

TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: March 18, 2010
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION 6 School Street Plaza, Suite 210; Assessor's Parcel No. 002-112-13
PROJECT: Modification of existing Use Permit to include (1) operation of a delivery service, (2) the propagation and sale of clones, (3) an amendment to the conditions allowing for location of a grow site run by the dispensary within the Town limits, and (4) the elimination of a series of specific conditions in the existing conditional use permit
ACTION: Use Permit Modification; Use Permit # 97-UP-2
APPLICANT: Lynette Shaw
OWNER: Fred Ezazi
CEQA STATUS: Categorically exempt, § 15301(a)

BACKGROUND

The Town of Fairfax approved a Use Permit for the Marin Alliance for Medicinal Marijuana in 1997. The permit was approved after extensive collaboration between the Fairfax Police Chief, Planning Director and the applicant. This collaboration resulted in an extensive list of eighty-four (84) conditions that allowed the Town to approve a dispensary that could operate without creating enforcement problems or conflicts between uses; nor issues for the Towns Police Department, citizens, users of the adjacent ball field, nearby school and public park and/or other public and private indoor and/or outdoor areas (Exhibit A).

In 2001, after 4 years of successful operation of the dispensary with no resulting issues or problems for the Town, the Commission amended the Use Permit conditions, eliminating twelve (12) conditions and modifying others. The remaining seventy two (72) conditions that are currently in place are included in the following body of this staff report.

Subsequent to this applicant being submitted, on February 11, 2010 the applicant requested and received a "Planning Director Use Determination" (per Section 17.092.055 of the Town's Zoning Ordinance) allowing for the sale of products related to the use and/or production of medicinal marijuana in suite 200 adjacent to the Dispensary located in suite 210. Importantly, no medicinal marijuana will be located, sold, or used in the new ancillary space in suite 200, and conversely no products sold in the new ancillary space will be sold in suite 210 where the medicinal marijuana is being

sold. Staff has redacted the applicant's original letter dated August 20, 2009, that requested modifications of the use permit, to reflect the changes that resulted from the Planning Directors Use Determination approving specific activities in suite 200 as described above. A copy of the Planning Director's Use Determination Letter dated February 11, 2010 is attached.

Please note: It is now 2010 and the dispensary has been successfully operating for 13 years without any conflicts, problems or issues.

Discussion

The applicant is now requesting a modification of the use permit to include the sale of live clones on site in suite 210, a delivery service, a grow site in Town, and removal or modification of the existing use permit conditions.

(See floor plan provided by applicant).

Sale of Clones

The sale of live clones from dispensary suite 210 on the site is similar to the sale of medicinal marijuana and other marijuana based products currently permitted at the dispensary. It would also allow patients to provide medicine at home which is in keeping with Proposition 215.

The applicant plans to assemble delivery packages during administrative setup and close down times between 8:00 and 9:00 AM and 9:00 and 10:00 PM when the dispensary is closed for business.

The Fairfax Police Department is not opposed this request.

Delivery Service

The applicant is proposing to expand the use permit to include a delivery service that would incorporate a number of changes and safeguards described in the supplemental information submitted (Please see Exhibit A, applicant's supplemental information).

The request describes a service that would operate throughout Marin County. The Town does not have the authority to approve a delivery service to other municipalities or to residents in the County. Therefore, the Planning Commission can only consider a modification to allow delivery to Fairfax residents. The proposal for the delivery service is described in Exhibit B, attached and includes a discussion of security measures and delivery routes and schedules.

Please note: The existing use permit allows gravely ill patients to designate a caregiver to obtain their medicine from the dispensary. The inclusion of a delivery system

includes new potential risks for the Town, patients, couriers and the general public that do not exist under the current use permit with a fixed location of operation.

The Fairfax Police Department is not in favor of this request and addressed the issue in their attached letter dated September 12, 2009 (Exhibit D, Fairfax Police Department memorandum dated 9/12/09).

Grow Site

The applicant has not yet procured a specific location for a grow site. Therefore, a "grow site" cannot be adequately reviewed by the Town at this point in time. Having said this, the applicant would like to Planning Commission to address this request nonetheless. Likewise, the applicant would like the Planning Commission and Town to consider that disclosing a grow site location could increase security problems.

However, staffs position is that the Town would have a responsibility to properly notice (and reveal) a proposed grow site to neighboring property owners and tenants so that they could speak to the applicants request and express either their support or concerns before the Planning Commission; or at Town Council should any approvals by the Planning Commission be appealed by either the applicant or members of public.

Therefore, if and when the applicant does identifies a grow site, staff will return to the Planning Commission with a modified application after the required review by all relevant agencies, the public and staff.

Condition Modification/Removal Requests

Please Note: The original condition(s) wording is in normal text, the applicant requested modification and/or removal is in bold text, and staff's analysis and recommendation is in bold and italicized text.

1. The dispensary is to be operated in an area zoned as Limited Commercial (CL). A dispensary will not be located in a residential area (no change proposed).
2. No dispensary shall be operated within 500ft of any public or private school. (no change proposed)
3. No dispensary shall be operated after 9:00 PM at night or before 9:00AM in the morning.

Modify hours to between 8:00 AM and 10:00 PM for setup and closedown/inventory time.

Yes: Staff recommends approval of proposed change for the operation of the dispensary only.

4. The dispensary shall not be in operation when there is any organized youth activity occurring within 500ft of the dispensary for which the dispensary has received at least 7 days prior notice. It shall be the responsibility of the permittee to prohibit dispensary clients from being on the parcel of real property that is the subject of the Use Permit at any time an organized youth activity is occurring within 500ft of the dispensary for which the alliance has received 7 days prior notice from the youth activity organizer.

Applicant requests removal.

No: Staff recommends the conditions be retained.

5. Neither live marijuana plants nor cultivation of marijuana is permitted in the dispensary.

Applicant requests removal.

Yes: Staff recommends condition be revised to allow the storage and sale of clones from the dispensary.

6. Except as provided in items 47 through 52, there shall be not transportation of medicinal marijuana.

Applicant requests removal.

No: Staff recommends the condition be retained.

7. No amount of medicinal marijuana which is unduly disproportionate to the average number of patients served by the dispensary may be stored in the dispensary.

Applicant requests removal.

No: Staff recommends the condition be retained.

8. All clients of the Marin Alliance for Medical Marijuana are required to possess valid and current Marijuana for Medical Purposes identification card from the County of Marin Department of Health Services, the City and County of San Francisco Department of Public Health, or the City of Oakland Department of Public Health. The permittee will contract a licensed physician to conduct an audit of client records prior to the close of any six month use permit compliance period, and report the findings of the audit to the Town of Fairfax to ensure compliance with this condition.

State ID cards/Patient ID Center cards will be required after 30 days trial membership. Patients with current doctor's recommendations that are confirmed by telephone or website shall be allowed emergency access for 30

days. Enrollment into the Marin Alliance for Medical Marijuana Collective will include full privileges and extra services.

No: Staff recommends the condition be retained. The Town previously eliminated the condition that patients have Marin Alliance cards when the applicant agreed to require that patients obtain cards from Marin County and have their staff review, issue and oversee issuance requirements. This would revert the condition to allowing patients to obtain only cards from the Marin Alliance Dispensary with no mechanism for checking for doctor's authorization letters, valid identification, etc. It is not clear what full privileges and extra services are.

9. Should the patient be a minor, the record shall include the signed consent of the parent or legal guardian of the minor.
10. Gravely ill, homebound patients may have a designated care-giver on record that shall be entitled to obtain marijuana on behalf of the patient.

Remove "gravely ill, homebound".

No: Staff recommends the condition be retained as is. The intent of Proposition 215 was to allow ill persons to use marijuana. The Town already allows for designated caregivers to obtain and provide marijuana to patients physically unable to obtain their medicine from the dispensary on their own.

