPA privacy rights, given the nature of clients not necessarily open about their involvement with the dispensaries, as the substance is illegal under federal law. If Police need records they should need to get a subpoena. She said with the Ordinance drafted the way it is there is no due process involved for getting security tapes.

Kim Pellam, Director of Going Green said she appreciated the Town's work with the Draft Ordinance. She said Going Green has 2,500 patients currently, plus new ones weekly. Because there have been no police issues, and because limiting patients would force her to turn away patients, limiting patients seems overstepping.

Sierra Knoll of 677 Redwood Avenue in Corte Madera said she is grateful for the proposed Ordinance. She said she would like to see a competitive application process. She wants to apply for a permit, so that the Town might have a center that reflects this community's standards and offers mandatory testing for purity of the marijuana. She requested that the Commission add the C-3 Highway District to the potential zones listed in the Draft Ordinance that allow for dispensary uses, as she is interested in a parcel that is zoned C-3..

Stephanie Tucker of 2205 Sacramento Street in San Francisco said she works in community outreach with medical marijuana dispensaries and has some experience with the permitting process. She thanked the Town for getting ahead with this regulation. She said it is not fair to have membership restrictions. The Draft Ordinance should not require dispensaries be closed on holidays because people get sick on holidays. Age 18 should be the minimum required age for employees. She said the Ordinance should foster community partnership and safety, and a working relationship between the dispensaries and police. Police review of record keeping and member database is not permitted under HEPA. San Francisco adopted a comprehensive system that she offered to forward to the Commission. The Ordinance should require background checks and LIVESCAN of all managers and directors, but not other employees.

Hanna Kenny of Chapman Park in Corte Madera said she is upset with the short notice given of the Commission's hearing on this issue. She asked that the Commission not make any decisions this evening, adding that the fellow mothers she has spoken to are concerned about this situation and needed more time to allow them to respond. She said she is not opposed to dispensaries, but she is opposed to the way the two existing dispensaries in the Town came about under cover of night. Unless there is a tax on what is sold, there is no tax benefit. She said she did not want to have a dispensary in town, but that if they will be permitted, it is imperative to have an open bid process, because last one she wants here is one who came under cover of night. She said the two existing dispensaries are very near the gymnastics club for young children in Tamal Plaza. She asked if they are operating in good faith, why did they choose to locate so close to where children go.

Robert Jace of Peace and Medicine in Sebastopol, said they have 59 operating conditions to comply with. Santa Rosa has had two dispensaries closed and reopened, and Cotati has found no dispensary in 3 1/2 years that could make a 1,000-patient/month maximum requirement work, as this is not a practical measure. He said the Sebastopol Police Department collects ledger information in a sealed envelope, and has sent people in under cover to check if medical marijuana is available without a doctor's recommendation. He said there are background checks of staff, but that patient information is private. This is a grass roots organization with five board members who are town residents, and that a competitive process is certainly called for. He said that limiting medical marijuana to the industrial zone infers containment, and that there is no reason a medical marijuana patient shouldn't be able to go to a retail space and proudly pick up what they need.

David Brian of San Rafael said that dispensaries do pay taxes that come back to community.

David Owens of San Francisco said he is an attorney. He urged the Commission to look at the ordinances in San Francisco and Oakland. San Francisco had 35 dispensaries and developed a process to regulate them so that they were grandfathered. Oakland had unregulated dispensaries and shut them down while they developed a competitive regulatory process. They ended up with 3 dispensaries that later joined together to pass Measure H to tax themselves to add to the city's revenue base. He advised that the Commission look at the experience of Oakland and San Francisco, and to look past the suggested language coming at them from those not living in Corte Madera to craft an ordinance that best suits this community.

Judd Rubenstein of Tamal Vista Avenue in Corte Madera said he is a patient, and that the number of dispensaries should not be limited to just one in Town because they benefit from competition. He suggested that whether the existing dispensaries in Town are in the wrong place is perhaps an issue of parental guidance.

