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December 15, 2010

SENT VIA EMAIL

Richard Parker  
Community Development Director  
Town of Prescott Valley  
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928-759-3051

*RE: Medical Marijuana Ordinance Amendment – ZOA10-06*

Dear Mr. Parker,

On December 13<sup>th</sup>, 2010 the Planning and Zoning (“P+Z”) Commission of Prescott Valley held a work and study session to discuss a proposed amendment to the Town’s zoning ordinance regarding Medical Marijuana (“MM”) related land uses. This draft was well crafted and we commend the Town for its efforts to date. However, the originally proposed limitation on the size of MM cultivation facilities does in fact raise some concerns, which were discussed at the work and study session. In an effort to assist Town Staff, the P+Z Commission and the Town Council, as requested at the December 13<sup>th</sup> meeting, this letter is intended to clarify some of the issues, and to help the Town of Prescott Valley prepare to accommodate MM facilities of *only* the highest caliber. We believe that this can best be accomplished by allowing larger more professional operations in the Town. The headings of each section below relate to specific information you asked for in an effort to resolve this concern.

*Percentage of the Population in Need*

According to an estimate released by the Medical Marijuana Policy Project, the number of registered users of MM is projected to be about 65,000 statewide by the end of the first year. The same projection indicates that the number of users could potentially reach up to 200,000 within three to five years. For comparison’s sake, we have conducted our own analysis, looking at the number of registered users in the State of Colorado relative to population.

As stated by the Colorado Department of Public Health and Environment, as of June 30, 2010 there approximately 95,000 registered users of MM in that state<sup>1</sup>. Colorado has a population of approximately 5,000,000. That means that in fact 1.9% of the population benefits from MM in that state. This statistic is exactly the same as that given by a member of the public at the December 13<sup>th</sup> P+Z work

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<sup>1</sup> Of note in Colorado the average age of a registered user is about 40 years old, and 71% of registered users are male.  
(<http://www.cdphe.state.co.us/hs/medicalmarijuana/statistics.html>)

session. Using this statistic, considering that Arizona has a population of roughly 6,500,000, Arizona can expect 123,000 registered users.

All of these figures are largely conjecture, but for arguments sake, the 1.9% statistic is likely accurate enough to make some legitimate projections about the demand for MM that are within an acceptable margin of error.

### Estimated Demand

According to the Prescott Valley Economic Development Foundation (“PVEDF”) the estimated population of the Town of Prescott Valley is 44,000<sup>2</sup>. If 1.9% of the population is expected to benefit from MM use, that means there is the potential for about 835 registered MM users in the Town of Prescott Valley. PVEDF further estimates that there are over 210,000 people in the county labor shed. Using this as a basis for our extrapolation, the number of potential MM users that would patronize a facility in Prescott Valley could actually be greater than 4,000. State law permits each of these registered users to obtain up to two and one half ounces every two weeks. Conservatively, and for the purpose of this analysis we assumed the average patient would obtain 20% less than the maximum permissible by law, two ounces every two weeks or 52 ounces annually. Hence, the total estimated demand will be between 2,714 and 12,968 pounds of MM on an annual basis for registered users in and around Prescott Valley.

### Production

It is difficult to estimate with any accuracy the yield of a single marijuana plant, which would be necessary to determine the number of plants needed to produce enough MM to satisfy the demand of all registered users in Prescott Valley and surrounding areas. As with any type of agricultural production, there are a number of variables, any of which could result in completely different outcomes if altered only slightly. For MM cultivation these variables include but are not limited to, method of cultivation, strain of the seed, age of the plant, altitude, and quality of the water and nutrients provided to the plant. However based on information from cultivation in Colorado a good estimate is that a 10,000 SF cultivation facility, under ideal conditions could yield approximately 2400 pounds per year. Based on the projections above, a facility of that size would be just shy of satisfying the minimum demand for the area. However, this number does not take into consideration the likely need for a larger “contingency” crop during the early stages of the operation to ensure demand is met, and as stated above is based on the assumption that the average patient will consume 20% less than the maximum allowable by law.

### Size Limitations for Medical Marijuana Facilities

Because the State Law would permit registered users to grow up to twelve plants of their own if they do not live within 25 miles of a dispensary, it is important that a MM dispensary is located within or very near to Prescott Valley, to prevent the individual cultivation in residential areas. Private cultivation is difficult to monitor and can give rise to many undesirable conditions. Not the least of which would include a greater potential for illegal marijuana consumption, burglaries, and other crime. Therefore it is in Prescott Valley’s best interest to ensure that the needs of the community are met locally by legitimate, well capitalized, monitored and compliant commercial cultivators and dispensary operators. To accomplish this it is vital that your ordinance allow for cultivation facilities in excess of the current proposed 3,000 SF limit. This will ensure that demand is met with the fewest number of cultivation facilities/dispensaries possible.