11. Any designated care giver of a client of the Marin Alliance shall comply with any and all requirements as set forth by the health department grantee (either the Marin Department of Health and Human Services, the San Francisco Department of Public Health, or the City of Oakland Department of Public Health) from which the client has valid current identification card for the use of marijuana for medical purposes.

Caregivers may sign up for 30 day trial membership along with their patient who holds a verified recommendation. Full enrollment into the Marin Alliance for Medical Marijuana Collective requires a State ID Patient ID Center Card for caregivers. Membership for caregivers includes full privileges and extra services.

No: Staff recommends the condition be retained.

12. Prior to commencing business each day, the dispensary operator will record the total gross weight of all marijuana possessed at the dispensary which is no longer affixed to any living marijuana plant.

Applicant requests removal.

No: Staff recommends this condition and #13 below be amended to include the recordation of the number of live clones possessed by the dispensary (if the sale of clones is allowed).

13. At the close the business each day, operators of the dispensary will record the total gross weight of marijuana dispensed on that date and the total gross weight of all marijuana possessed at the dispensary which is no longer affixed to any living marijuana plant.
14. The proprietor(s), as primary care givers, shall record upon an individual receipt and retain each transaction whether or not funds were exchanged during, or were involved in, the transaction.
15. Receipts will show the name of the person obtaining the marijuana.

Exchange "membership number" for name of person.

Yes: Staff recommends the requested change be made.

16. Receipts will show the date, time and amount of marijuana dispensed.
17. Receipts will show the amount paid for the marijuana, if any.
18. Proprietor(s) shall maintain financial records identifying information for all savings accounts, checking accounts, investment accounts and trusts associated with the operation of the dispensary.
19. The proprietor(s) shall maintain ledgers documenting all credits and debits affecting said accounts.
20. Proprietor(s) shall maintain records documenting all parties involved in, amounts of and purposes, for all cash transactions.
21. Proprietor(s) shall maintain records of all transactions related to the operation of the dispensary, including but not limited to rent, utilities, inventory, insurance and payroll.
22. Proprietor(s) shall maintain the records regarding the actual address, including Assessor's Parcel Number, of each site that medicinal marijuana is cultivated, grown and/or harvested on behalf of the dispensary.

A permit shall be developed and issued for a reasonable fee to the Marin Alliance for appropriately located, secure, medical cannabis garden within the Town limits.

No: It is premature to amend this condition without an identified grow site. Likewise, staff is unable to state that such a permit would be issued if it were created because it requires public review and the Town Council sets fees for processing permits based on the actual costs to the Town.

23. Proprietor(s) shall maintain the records regarding the estimated yield that the growth will provide during each harvest.

Applicant requests removal.

No: Staff recommends the condition be retained unless the applicant is able to present compelling information regarding why the condition should be removed.

24. The dispensary shall not obtain marijuana from any other source.

Applicant requests removal.

No: Staff recommends the condition be retained unless the requested change to item 22 above is granted by the Planning Commission.

25. The cultivation site(s) used as the source for medicinal marijuana shall not be designated in areas zoned as residential.

Applicant requests removal.

No: Staff recommends the condition be retained.

26. Proprietor(s) shall maintain all of the required records at the dispensary site at all times.

Proprietors shall maintain all of the required records either on site or at a secured, accessible storage.

Yes: Staff recommends the condition be amended.

27. Unless the proprietor(s) use the alternatives set forth in items 36 – 38, below, all required records shall be subject to inspection by the Chief of Police, or his designee, without warrant and without notice, during the time the dispensary is open for business.

The applicant is requesting that conditions 27 through 31 be removed.

No: Staff recommends the conditions be retained.

28. These records shall be subject to inspection by the Chief of Police, or his designees, without warrant and with reasonable notice at all other times.
29. Nothing in this section shall prohibit the discovery of seizure of records pursuant to court process.
30. Proprietor(s) may use alternatives for inspection of designated records. Records not specifically exempted herein shall be available to police inspection under the provisions of items 23 through 34.
31. As an alternative to police inspection and with the consent of the Marin County Department of Health and Human Services, the Marin County Department of Health and Human Services shall conduct the patient and care giver records inspection. With this alternative the proprietor(s) as primary care givers will maintain, for police inspection, the letter of consent and a letter verifying that an inspection has been conducted within 6 months. The letter of verification shall also contain the number of patients, and the estimated total marijuana by weight that is necessary to support patient requirements.

The applicant is requesting that conditions 27 through 31 be removed.

No: Staff recommends the conditions be retained.

32. As an alternative to police inspection, receipts and financial records will be audited on a semiannual basis by a Certified Public Accountant (CPA). With this alternative the proprietor(s) as primary care givers will maintain, for police inspection, a financial summary of the report.

The Town of Fairfax may request that an audit of receipts and financial records be conducted by a Certified Public Accountant.

Yes: The Town of Fairfax may request that an audit of receipts and finance records be conducted by a Certified Public Accountant to be chosen by the Town and paid for by the Alliance.

33. As an alternative to police inspection and with the consent of the Marin County Department of Agriculture, the Marin County Department of Agriculture shall inspect grower records and inspect the actual agricultural site. With this alternative the proprietor(s) as primary care givers will maintain, for police inspection, the letter of consent and a letter verifying that an inspection of the records and the growing site has been conducted within four months. The letter of verification shall contain the number of growing sites and the estimated yield, by weight, of medicinal marijuana.

Applicant requests removal.

No: Staff recommends this condition be retained unless the applicant can present compelling information for why the condition should be removed.

34. The patient may transport no more medicinal marijuana than is recommended for use during the period of one week.
35. The medicinal marijuana shall be transported only between the dispensary and the patient's home.
36. A designated care-giver may transport medicinal marijuana to a patient only when the patient is so gravely disabled that the patient is not capable of traveling to the dispensary.

The applicant is requesting that conditions 34 through 36 be eliminated.

No: Staff recommends that these conditions be retained. Both the State and Marin County Police Departments limit the amount of medicinal marijuana a person can possess at any one time and there is no compelling reason for the Town of Fairfax to take any other position on this matter.

37. A designated care-giver may transport no more medicinal marijuana that is approved for each patient on the delivery route on the day that delivery is to be made.

Previous approval of language outlining "delivery route on the day that the deliver is to be made" condition show the intent and approval to establish a licensed delivery route service of some type.

See attached supplemental information submitted by the applicant in Exhibit C for extensive recommended language allowing a delivery service.

No: Change to condition is not recommended.

38. The medicinal marijuana shall be transported only between the dispensary and the home(s) of the patient(s).
39. No amount of medicinal marijuana which is unduly disproportionate to the average number of patients served by the dispensary may be brought to the dispensary location.

Applicant requests removal.

No: Staff recommends the condition be retained unless the applicant is able to present compelling information regarding why the condition should be removed.

40. When a patient or care-giver is in possession of medicinal marijuana, the person shall also be in possession of the identification card as specified in condition 8.

Add "or verified doctor's recommendation"

No: The language requiring cards from the County eliminated the need for Police Officers to review and check validity of doctor's notes or other cards in the field when discovering marijuana in the possession of a patient. The proposed change would create confusion for officers and staff is not recommending that this condition be changed.

41. No medicinal marijuana will be used or consumed at the dispensary site.
42. No person shall use or consume medical marijuana in any public place or place open to the public.

Remove. Not under our control. We can and do, discourage members from using their medicine in public places.

Yes: Staff recommends the condition be removed.

43. No person shall use or consume medical marijuana in any private place without the consent of the property owners or agent in charge.

Remove. Not under our control. ADA privacy laws may be violated by this condition.

Yes: Staff recommends the condition be removed.

