

# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** April 15, 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. 002-112-131  
**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

At the last Planning Commission meeting on March 18<sup>th</sup> of this year, the Commissioner's first heard the applicants request for modifications to the Use Permit (# 97-UP-2) that allows for the operation of a Dispensary in the Town of Fairfax.

At that meeting the Planning Commissioners directed the applicant and staff to provide additional information related to the requests in order to more fully inform the Commission before they make any determination and/or findings on this matter. Below, the applicant and staff have responded as requested.

Please note: the staff report for the previous March 18<sup>th</sup> meeting is attached and should continue to be referenced for your consideration on this matter.

### DISCUSSION

We respectfully submit the following responses to the Commissioners requests which are in bold below:

- 1. The applicant shall provide a letter of intent from an insurance company to provide insurance, including insurance to indemnify the town, for a medical marijuana delivery service if approved by the Town. Please note that in order to be placed in the Planning Commissioner's information packets for the April 15<sup>th</sup> Planning Commission meeting the letter must be received by staff by April 7,**

**2010.**

Please find letter provided by applicant from the proposed insurance provider (Exhibit A).

**2. The staff shall include copies of proposition 215 and Senate Bill 420 as attachments to the staff report for the April 15, 2010 meeting.**

Please find attached copies of Proposition 215 and Senate Bill 420 (Exhibit B & C)

**3. The Fairfax Police Chief, or his representative, shall be present at the April meeting.**

The Chief of Police or his representative is present at tonight's meeting.

**4. Staff shall provide comparable information from dispensaries in similar sized California Communities on the following:**

- **Age of patients allowed at the dispensary.**
- **Delivery services/businesses**
- **If the dispensaries have a trial membership period and how they work.**

Staff has contacted both the Town of Cotati and the City of Sebastopol and can report the following:

Cotati:

- 1) Minors are only allowed in the Dispensary with an adult.
- 2) The ordinance does not address deliveries by the Dispensary.
- 3) The ordinance does not address trial memberships

Sebastopol:

- 1) Minors are required to be with a parent on the first visit, and then allowed in without thereafter.
- 2) The ordinance does not address deliveries by the Dispensary.
- 3) Only a valid "prescription" is required; presumably verified by the Dispensary.

**5. The next staff report shall include a 500 foot boundary map.**

Please see map attached (Exhibit D).

**6. Town Council shall verify any provision relating to the compassionate use act that relates to minors visiting dispensaries.**

Verbal report will be provided by Town Council at tonight's meeting.

**7. Staff shall make contact with representatives of Little League to determine whether the Little League objects to Alliance operating its business during games.**

Staff has contacted representatives of the Marin Little League who have indicated that the existing process is working well for the Little League. The Marin Little League Board would have to consider whether the Little League is willing to grant Alliance permission to conduct its business during Little League games..

**8. Staff shall review conditions 8 & 11.**

Staff has reviewed conditions 8 & 11, and upon further consideration, especially in light of how well the Dispensary has been operated since receiving a Use Permit, feels that both requests can be supported provided that the Dispensary a) verifies patients' written authorization by phone before issuing medical marijuana, and b) confirms that patients receive a valid identification card by the end of the 30 day trial period.

This concludes the applicants and staffs responses to the Commissioners questions and/or requests for further information on this matter.

Finally, subsequent to the last Planning Commission meeting the applicant has provided the attached letter (Exhibit E) suggesting several additional conditions on her proposed delivery service (Condition 50) in response to the Police Chief 's concerns . In addition, the letter further explains the impacts that little league games and practices have had on her business.

**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), and to allow for the sale of clones on site in the Dispensary.

Denial of the request for a delivery service and a grow site is based on the following findings:

Transportation of large quantities of marijuana through town raises significant public

safety concerns. Because of the nature of the medication, the Police Department believes that a medical marijuana delivery service would be more vulnerable to crime than other types of medical delivery services. The Police Department believes that this use could potentially subject delivery personnel, patients, and the general public to an unacceptable risk of robbery and other violent crimes.

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 on insurance
- Exhibit B – Proposition 215
- Exhibit C – Senate Bill 420
- Exhibit D – Map with 500 foot radius
- Exhibit E – March 18, 2010 Staff Report
- Exhibit F – Applicant Supplemental Letter