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<sup>2</sup> <http://www.pvedf.com/>

At the December 13<sup>th</sup> meeting, you indicated that the size limitations dictated by the draft ordinance would only be applied to the area of the building where the actual growing took place. Apart from the actual growth of MM, cultivation facilities will need to be accompanied by office space, areas for processing, infusion, packaging, storage (for MM and cultivation supplies/equipment), receiving and or loading transport vehicles, restrooms, etc. Despite the comment at the December 13<sup>th</sup> hearing, the proposed limitation on the size of cultivation facilities does not distinguish between cultivation and infusion, and it states that *"the secure storage area for the MM stored at the cultivation facility shall not exceed 1,000 square feet of the 3,000 square foot maximum floor area of a cultivation facility."* Essentially this language limits the grow area to a maximum of 2,000 square feet, and included in this 2,000 square foot area there would need to be room to conduct infusion processes. This is far below what would be adequate to accommodate the needs of the community based on every conceivable analysis.

### Use Permits

The idea that a use permit requirement be implemented as an added control over MM related facilities is fair from multiple perspectives. With an eye towards ensuring that only legitimate operators enter the MM industry in Prescott Valley, use permits are certainly a logical measure to take. The City of Prescott is probably going to require use permits for dispensaries in commercial zones. As a neighboring city with similar values, it might well be considered in Prescott Valley too. Commercial zones are well traveled areas, and even if a dispensary is not open to the public *per se*, it still has the potential to create what was referred to as an "attractive nuisance" in the December 13<sup>th</sup> hearing. As such, certainly the use permit process would allow for added control by local officials, an opportunity for public input, and an overall greater comfort level with the ultimate location.

While a use permit requirement may also be a fair approach to controlling the location of cultivation facilities, it is not necessary. If, as already dictated in the draft ordinance, that *"no use shall be established, maintained, or conducted in any C3 District which does not comply with all of the prohibitions against nuisances and hazards in Article 13-26 of this Chapter"* then a cultivation operation which is quiet, and does not emit noxious fumes, or create other nuisances need not clear another hurdle, especially when cultivation sites will completely closed to the public. If the location of cultivation operations is a concern, an alternative to the use permit requirement might be to change the permitted zones. Because cultivation facilities by their nature are going to need to be large operations whose natural homes will be warehouse type buildings, limiting them to industrial zones, as the City of Prescott is considering, is another viable option and would abate need for the use permit hurdle and square footage limitations.

### Conclusion

At the December 13<sup>th</sup> meeting, you stated that you did not see how the risks and potential for negative consequences that some might associate with MM were proportionate to the size of the facility. In other words, you stated that larger facilities do not necessarily translate to increased risks. In fact you concurred with our assertion that a larger facility would likely be more secure, due to economies of scale and ability to afford state of the art security measures. This conclusion is in line with the realities on the ground in other states who have implemented MM laws prior to Arizona.

In a letter that I sent to you dated December 10, 2010 (copied to the Planning and Zoning Commissioners), I stressed the hazards of limiting the size of the MM dispensaries and cultivation facilities and cautioned that these restrictions would discourage legitimate, well capitalized, reputable, operations of the highest caliber. After concluding the above analysis, it seems there is yet another reason

to remove restrictions on size for MM cultivation facilities; simple supply and demand. If in fact a dispensary facility ultimately opens in Prescott Valley, but the cultivation site is not equipped to provide adequate supply, the need will arise for MM to be transported to the dispensary from other cultivators around the State. This may bring with it unnecessary security risks for the community. If the root of any size related concern is its impact on neighboring uses, the proposed zoning ordinance amendment can be altered to require use permits or alternatively limit the location of large cultivation operations to the industrial zones in which they are best suited.

Removing the maximum size restrictions considered for MM dispensaries and cultivations facilities has several benefits. Foremost, as it is inevitable that at least one State licensed and regulated operation will seek to make its home in Prescott Valley, you ensure that you do not deter the most reputable operation from contending for that privilege. Additionally, you make certain that this facility is equipped to service the needs of the community. This is advantageous because by providing for the needs of the community locally, you prevent unnecessary transportation of MM to and from Prescott Valley from across the State to meet demand or the proliferation of individual cultivation of MM in residential neighborhoods which would create other inherent concerns.

I hope that the information in this letter is informative and sufficiently addresses your questions stemming from the December 13<sup>th</sup> meeting. Thank you for the opportunity to participate in this process. If we may be of further assistance in helping you grapple with these issues between now and the P+Z Commission hearing scheduled for January 10, 2011 please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam M. Trenk", written in a cursive style.