44. Proprietor(s) shall not distribute medicinal marijuana to any person without confirming the patient's lawful ability to obtain marijuana in compliance with Health and Safety Code Section 11362.5.
45. Proprietor(s) shall not provide medicinal marijuana to any person without confirming the patient's or care giver's identity by means of valid government issued identification which bears a photograph of the patient or care giver obtaining the marijuana.
46. Proprietor(s) shall not distribute any amount of medicinal marijuana which exceeds one ounce to, or on behalf of, any one person during any consecutive seven day period.

Proprietor(s) shall not distribute any amount of medicinal marijuana to an individual that exceeds their physician's recommendation for personal medicinal use.

No: Staff recommends the condition be retained as is.

47. Any marijuana that is dispensed shall be in sealed containers. Commercially manufactured child-resistant containers shall be available.
48. The medicinal marijuana dispensary shall be equipped with an operable alarm system. This alarm system, at a minimum, will protect the perimeter of the dispensary and the location within the structure where medicinal marijuana is stored, packaged or dispensed.
49. The alarm is to be monitored by a professional alarm company at all times when the dispensary is closed for business.
50. All doors and windows of the premises shall be equipped with adequate security devices.
51. All medicinal marijuana and cash shall be stored in a locked safe at all times which the dispensary is closed for business.
52. This safe will be retained at the dispensary at all times.
53. The police department crime prevention officer is available to provide advice.

Remove. No need to spend police budget on special duty time.

No: Each officer has extra duties assigned to be performed during their regular hours (service similar to those performed by the DARE officer. No change recommended.

54. All medicinal marijuana and cash shall be stored in a locked safe at all times when the dispensary is closed for business.
55. This safe will be retained at the dispensary at all times.
56. Proprietor(s) shall notify the Fairfax Police Department of all criminal activity which is occurring at, or adjacent to, the dispensary.
57. This activity shall be reported as it is occurring, or when first discovered by the proprietor(s), and shall include all activity which can reasonably be determined to be criminal in nature.
58. For the purpose of these requirements the term: a) "Proprietor(s)" is defined to include, but not be limited to, all owners, directors, advisors, consultants, contractors, employees and volunteers engaged in, or assisting in the operation of a medicinal marijuana dispensary, whether operated for profit or not.

59. "Operator(s)" is deemed to be synonymous with the term "Proprietor(s)".
60. "Premises" is defined to include, but not be limited to, all offices, rooms, storage facilities, lockers, stationary conveyances, outbuildings, parking lots and ground, whether open to the public or not.
61. Any violation of these conditions shall be cause for revocation of the use permit.

Remove. No other Use Permit ever issued by the Town contains this condition.

No: Any business operating with a use permit is operating under this condition. Failure to comply with the approval conditions allow the Town to notice and hold a revocation hearing. Staff recommends the condition be retained.

62. The use must be conducted in compliance with the provisions of Proposition 215.
63. No persons under the age of 18 shall be permitted in the dispensary at any time.

Add "exception made for enrolled, underage patients accompanied by a parent, legal guardian or medical professional.

No: Staff recommends the condition be retained. Underage patients can obtain medicine from the dispensary via licensed caregivers so removal of the condition is not necessary.

64. No retail sales of any products other than medical marijuana will be permitted at the dispensary located at 6 School Street Place, Suite 210.
65. The hours of the dispensary will be limited to 9:00AM to 9:00PM.

Removal already covered in condition # 3.

Yes: Staff recommends removal.

66. The operator and/or property owners will be required to report any illegal activity occurring on the site or associated with the dispensary immediately.

Applicant requests removal

No: Staff recommends the condition be retained.

67. The dispensary is required to have a display on the front door and within the waiting room advising its clientele that no person under the age of 18 is permitted onto the premises.

Add "medical exceptions allowed" to signage on door

No: Staff recommends condition is retained as is.

68. The use shall be subject to all State adopted guidelines immediately upon adoption of such guidelines.

Applicant requests removal

No: Staff recommends the condition be retained. The Town should continue to be aligned with the State position on the use, procurement, etc. of marijuana.

69. The use permit shall be revoked if any final judicial decision is made rendering the use illegal.

Remove. Issues are now legally resolved.

No: Condition should be retained. New issues are continually arising and new court cases are occurring regarding the implementation of Prop 215.

70. The applicant shall make a good faith effort to obtain any and all required permits and/or licenses from the State of County agencies having jurisdiction over this type of use (i.e. Marin County Health Department, State Board of Equalization, etc.).

71. There shall be no alcohol used on the premises of the dispensary.

72. The use permit is subject to a 6 month review by the Fairfax Planning Commission.

Remove

Yes: Remove. The use permit can always be revisited if the above conditions are not complied with so there is no reason to review the use permit every 6 months.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve the requested modifications to Use Permit # 97-UP-2 to allow the

expansion of hours to allow administrative operations but not sales from 8 AM to 9 AM and 9 PM to 10 PM, sale of clones on site. Denial of the request for a delivery service and a grow site is based on the following findings:

The approval of the use permit to allow delivery service for medicinal marijuana does not comply with the intent of Proposition 215 which allows the possession of medicinal marijuana for personal use and does permit the transportation of marijuana for sale.

Transportation of a controlled substance throughout town could cause excessive or unreasonable detriment to adjoining properties or premises, or the public at large.

The Town is not authorized to approve a modification of a use permit to allow a grow site at an undesignated site in Town.

ATTACHMENTS

Exhibit A – Applicant’s supplemental information

Exhibit B – Memorandum from Fairfax Police Chief dated 9/12/09

Exhibit C – Planning Director Use Determination Letter for Suite 200

AUG 21 2019

TO: TOWN OF FAIRFAX

RE: MODIFICATIONS OF USE PERMIT

To Whom It May Concern:

~~The modifications we propose to our existing Use Permit are basically a simple expansion into the office next door to relieve our severely cramped quarters and to improve our service to the Members.~~

The floorplan we have provided shows the same setup we have had since 1997.

We can seat about 6 people in our waiting room. The patients check in at the reception desk. The room to the right of the reception desk is currently packed full of records.

The records fill the closet completely, also, and part of the Safe Room.

~~We would like to move all the patient records in Suite 200 along with our intake process. We would like new people to come to Suite 200 to sign up. That way they can take all the time they need to learn about everything, at our 2nd desk in Suite 200.~~

~~Re-hanging a door between the two suites will enable us to supply the 2nd desk from our main dispensary desk.~~

After we close, all cannabis will be moved and stored in our regular, alarmed safe room.

Re-hanging a door will also enable the staff to enjoy a private bathroom in Suite 200.

There are two newly remodeled large ADA compliant bathrooms next to Suite 200. With our ADA compliant bathroom inside the ~~main~~ dispensary, we have three ADA compliant bathrooms available for our Members.

~~The 2nd desk area would also have much more wheelchair room.~~

~~Having the 2nd desk will speed up the service in the main dispensary tremendously.~~

The complaints we receive; is that our place is crowded, very slow sometimes, the hours are too limited and Fairfax is far from where they live in Marin.

In my other letter, I outlined the details of the courier service we are proposing.

~~On the floor plan, I have indicated the courier service would be organized from the 2nd desk.~~

After we move the records, we would like to be able to have live clones available, like every other medical cannabis club. The middle room to the right of the reception desk could be easily converted to have a light and a small amount of clones.

EXHIBIT #

A

AUG 20 2009

TO: TOWN OF FAIRFAX

RE: MARIN ALLIANCE COURIER SERVICE

August 20, 2009

Dear Town of Fairfax,

I have applied to modify our existing Use Permit. This letter is regarding the courier service, which I believe to be a priority for many reasons. I will discuss other Permit modifications in another letter.

