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Date: Monday, February 15, 2016 at 2:11 PM

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Cc: Noah Pomerantz <noahpomerantz@gmail.com>, Jeff Brothers <jb@solorchard.com>

Subject: Item 1; Special Meeting re Medical Marijuana Interim Ordinance - REF150047

Dear Chair Parker and Members of the Board,

I want to thank you for the time you and County staff are taking to develop the cannabis ordinance and to address our concerns about the current moratorium.

On behalf of Sungrown Farms, I would ask you to make three minor, but important, changes to the proposed language contained in the staff report for the Special Meeting:

1. Page 2 of 4 of the Supplemental Memo re Proposed Language in your staff report, Section 3(J), defines "Property Owner". We suggest that it read as follows: "'Property Owner' means an individual or entity, or an agent or assign of such, who is the record owner of the subject property where a medical marijuana dispensary or medical marijuana cultivation site is located or is proposed to be located, or who has signed a purchase agreement or letter of intent to acquire such property."
2. Page 3 of 4 of the Supplemental Memo, we suggest amending Section 5(D)(3) to read as follows: "Substantial financial investment in the preparation of cultivation at a greenhouse or indoor cultivation site including, for example, sales receipts for the purchase of materials..."
3. Page 3 of 4 of the Supplemental Memo, we suggest amending 5(D)(4) to read as follows: "'Proof that the applicant either was, or had a relationship with, a medical marijuana cooperative or collective prior to July 7, 2015; and".

While I agree that it is necessary to be a part of a collective to cultivate legally, it is common for a for-profit entity like Sungrown Farms to be the "Property Owner", as defined in your definitions, and the applicant. These changes assure that we will not have ambiguity when working with staff on the exemption.

I would also ask that you direct staff to address our request for determination of exemption on an expedited basis after the second hearing on this matter.

Thank you for your leadership on this issue and if you have any questions, as always, please do not hesitate to contact me.

Very truly yours,

Aaron

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It is proposed that Section 3 (Definitions) to Interim Ordinance No. 5254 be amended as follows:

For purposes of this interim ordinance, the following terms have the definitions set forth below:

A. **Collective or cooperative cultivation.** "Collective or cooperative cultivation" means cultivation by or on behalf of more than one qualified patient, person with an identification card, or a primary caregiver that associate collectively or cooperatively to cultivate marijuana for medical purposes, as referenced in Health and Safety Code section 11362.775.

B. **Cultivation.** "Cultivation" means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.

C. **Good cause.** "Good cause" means the presence of compelling factors that are not under the control of the property owner, such as a substantial delay in the County permitting or licensing processes due to circumstances beyond the control of the property owner.

D. **Greenhouse.** "Greenhouse" means a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental artificial lightings for cultivation.

~~DE.~~ **Identification card.** "Identification card" means a document issued by the State Department of Health Services that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any. [no change in definition; moved to put in alphabetical order]

F. **Indoor cultivation site.** "Indoor cultivation site" means an area within a fully enclosed structure, that was legally constructed or erected for occupancy by a Factory Industrial F-1 or Factory Industrial F-2 operation (as those term are defined in the International Building Code Sections 306.1, 306.2, and 306.3) that uses exclusively artificial lighting for cultivation.

~~GE.~~ **Medical marijuana dispensary.** "Medical marijuana dispensary" means any facility or location which is used to make available and/or distribute marijuana for medical purposes to more than one primary caregiver, qualified patient, or patient with an identification card. "Medical marijuana dispensary" includes undertakings that are organized or operated as a collective or cooperative. The term "medical marijuana dispensary" does not include a licensed facility described in Health and Safety Code section 11362.7(d)(1).

~~EH.~~ **Person with an identification card.** "Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card.

~~IF.~~ **Primary caregiver.** "Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

J. **Property owner.** "Property owner" means the individual or entity, or an agent or assign of such duly authorized in writing by the property owner, who is the record owner of the subject property where a medical marijuana dispensary or medical marijuana cultivation site is located or is proposed to be located, or who has signed a purchase agreement or letter of intent to acquire the property.

K.G. **Qualified patient.** "Qualified patient" means a person who is entitled to the protections of Health and Safety Code section 11362.5, but who does not have an identification card issued pursuant to Health and Safety Code sections 11362.7 *et seq.*

Section 4 (Regulations) of Interim Ordinance No. 5254 will remain the same:

A. **Prohibition on collective or cooperative cultivation:** The collective or cooperative cultivation of medical marijuana is prohibited. The County shall not permit or allow, or process applications for land use entitlements for, the use of real property for collective or cooperative cultivation of marijuana for medical purposes.

B. **Prohibition on medical marijuana dispensaries:** Medical marijuana dispensaries are prohibited. The County shall not permit or allow, or process land use entitlements for, the use of real property for a medical marijuana dispensary.