Phyllis Galanis of Corte Madera said she has an office in Tamal Plaza. She said there has been no increase in traffic or parking. She said she has two concerns: that they just appeared without being permitted; and that it was stated earlier in the hearing that a child is able to smell the marijuana emanating from the premises. She said that needs to be addressed.

Brian Henderson of Corte Madera said these dispensaries are professional. They are hard to find and not announced with signs. Those who go there are the people who need to, and a limit on the number of patient visits per month is not fair.

Sara Quinn of San Rafael said she is a Marin Holistic Solutions affiliate, and more than proud of it. The operation follows the laws, and is strict. There is no loitering. Patients are taken care of and understand their own rights. She said people get sick on holidays, too.

Peter Gessberg added that limiting the number of dispensaries could potentially cause trafficking, and that limiting the number of purchases limits city revenue in taxes.

Todd Cusimano of the Twin Cities Police Department said we will have to address a lot of concerns regarding the dispensaries that haven't existed in the past. He said that in researching the experiences of other jurisdictions, he has heard a lot of horror stories. He said the Town Attorney's outline of 28 key factors illustrates the best practices approach, and that the trend is that dispensaries are beginning to follow a best practices approach. The two existing in Corte Madera dispensaries have had 0 police calls, but they haven't had good police involvement. He said our goal is security. He is concerned that this could be a crime of opportunity as dispensaries' clientele are being targeted. Corte Madera is small and he said he is concerned that there is no perfect place from a

safety and security standpoint, so we must rely upon the best practices approach. Along the Highway 101 corridor in town there have been an average of 5-7 bank robberies. With the dispensaries currently located along the corridor, there is added concern. Video cameras inside and out are required, but the Police Department will only be interested in viewing them if there is a crime. He said police would ask that tapes be recorded for 30 days at a time and held for 90 days, which is standard, and that he would be satisfied with changing the Ordinance's language to include the condition of requesting to view tapes only "if a crime occurred".

Regarding the number of dispensaries, he said it is less important whether there is one or several, but that he recommends that they be located in one area. Though he doesn't like where the area is now, there isn't a better area. He said the Department is not targeting dispensaries, but is concerned about their security, and that they don't want clientele targeted. He said the Department is indifferent about the minimum age of employees, which is a policy decision differing from community to community, but that background checks need to be done for everyone employed in a dispensary. The hours of operation becomes more of a safety concern later in the evening, as alcohol-related crimes of opportunity increase. He said business hours would be ideal, with 8 p.m. being the latest advisable. Information collected would never be used against a dispensary. He stressed it will be important for police and dispensaries to work as a team with open lines of communication. Record keeping and inspection of records has to happen in a certain way. Police will be looking at records, and if there is any inappropriate activity, they would only then come in with search warrants but this would be done by court order, and not on an annual basis.

Commissioner Esteb asked about the reasoning for background checks.

Mr. Cusimano explained that this is necessary because the business is dealing with a marijuana opportunity.

Commissioner Esteb asked how a dispensary located in Town Center would be any more susceptible to crimes of opportunity than would a jewelry store.

Mr. Cusimano explained that dispensaries present an intensified concern because they are dealing with people rather than only property. Businesses along this Highway 101 corridor are susceptible to crime due to their highway access. It will be important that the Ordinance not allow them to spread out, as there can be a lot of required police resources specific to dispensaries. Dispensary issues are typically loitering, and though we haven't seen it here, it is a possible outcome, so to spread dispensaries town-wide would be to spread police resources thin, which doesn't make sense. Banks and jewelry stores in Town are actually relatively close within a mile or so. Police has tested both

dispensaries under cover, and found them to be operating appropriately. Best practices and communication is going to be key.

Commissioner Bailey asked about the police statistics Mr. Cusimano had not wanted to mention.

Mr. Cusimano said that when San Francisco dispensaries first appeared there were many calls to police. Many dispensaries weren't working within laws, and historically there have been problems.

Commissioner Bailey asked whether dispensaries subject to best practices regulations are running legally.

Mr. Cusimano said that will always be a concern, and now we're seeing the clientele of dispensaries following best practices being targeted.