We have been told many times, that our collective growers have produced the best medical cannabis offered anywhere. It is all Member grown, and I am very proud of our quality and consistency. We still have the only money-back guarantee for medical cannabis in the State. Our Members are very satisfied with us, when they can get to Fairfax.

Times have changed, and the Supreme Court just removed medical pot from the frontlines of the drug war. It is time for us to update our Permit. My goal is to improve our historical regulations for increased Member satisfaction with our services.

On May 18, 2009, the Supreme Court dismissed the Prop. 215 case from San Diego County. San Diego has refused to implement Prop. 215 on the grounds that federal law superseded state law on the issue. The Supreme Court stated that the CSA (Controlled Substances Act) was for controlling recreational drug use specifically, and that the CSA was not meant to interfere with State medical practices.

This was a defining moment for the patients whose lives and well-being depend on medical cannabis. Law enforcement can no longer refuse to obey State law.

In the wake of this major decision, several unlicensed pot clubs have sprung up in Marin County in the last few months. One such club actually sued the City of Novato, demanding a Use Permit. Novato has a ban on any medical cannabis clubs. The patients are in need in the area.

Marin is a small county. Between the recession and unlicensed pot clubs with no regulations, this will have a direct impact upon sales tax revenues to Fairfax.

After our Use Permit was granted in 1997, there were some provisions that were not implemented.

For the purposes of the courier service proposal, conditions 47 – 51 discuss delivery to patients' homes. Those provisions are part of the historical, original guidelines.

By our Permit, Members are limited to one ounce of cannabis per week unless a doctor recommends more.

The deliveries would be paid for mostly by credit card or debit card, so the driver will carry little cash. A hardship provision will be needed to allow cash sales by arrangement for those with no credit or debit cards.

Delivery days to certain areas would seem to be the most economical arrangement. We would determine our general schedule by Member request for service.

In the areas where we are allowed, the police or appropriate agency would be informed of our general schedule, in the unlikely event of any problems.

The vehicle license plate and name of the courier would be on record with the police or appropriate agency.

What we are proposing is another groundbreaking permitted service for our patients. There are no other regulated medical marijuana delivery services in California at this time. However, there are dozens of unregulated delivery services in LA.

The problems reported by LA patients are; the service is unreliable, the order gets tampered with, the price changes upon arrival, and / or the courier is weird.

One the other hand, there are reports of some robberies of LA couriers upon delivery arrival.

The unlicensed LA couriers were afraid to call the police when there was a problem.

Our plan removes all these factors.

For example, a delivery sealed package would include:

The MAMM form sealed inside the delivery package with address showing through the outer plastic.

Medical cannabis products; in our standard, labeled bags with the same tracking number, date, type of cannabis, and amount of product as our permit outlines.

Our tax-deductible sales receipt.

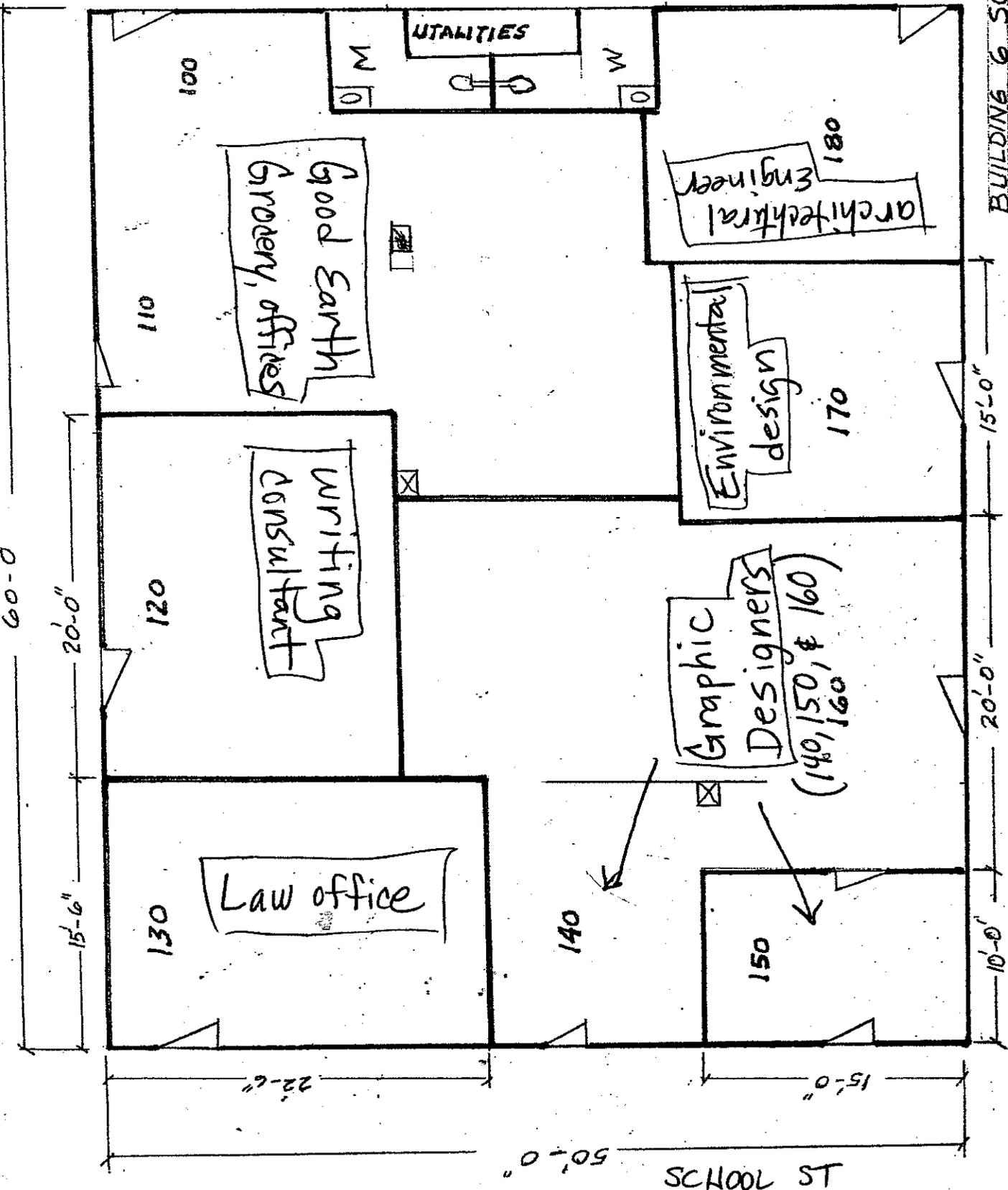
Separate form for credit card charges

Recipients sign for their delivery after opening and inspecting the contents of their delivery package.

The MAMM form inside the package will acknowledge delivery or refusal of delivery. Reason for refusal indicated.

AREA SF
730
360
360
980
230
220
2880

Suite No
100+110
120
130
140
150
160
170
180



BUILDING 6 SCHOOL ST. PLAZA
 FAIRFAX, CA. 1ST FLOOR

SCALE 1/8" = 1'-0"

BROADWAY
 CURRENT - 1ST FLOOR

SCHOOL ST
 50'-0"

MAR 03 2010

Suggested Modifications to the
Marin Alliance for Medical Marijuana Dispensary
Use Permit #97-UP-2
March 3, 2010
6 pages submitted
by permit holder Lynnette Shaw

1. okay

2. okay

3. Suggested Revision:

Modify hours 8 am to 10 pm. Need more setup / lockdown and inventory time.

4. Remove

5. Remove

6. Remove

7. Remove

8. Suggested Revision:

remove "P.O. boxes or pagers"

8. Suggested Revision:

State ID Cards / Patient ID Center cards will be required after 30 days trial
Membership.

Patients with current doctors' recommendations that are confirmed by telephone
or website shall be allowed emergency access for 30 days. Enrollment into the
Marin Alliance for Medical Marijuana Collective will include full privileges and
extra services.