C. These regulations apply during the term of this interim ordinance and any duly adopted extension of this interim ordinance, unless a specific exemption under this ordinance is applicable.

It is proposed that Section 5 (Exemptions) to Interim Ordinance No. 5254 be amended as follows:

A. This interim ordinance does not prohibit a qualified patient, a patient with an identification card, or a primary caregiver from cultivating up to six mature plants or twelve immature marijuana plants per qualified patient, or a greater number if recommended by a doctor consistent with the patient's needs, within the limits set forth in Health and Safety Code section 11362.77, if the qualified patient or patient with an identification card is cultivating plants only for his or her own personal use, or if the primary caregiver is cultivating plants only for persons for whom he or she personally serves as a primary caregiver and not engaging in collective or cooperative cultivation.

B. This interim ordinance does not prohibit medical marijuana cultivation if the property owner demonstrates to the satisfaction of the Director of Planning that such cultivation had commenced and all required County approvals and land use permits had been obtained or applied for prior to the date of adoption of this initial interim ordinance.

C. This interim ordinance does not prohibit the operation of any medical marijuana dispensary if the property owner demonstrates to the satisfaction of the Director of Planning that such use had commenced and all required County approvals and land use permits had been obtained prior to the date of the adoption of this initial interim ordinance.

Any medical marijuana dispensary that operates under this provision does not exempt the property owner from the requirements of any County ordinance which the County may subsequently adopt relating to dispensing of marijuana. Within thirty days (30) of the effective
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date of any such newly adopted regulations, the property owner must apply for any permits or licenses required by those regulations for the dispensing of medical marijuana. If the property owner does not receive the required County permits and licenses within one (1) year of the effective date of the newly adopted regulations, any medical marijuana dispensary which was allowed under this Interim Ordinance exemption shall cease. This one (1) year deadline may be extended by the Director of Planning for good cause.

D. This interim ordinance does not prohibit ~~collective or cooperative medical marijuana~~ cultivation in a greenhouse or indoor cultivation site ~~during the term of this interim ordinance~~ if the property owner demonstrates to the satisfaction of the Director of Planning that substantial progress towards cultivation at a greenhouse or indoor cultivation site ~~within the jurisdiction of unincorporated County~~ had occurred prior to July 7, 2015, and if the property owner applies for and obtains all necessary County discretionary and ministerial permits required to commence cultivation under existing regulations. "Substantial progress" is defined ~~as shall be determined by the Director of Planning and requires the property owner to provide proof based on substantial evidence of all of the following conduct:~~

Comment [AJ1]: Removing to be consistent with other Sections of this ordinance. It's required under the law to be growing within a collective of medical marijuana patients.

Comment [AJ2]: Same comment; not in other sections and doesn't add anything operationally, so we're asking to strike for consistency. This applies to the first three changes requested in this paragraph.

1. Ownership of a viable greenhouse or indoor cultivation site, or the execution of a lease, purchase, lease option agreement, or purchase option agreement ~~offer~~ a property on which exists a ~~viable~~ greenhouse or indoor cultivation site;

2. Preparation of a ~~viable~~ greenhouse or indoor cultivation site that existed or was legally permitted prior to July 7, 2015. ;

3. Substantial financial investment in the preparation of cultivation at a greenhouse or indoor cultivation site ~~including to maintain the property to acquire sales receipts for the purchase of materials including, but not limited to plumbing fixtures, electrical devices, soils, as well as seeds, mature plants, or immature plants;~~

~~Proof that applicant was a medical marijuana cooperative or collective prior to July 7, 2015; and~~

Comment [AJ3]: Or in the alternative that it reads "Proof that the applicant either was, or had a relationship with, a medical marijuana cooperative or collective prior to July 7, 2015"

4. Proof that the proposed greenhouse or indoor cultivation site existed and was legally permitted prior to July 7, 2015. Any modifications would require appropriate permits.

Permission to commence cultivation under this provision does not exempt the property owner from the requirements of any County ordinance which the County may subsequently adopt relating to cultivation of marijuana. Within thirty days (30) of the effective date of any such newly adopted regulations, the property owner must apply for any permits or licenses required by those regulations for the cultivation of medical marijuana. If the property owner does not receive the required County permits and licenses within one (1) year of the effective date of the newly adopted regulations, any cultivation which was allowed under this Interim Ordinance exemption shall cease. This one (1) year deadline may be extended by the Director of Planning for good cause.

E. This interim ordinance does not prohibit cultivation at a greenhouse or indoor cultivation site if the property owner demonstrates to the satisfaction of the Director of Planning

that such cultivation had commenced prior to July 7, 2015 and if the property owner applies for, obtains, and complies with all County land use permits and entitlements required for such cultivation.