Commissioner Bailey asked whether dispensaries using best practices typically have an unusual incidence of calls to police, which Mr. Cusimano confirmed. He asked about the physical distance to the high school and whether there a relationship between the distance and problems.

Mr. Cusimano said in the situation where the business presents a crime of opportunity and the clientele can be targeted, he would be concerned as a resident that the school is close to a targeted business. In a bigger town they can put it where ever they have to put it for the safety of everyone.

Chair Mace asked whether the banks located along the Highway 101 corridor typically have a higher incidence of takeover robberies due to access, which Mr. Cusimano confirmed.

Chair Mace asked about noticing for the hearing.

Interim Planning Director Bell said the item had been posted in the newspaper, and mailed to property owners within a 300' perimeter around subject properties, as well as to all homeowners associations in Town which relay such information to their constituents. When the item goes to Town Council, he will conduct an expanded outreach to the Marin IJ and Twin Cities Times.

Commissioner Bailey asked whether there were ordinances that apply similar types of requirements to liquor stores, or if the dispensaries were unique.

Interim Planning Director Bell said that a massage permit requires clearance by the Police Department, who limit hours of operation; large daycare centers require a distance separation to limit traffic; and that the Alcohol Beverage Control have their own regulations governing liquor stores locations.

Commissioner Bailey asked whether any other jurisdictions in Marin County had a medical marijuana dispensary ordinance.

Mr. Stern concluded that only Fairfax has such an ordinance.

Commissioner Esteb asked about the language in the Draft Ordinance regarding meeting the needs of residents, and whether this referred to Town residents.

Mr. Stern said he had looked into the issue of whether the Ordinance could restrict access to Town residents, and that the resulting intention is not to limit access. He is looking at criteria to license them for meeting Town needs. The Draft Ordinance contains no inconsistency regarding access, which is for residents, but not exclusively for Town residents.

Commissioner Esteb asked about the Ordinance's mention of mature plants while it elsewhere specifies that there shall be no sales of plants.

Mr. Stern said the Attorney General's Guidelines are aimed at what a person can have, not at what dispensaries can sell, but that he will look into that.

Commissioner Bailey asked about the conflicting nature of federal law and state law in regard to medical marijuana, and asked whether it is appropriate to recommend an ordinance that violates federal law.

Mr. Stern said there are many instances in this regard, and that the intent is not legalizing marijuana, just not enforcing the illegality. He acknowledged that there are inconsistencies between federal and state law, and added that federal law recognizes a non-criminality in regard to medical marijuana dispensaries.

Chair Mace asked the Commissioners for their responses to the Draft Ordinance in bullet style.

Commissioner Bailey said he is indifferent to the age requirement, but agreed that a requirement that all employees need background checks seems less arbitrary. Regarding the 500' distance from the school, our Police Department cannot deny a connection between dispensaries and target crimes and we don't want that near children. Parking ebb and flow should be assessed as to whether there has been an

impact on the center. He concluded that a competitive bid process seems like the way to go.

Chair Mace acknowledged the HEPA requirements in balance with a consideration for record keeping, and said he thought that police can obtain a warrant for reasonable concern makes sense. Regarding the competitive application process, he noted the Town's two medical marijuana dispensaries came to be without the existence of an ordinance. He highlighted the proposed language of the Draft Ordinance conditioning that the application process not be "deceptive, fraudulent in any way" and noted that the existing dispensaries were indeed that. He noted the location of the dispensaries within the Highway 101 corridor, and that the Police Department cannot suggest a good location. He said he was undecided on whether all employees should be required to undergo a background check. He said we need to apply the rules to all businesses uniformly within the town, including requirements in Zoning Ordinance and General Plan, and requirements for litter, graffiti, and the onsite community relations attendants. Objectivity is important on our criteria, and all mention of "significant" and "appropriate" needs to be replaced with definitive criteria. He said he thought the minimum age for employees could be 18 years. He expressed concern at the potential for a takeover robbery that is near the school. He questioned the limit of only one dispensary in town, and said there will be an opportunity for modification to the Ordinance later as we get more information. Hours of operation should be limited as staying open too late may present a safety problem. Mandatory testing is a good idea and that in pharmaceuticals it is a reality. He said he is open to allowing the use in commercial zoning areas. In terms of membership numbers, the Draft Ordinance goes too heavy into the regulatory end. He appreciates that the Police Department has ready sent decoys into a place that doesn't exist because we don't have an ordinance. A competitive process for applications has to be in place. He concluded that the existing, de facto location should be corrected, and determined by where we want these places.