9. Previously eliminated

10. Previously eliminated

11. okay

12. Suggested Revision:

remove " gravely ill, homebound"

13. Suggested Revision:

Caregivers may sign up for 30 day trial membership along with their patient who holds a verified recommendation. Full enrollment into the Marin Alliance for Medical Marijuana Collective requires a State ID Card / Patient ID Center Card for caregivers. Membership for caregivers includes full privileges and extra services.

14. Previously eliminated

15. Previously eliminated

16. Previously eliminated

17. Remove

18. Okay

19. Okay

20. Suggested Revision:

Exchange term "membership number " instead of "name of person". Town previously agreed that using names on the receipts could violate ADA -required privacy.

21. Okay

22. Okay

23. Okay

24. Okay

25. Okay

26. Okay

27. Suggested Revision:

A permit shall be developed and issued for a reasonable fee to the Marin Alliance; for an appropriately located, secure, medical cannabis collective garden within the Town limits.

The exact site has not been selected, yet.

28. Remove

29. Remove

30. Remove

31. Suggested Revision:

Proprietors shall maintain all of the required records either onsite or at secured, accessible storage.

32. Remove

33. Remove

34. Remove

35. Remove

36. Remove

37. Suggested Revision:

The Town of Fairfax may request that an audit of receipts and financial records be conducted by a Certified Public Accountant.

38. Remove

39. Previously eliminated

40. Previously eliminated

41. Previously eliminated

42. Previously eliminated

43. Previously eliminated

44. Previously eliminated

45. Previously eliminated

46. Previously eliminated

47. Remove

48. Remove

49. Remove

50. Suggested Revision:

Previous approval of language outlining "delivery route on the day that the delivery is to be made" specified in condition 50.

This shows intent and approval to establish a licensed delivery route service of some type.

The Town of Fairfax has been very compassionate yet security-minded about medical cannabis. We intend to protect the vulnerable patients in our community who cannot come to the Marin Alliance easily.

There are now several unlicensed, unknown and out-of -area companies who are currently advertising and driving marijuana deliveries into Fairfax. There is currently a significant loss of sales tax income to the Town due to this situation.

There is also a great risk that strangers with robbery, fraud or sexual assault intentions are using this excuse as a way into Marin homes. We have proof that we can submit, if necessary, of these problems without regulation of deliveries.

We are very concerned about the safety and health of Fairfax patients who are having trouble accessing their medical cannabis. We also believe that the Town of Fairfax should not lose large amounts of sales tax income to unlicensed strangers when we all have worked so hard to regulate our licensed facility.

The Marin Alliance has developed a model medical cannabis courier system, based on home medical supply delivery protocols.

a.) All deliveries during daytime hours only.

b.) All couriers carefully background checked.

c.) Delivery vehicles insured and alarmed.

d.) A limited amount of pre-packaged or clearly identified medical cannabis products per vehicle.

(We suggest 16 ounces of smokeable cannabis 32 ounces of non-smokeable medical cannabis products, including but not limited to, brownies, cookies, massage oil in containers, capsules and tinctures, two trays of starter plants AKA clones)

e.) All orders of smokeable or non-smokeable products sealed in advance with Member number ID in plain view. Clones will be tagged with a Member number in advance of delivery.

f.) Couriers shall have a scheduled route mapped out in advance. A copy shall remain on file.

g.) Purchases by credit card, debit card or cash. Sales taxes applied.

- h.) Receipts issued, records kept.
- i.) Members have right to refuse delivery when it arrives, for any reason.
- j.) Members shall sign the driver's delivery log to acknowledge acceptance of the order.
- k.) Deliveries are one of the privileges reserved for enrolled Members.

51. Okay

52. Remove

53. Suggested Revision:

add "or verified doctors' recommendation"

54. Okay

55. Remove. Not under our control. We can and do, discourage members from using their medicine in public places.

56. Remove. Not under our control. ADA privacy laws may be violated by this condition.

57. Okay

58. Okay

59. Suggested Revision:

Proprietor(s) shall not distribute any amount of medical marijuana to an individual that exceeds their physician's recommendation for personal medical use.

60. Okay

61. Okay

62. Okay

63. Okay

64. Remove. No need to spend police budget on special duty time.

65. Okay

66. Okay

67. Okay

68. Okay

69. Remove

70. Okay

71. Remove.

72. Remove. NO other Use Permit ever issued by the Town contains this condition.

73. Okay

74. Suggested Revision:

: add "exception made for enrolled, underage patients; accompanied by a parent, legal guardian, or medical professional"

75. Okay

76. Remove. Duplicate provision. See condition #3.

77. Remove.

78. Suggested Revision:

add "medical exceptions allowed" to signage on door.

79. Remove

80. Previously eliminated

81. Remove. Issues are now legally resolved.

82. Okay

83. Okay

84. Remove

PUBLIC OPINION PETITION

(Everyone over age 18 may sign this)

TO THE TOWN OF FAIRFAX:

WE RESPECTFULLY REQUEST THAT YOU REINSTATE
THE MARIN ALLIANCE FOR MEDICAL MARIJUANA
DELIVERY SERVICE LICENSE.

THANK YOU!

^{town} ^{optional}
(NAME - ADDRESS - PHONE NUMBER - EMAIL)

Sam Urdis 134 FRONT ST. S.N. 415-485-1816

Bruce Ross 686 BARBERRY, SAN RAFAEL CA 94903

Justin Zumbro 514 The Alameda San Anselmo CA 94960

STUART SILMAN 18 LUCKY DR GREENBRAE, CA 94904

Hanada Daewell

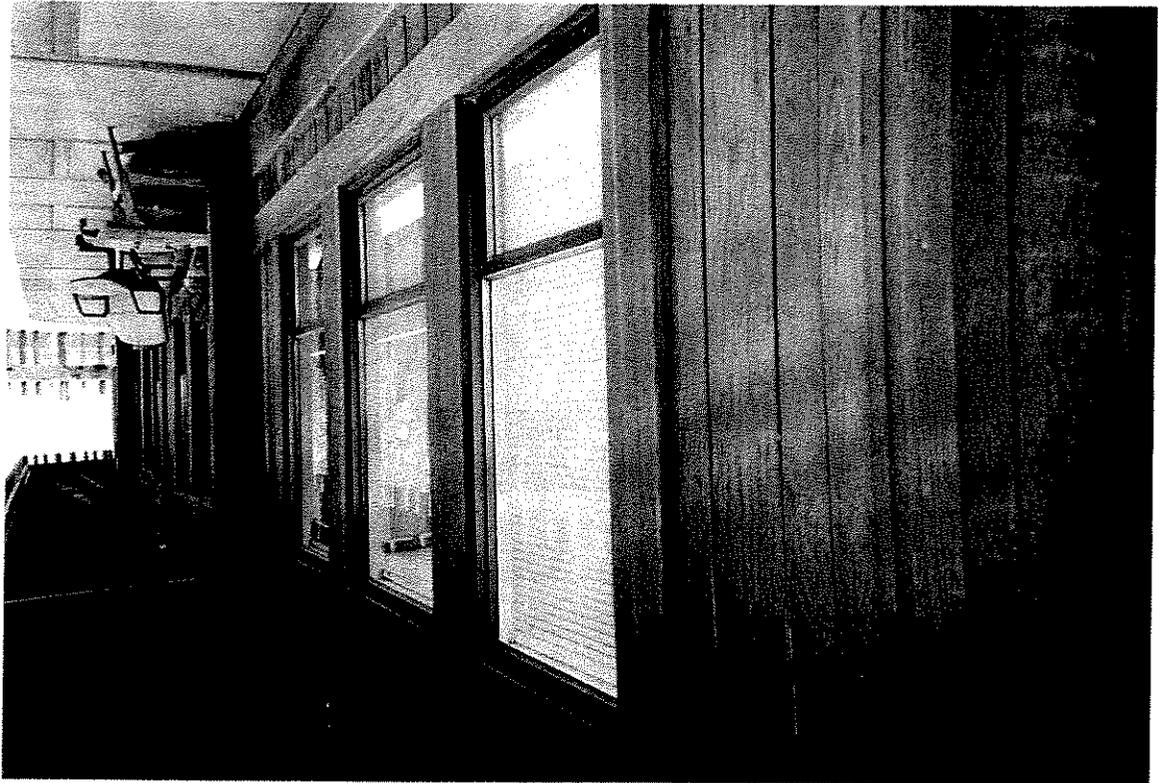
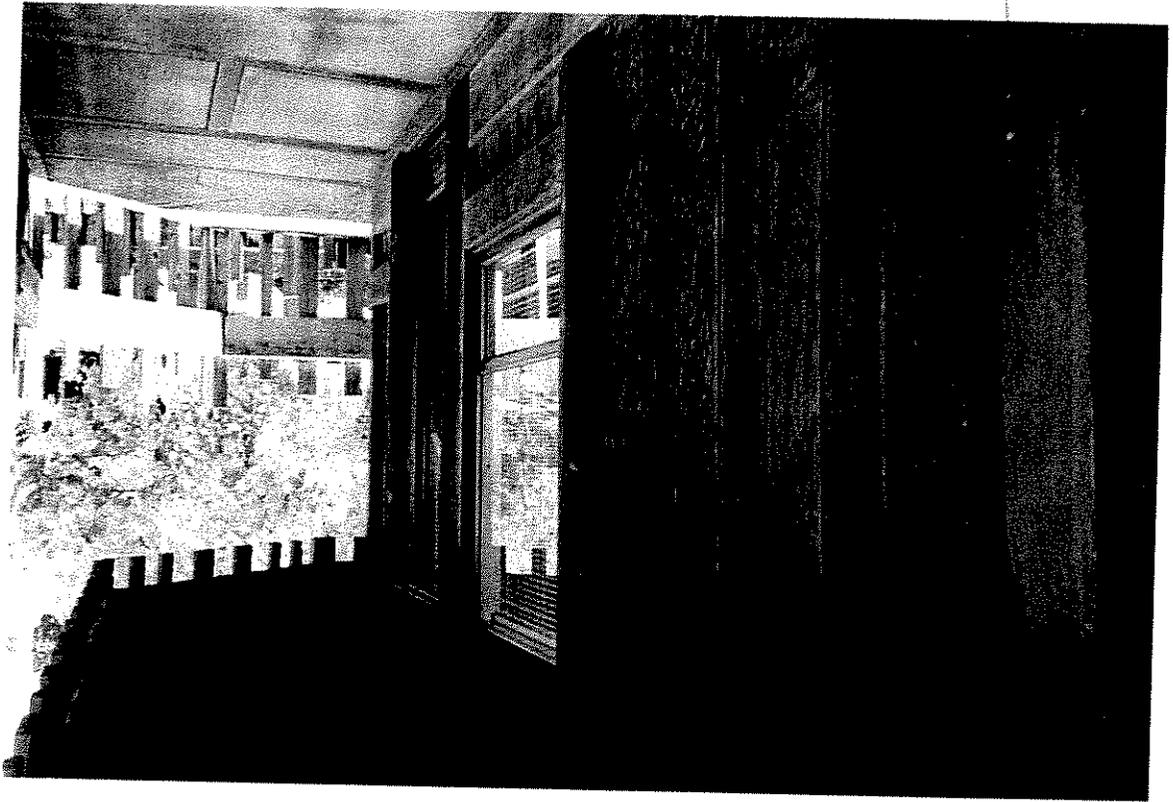
Julie Beach

Debra Delong 751 PLAZA AMAPOLA, NOVATO

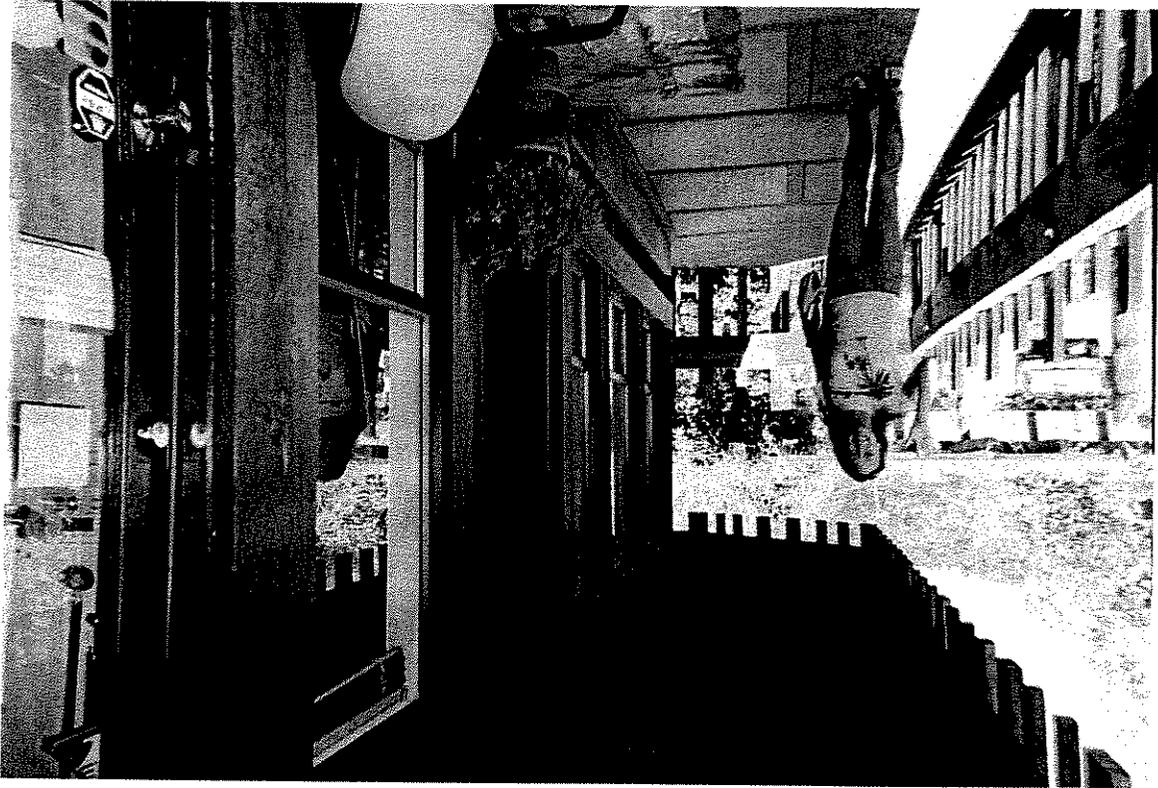
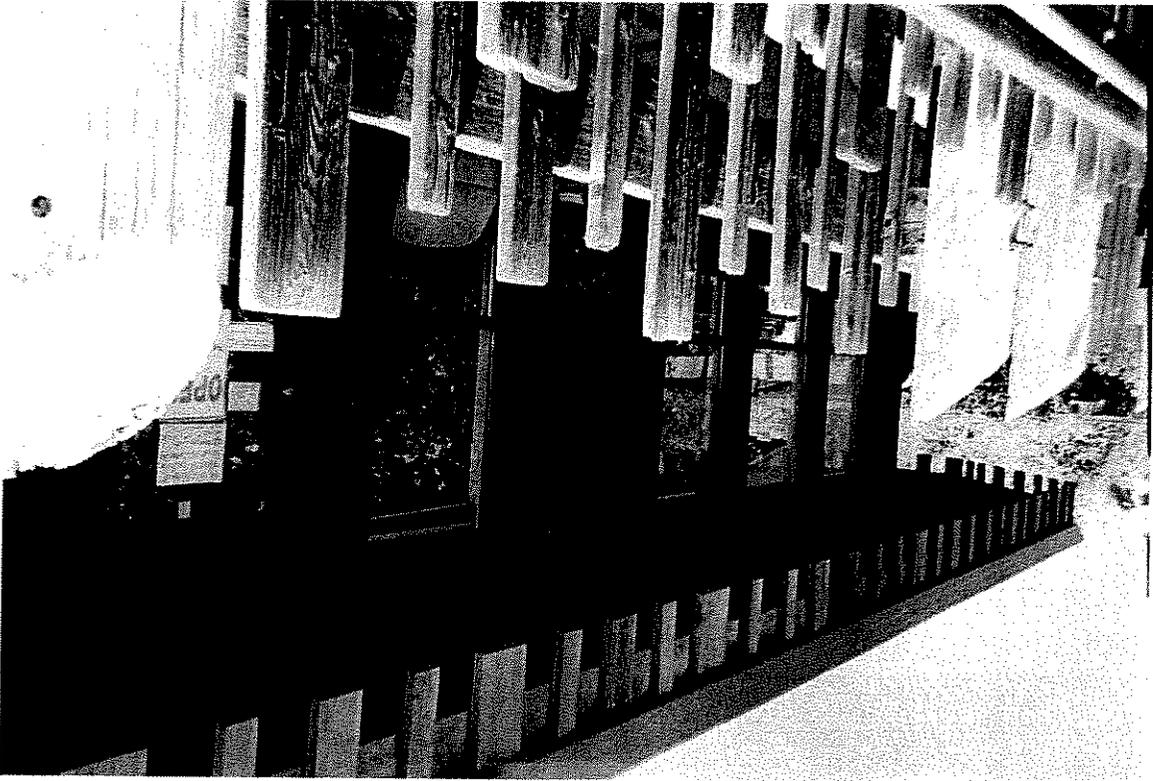
Robert St. Andre 30 Sequoia Dr. SAN ANSELMO,