Commissioner Pagnillo said he was unsure on the appropriate number of dispensaries in town, but that he was opposed to allowing the two existing to be grandfathered. He was unsure of the appropriateness of limiting the use to the Light Industrial District, as crime would likely also be reduced if the Town removed the banks, and people break into houses. He said that requiring them to be 1,000 sq. ft or less seems arbitrary. It would be inappropriate to limit allowed quantities to 1 oz. per visit if the patient doesn't visit very often. He said the Police Department should approve security and video systems, but was unsure the insurance requirements need to detail type and amounts.

Commissioner Esteb said the draft needs work. He said he has a problem with only allowing two dispensaries in town, and that limiting quantities should be addressed. He asked why the Ordinance should limit the use to the Light Industrial District. He said square footage limits should not be not part of the Ordinance, and there should be no

limits on numbers of people or visits, as long as parking is adequate. The intent should be not a limiting commercial venture but limiting the way they operate in our town. All conditions need to comply with HEPA.

Commissioner Pagnillo appreciated that the dispensaries in Oakland had imposed an additional sales tax upon themselves.

Mr. Stern added that this occurred by a vote of the people.

Chair Mace added that the Ordinance would be marginalizing dispensaries by limiting them to a certain zone. Procedurally, He asked the Commissioners to respond to each of the items in the summary for discussion at another meeting where Commission recommendations could be incorporated into a report to be forwarded to Town Council.

Mr. Stern clarified that the basic issues to grapple with are: in which zones will the use be permitted, and how many dispensaries are appropriate in Corte Madera. He explained that this Draft Ordinance is premised on the idea that the two existing dispensaries are getting first shot in the application process. Adding a competitive application process to the draft is more complicated. He said he will research HEPA privacy concerns.

Interim Planning Director Bell said he will ask existing dispensaries for existing data for monitoring parking requirements.

Chair Mace noted the legal requirement for noticing the next meeting would be met and suggested notice be sent to the Marin IJ.

Mr. Stern said that the Draft Ordinance started with idea of dispensaries in the Light Industrial District and asked whether that limitation is not acceptable?

Commissioner Esteb answered that he did not see why the Ordinance should limit location to specific zones.

Chair Mace added that the current, de facto location decision is not the appropriate way to determine location.

**MOTION:** Moved by Commissioner Esteb, seconded by Commissioner Bailey to continue to the hearing to a date uncertain.

Ayes: Commissioners Mace, Pagnillo, Bailey, Esteb

Noes:

Abstain:

Absent: Commissioner Schwartz

## 6. ROUTINE AND OTHER MATTERS

### A. REPORTS AND ANNOUNCEMENTS

i. **Commissioners:** Commissioner Pagnillo attended the Town Council meeting.

ii. **Interim Planning Director:** Reviewed an example of the Commission's second story addition review process.

**B. MINUTES:** Planning Commission Meeting Minutes of April 27, 2010.

**MOTION:** Moved by Commissioner Pagnillo, seconded by Commissioner Bailey to approve the Planning Commission Meeting Minutes of April 27, 2010.

Ayes: Mace, Bailey, Pagnillo

Noes:

Abstain: Commissioner Esteb

Absent: Commissioner Schwartz

**7. ADJOURNMENT:** The meeting was adjourned at 10:30 pm. The next Planning Commission Regular Meeting is to be May 25, 2010 at 7:30 p.m. in the Corte Madera Council Chambers, 300 Tamalpais Drive.

**MOTION:** Moved by Commissioner Esteb, seconded by Commissioner Bailey to adjourn the meeting.

Ayes: Commissioners Mace, Pagnillo, Bailey, Esteb

Noes:

Abstain:

Absent: Commissioner Schwartz