Valerie Keller San Rafael 94901

Clayton San Rafael 94901







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(NAME - ~~PHONE~~ - PHONE NUMBER - EMAIL)

Cory Ferber - San Rafael - coryferber@yahoo.com

Jameson Bryan San Rafael, CA 94903

Andrea Pomara San Rafael CA

Trevor Wedge Novato, CA

Carmela Hayes Kentfield, CA 94904

Theo Eldridge III Novato, CA

Kelvin Novato, CA

Bruce Gopincki HT(ASCP) Forest Knolls

Nash Harsorey Mill Valley, CA

Pory Cameron Sonoma, CA

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TOWN optional

RJM

[Signature]

Fauzia Osman - Lagunitas

Anthony Cotadino (Fairfax)

Didrik L. Petersen (S.A.)

STEVEN COURTEAU (SAN RAFAEL)

Edgar STYLES SAN ANSELMO, CA *[Signature]*

Nancy Rodin Corte Madera

Suane Balasch San Rafael

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(NAME - ^{TOWN} - ^{OPTIONAL} PHONE NUMBER - EMAIL)

Lorie Rulhy 415 452 6515

Mark Brown 415 458 1717

MILTON HANGER

Charles Murphy 408-1105

J Grim

[Signature]

[Signature] 415-264-6351

Pat Keenan 415-384-9235

Morgan Colton 415-459-7722

Michael Smith 415-454-0228

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(NAME - ^{TOWN} - ^{OPTIONAL} PHONE NUMBER - EMAIL)

Kimith Licomin Fairfax, Ca.

Rudra San Rafael, Ca

Francis Nbar San Rafael, CA

David L. Smith Petaluma Ca

Dee Gibson Fairfax Ca.

Christina Holahan Fairfax CA.

C. B. [unclear] Fairfax Ca.

Debbie Broy San Rafael, CA

Green [unclear] San Rafael

Nancy Bromberger

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(NAME - - PHONE NUMBER - EMAIL)
Town Optional

S. C. Nguyen Novato, CA 94949
Danny Urban Novato CA 94949
~~Mark & Emma~~ Prospect, CA. 95521
Late Robbins San Rafael CA 94901
Rafael Brice Nunez San Anselmo CA 94960
Rosanne Urban San Rafael 94903
Adam W. Miller San Rafael 94903
Josephine Lemon Mill Valley 94941
Edna Foster Fairfax 94930
[Signature] Novato 94949

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(NAME - ^{Town} - ^{Optional} PHONE NUMBER - EMAIL)

David Dennis Petaluma (707) 725-3607

Richard Smith Petaluma (707) 765-9966

Richard Chapin Mill Valley
415 388 1835

x/Jan, Jan Novato, CA 94945

[Signature] Novato, CA 94945

[Signature] San Anselmo CA 94960

[Signature] San Anselmo, CA 94960

JACK LOWRY SAN RAFAEL, CA 94901

Linda Adams San Rafael, CA 94913

Ken Cardenas LAGUNITAS CA 94938

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Niky/Riggs ^{@ad.com} Greenbrae

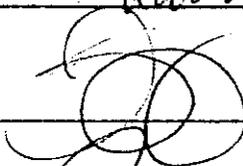
Jody Coppock San Rafael

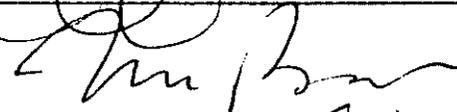
Wayne Brode SGV

Jeff Scherf Novato

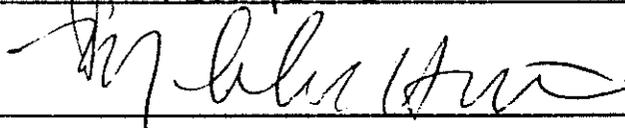
RICK LEWANDOWSKI SAN RAFAEL

David Mallin Tiburon

 SAN RAFAEL

 FAIRFAX

Jami Todd San Rafael

 San Rafael

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(NAME - ^{Town} - ^{Optional} PHONE NUMBER - EMAIL)

Renee C. Smith - tigeandreneec@theglobalfocus.org

John Drake Fairfax

Michelle Novato

[Signature] Fairfax

Joseph Rocco San Rafael

[Signature] - San Anselmo

Annex Spinks [Signature]

[Signature] Sausalito

MT Sibly Fairfax

Carmen Colomere Fairfax

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(NAME - ADDRESS - PHONE NUMBER - EMAIL)

Andrea Powers 1219 Grand Ave #5 SR 94901 Dreamin. Ydre@ymail.com

Diane Tallman

Novato

Beverly Barkwith

San Rafael (415) 419-7178

Karen Arkhy

Marin City (415) 333-7116

Lu Lohm

Fairfax, CA

L Schmieden

Novato, CA

Storm Glenn

Fairfax, CA

Kendres Miller

Fairfax, CA

Gene Zaglin

SAN RAFAEL 415-458-3772

Penny Knowles

Novato

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(NAME - ADDRESS - PHONE NUMBER - EMAIL)

Robert Fuller 141 LANSDALE AVE FAIRFAX, CA 94930 ROBERTFULLER@YAHOO.COM

John Jones 151 NEVADA ST, SR CA 94946-2100 -

Chris Gomes 1300 Lincoln Village Cir. (415) 464-9171

Lara Myers 1300 Lincoln Village Cir Larkspur (415) 464-9171
no email

Chuck Hadwin - 421 OCEAN PARKWAY BOLINAS, CA 94924

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(NAME - ~~ADDRESS~~ - PHONE NUMBER - EMAIL)

Merese Delucia Pata Wood 457-4621

Chris Brown cbrown@19broadway.com

Michael Audryto Guidry-michael@yahoo.com Fairfax

Joseph Braussard FAIRFAX CA.

[Signature] FAIRFAX, CA

[Signature] San Francisco, CA
damon-le@att.net

[Signature] Damon LeCall San Rafael Ca.

[Signature]

[Signature] Carlspar, ca

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TOWN (NAME - ADDRESS) (OPTIONAL PHONE NUMBER - EMAIL)

NADALE HEIFETZ 415 754 9077 - NARBONNE @Sbc.
Global.1

Robert Hasty 415-827-3703 @AOK.com
PO Alternatives

Nanette Mariani 415-827-3702
poalternatives@aok.com

REMI NOEL P.O. BOX 11946 SAN RAFAEL CA 94917 415-261-0823
PREVENTSIXSIXSIX@YAHOO

Ricky 415 752 6274

Steve Hamel 415-505-1437

Josie Lemon 415 381 8575 MILL VALLEY

Shivon Wade 415-525-9005 San Rafael

Bianca Co 415 461 0235 greenbina

Matt Brits 415 747 8538 - Kentfield

Earl 415

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(NAME ~~ADDRESS~~ (PHONE NUMBER) - EMAIL)

Bernett DAVISON 2501 APL 5A FAIRFAX CA 94903

(E Mail) dothineentertainment@hotmail.com # 415-755-8424

Michael Rodgers 70A Woodland Ct San Rafael 94901

LEWIS WOOD 2505 SER FRANCES DRIVE APT 6B FAIRFAX, CA 94903

Marella Nail 2505 SFD BLVD. Apt # 3B Fairfax CA 94903

DANIEL T FOLEY 2505 SFD BLVD APT 3B FAIRFAX CA 94930 (415) 855-4903

MATTHEW JARED BEALS SF, CA 94117

Zip & time

Signature J. Foley

Kerstin Nash Box 91 554 SF Blvd San Bernardino 94463

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(NAME - ~~ADDRESS~~ - PHONE NUMBER - EMAIL)

Pamela LeBald, Fairfax CA, gembog2003@yahoo.com

Jen Silver Fairfax jen@thisisnot.org

Mike W Caplan 9/Tempor CT Fairfax

Alisa Covillo Fairfax

Ben manduzani FAIRFAX

Steve Carlson San Francisco

BEVE Wells San RAFAEL fwell55447@yahoo.com

Mary Vaughn San Rafael mawynawyn@gmail.com

Judy Charlge San Rafael

Trice Sevens San Anselmo

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(NAME - Town - optional - PHONE NUMBER - EMAIL)

Kenneth Tomich

Anna Joy Barnett - Muir Beach - 510-776-6698

Darin Hest - Novato - 415-798-0540

Melinda Bradford

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(NAME - ^{Town} - ^{Optional} PHONE NUMBER - EMAIL)

Janady San Rafael Angie989@hotmail.com

David Flores Novato elflamingo766@comcast.net

JOHN P. SULLIVAN-WOODACKRE jps16@excite.com

Valerie Keller San Rafael

Chickens San Rafael CHRIS PARSON 2010@YAHOO.COM

RAM SAN RAFAEL

TELES WALTER Muir Beach

Dera Crofts San Rafael

PPHr NOUATO

John G. Novato
not chulupe fairfax

FAIRFAX POLICE DEPARTMENT
MEMORANDUM

TO: Linda Neal, Senior Planner

DATE: September 12, 2009

FROM: Chief of Police 

Subject: Application to Amend Use Permit for Marin Alliance

I have reviewed the application letter prepared by Lynette Shaw, dated August 20, 2009, outlining her desire to amend the use permit for the Marin Alliance for Medical Marijuana. As you are aware, the Fairfax Police Department avoids unnecessary investigations and inconvenience to those persons who properly qualify as medical users of marijuana as specified in the Health and Safety Code.

You have asked for comment on an application to allow Marin Alliance to provide a courier service to patients throughout Marin, expand the existing facility to allow for the cloning of cannabis and establishing a permitted growing garden in Fairfax.

Everyone knows Federal law prohibits the transportation of marijuana. State law generally prohibits transportation as well, with the exception of those who are primary caregivers. Furthermore, I have a public safety concern for the couriers, patients and potentially others when marijuana is transported in this fashion. Alarming vehicles, establishing confidential routes and maps are all safeguards proposed by Marin Alliance. They only exemplify the problems associated with this type of activity. I doubt other communities will embrace the legal and safety liabilities associated with this expansion. I am opposed to this permitted use.

Marin Alliance already houses medical marijuana on site for current patient sales in amounts as allowed by their current use permit. Allowing cannabis clones would be viewed, one might think in the same manner.

Lastly, permitting a growing garden in Fairfax is problematic as it relates to community safety. Currently, residential grow sites are prohibited under their existing use permit. Grow sites in general are targeted by thieves and the resulting thefts are routinely accomplished by force that often times result in physical violence. Allowing the establishment of a commercial grow site in a small community of this size brings with it issues not seen by larger communities. The Planning Department needs to receive specific information on a potential parcel/site before considering this request. Only then can an informed decision be made that addresses the issue of public safety as well as a variety of potential merchant concerns relating to this type of permitted use.

EXHIBIT #

 B



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
PHONE (415) 453-1584 / FAX (415) 453-1618

February 11, 2010

Ms. Lynnette Shaw
Marin Alliance for Medical Marijuana
6 School Street Plaza (Suite 210)
Fairfax, CA 94930

RE: **USE DETERMINATION ON ANCILLARY SERVICES TO CONDITIONAL USE PERMIT (NUMBER 97-UP-2) IN THE LIMITED COMMERCIAL ZONE (CL)**

Dear Ms. Shaw,

Please be advised that I have considered your request for ancillary space next to your conditionally permitted "Dispensary" facility located in what is commonly known as "School Street Plaza" and have made the following determination:

Whereas, Marin Alliance received a conditional use permit number 97-UP-2 on June 19, 1997 to operate a Medicinal Marijuana Dispensary; and

Whereas, the Dispensary is being operated in compliance with the provisions of State Proposition 215; and

Whereas, Marin Alliance is now asking that it be allowed to sell products that are ancillary to the services provided by the Dispensary in an area no larger in square footage than the size of the original Dispensary; and

Whereas, only products that are directly related and ancillary to the services provided by the Dispensary shall be sold in the proposed location, including, but not limited to, medical marijuana industry products such as use and cultivation products.

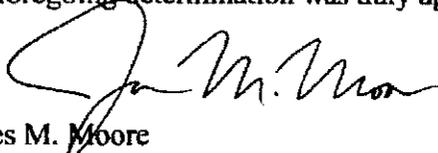
Whereas, no medicinal marijuana will be located, sold, or used in the new ancillary space, and conversely no products sold in the new ancillary space will be sold in the area where the medicinal marijuana is being sold; and

Whereas, Section 17.092.055 of the Town's Zoning Ordinance articulates a "PROCEDURE FOR PLANNING DIRECTOR USE DETERMINATION" when a use is similar to another use permitted or conditionally permitted within the Limited Commercial Zone; and

Whereas, because the proposed sales will be limited to products that are ancillary to the services provided by the Dispensary, the proposed use will remain primarily service-oriented, as opposed to primarily retail-oriented, in conformance with the property's Limited Commercial zoning designation.

NOW, THEREFORE, BE IT DETERMINED that I find that the use of office space next door to the Dispensary, as described above, be allowed.

The foregoing determination was duly approved on this 11th day of February, 2010.

A handwritten signature in black ink, appearing to read "James M. Moore". The signature is fluid and cursive, with the first name "James" and last name "Moore" clearly legible.

James M. Moore
Director of Planning & Building Services