Adam M. Trenk

**Richard Parker**

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**From:** david@azgc.org  
**Sent:** Tuesday, December 14, 2010 2:08 PM  
**To:** Richard Parker  
**Cc:** pvpdchief@pvtwp.com; robmiller@aol.com; khedler@prescottaz.com; t42tt@yahoo.com; matforce@cableone.net; info@keepazdrugfree.com; philtbn2@commspeed.net  
**Subject:** Medical Marijuana Dispensary Zoning

Hello Mr. Parker

I apologize that I rambled a bit at the planning and zoning meeting last night, I have so many things on my mind right now that I'm bursting at the seams. I'm just going to dig into the relevant issues that were brought up last night and back up my opinions with links to information.

Keeping a zoning restriction on the size of growing operations is very important! The very wealthy and mostly out of state interests that were represented by Attorneys and Realtors and want 10,000+ square foot growing operations here in Prescott Valley are not just looking to provide for the patients in medical need here locally! They are trying to use Prescott Valley to provide marijuana to distribute all over the state (and in my opinion promote redistribution). I will also take an educated guess that these are the same individuals that would set up unscrupulous affiliations with "Doctors" to try and get every pothead in our town and the state qualified through the chronic pain loophole, as this would increase their profits which is truly their only interest in this industry. This would only allow the rich to get richer and do so at the expense of our public safety. Having thousands of marijuana plants growing here in excess of the local demand is an obvious security problem and safety issue! I truly hope all Arizona cities and towns look closely at how imposing responsible zoning restrictions right now can keep these unethical profiteers from taking control of this industry here in Arizona, and turning us into just another out of control MMJ state!

Based upon the apx. population of Prescott Valley being 40,000 and the curve at which patients will obtain licenses, with just 500 square feet we can supply the need of Prescott Valley for the first year! With 1000 square feet I can predict with reliable data that we should be able to meet the need for the first 2 years and maybe longer as that is when demand should stabilize. If and when we might need more space, I would recommend that when we are using 85% of our growing area we are responsibly allowed to either move, expand, or set up a secondary operation in conjunction with the law. That operation should be capped at 1000 square feet of growing area, until such a time when the local demand dictates that it needs to be moved or expanded.

When 85% of that now 2000 square foot is being used and demand is dictating providing for more, I would recommend allowing 1000 more square feet. This keeps the cart from getting in front of the horse! I have to interject here that unless the population of Prescott Valley explodes in the next few years (unlikely), 2000 square feet would be the maximum space needed to supply the demand even if many patients and their Doctors decided they needed the maximum amount (5 oz per month). I don't see anyone that is providing just for the local demand and doing so responsibly having need for more than 2000 square feet of growing area in the next decade!

The average amount of marijuana a patient buys ever month will be right at about 1 ounce. This is based on what the other states have seen and you can also look at the fact that Washington D.C. is allowing Dispensaries to serve 300 patients per year and to do so with 95 plants. They did all the research to come up with those numbers and that ties in with my

desire to use 196 plants to ultimately serve the projected 780 local patients.

The lawyer from Rose law group representing his "affluent" client/s tried to dance around the issue, but there is still a Federal law that dictates a mandatory 5 year prison sentence for anyone convicted of growing more than 99 plants. 100 or more plants under the care of one person in one location is years in a cage with murderers and rapists, 99 or less is probation and fines. Within the Arizona law that allows two growing operations, each with 99 plants or less is the only true high ground for a dispensary to operate within! These very wealthy people will find irresponsible growers willing to take that risk for them, but allowing that out of control scenario to happen here provides no benefit to our community!

Number of patients: <http://medicalmarijuana.procon.org/view.answers.php?questionID=001199>

I mentioned that anyone could grow up to one plant per foot in a growing area! That is the SOG or Sea of Green growing method. That is the most popular among criminal enterprises and would most likely be the method employed by the people who want to locate a vast growing empire here in our town! That growing method yields nearly 4 ounces per plant per harvest(apx. 70 days). That provides the most yield based on energy expenses and space used. In order to meet the demand and stay under the Federal cap we would need to grow larger plants to have them yield more medicine per plant. This technique is called a SCROG or Screened sea of green this system uses nine square feet per plant and then you have 98 plants producing more than 8 ounces per harvest(apx. 100 days). This equals 882 square feet of growing area used by plants and the remaining 118 square feet would be the necessary access. 1000 square feet is a perfect size for a responsible and as close to humanly possible Federally compliant growing operation!

SOG: <http://www.kindgreenbuds.com/marijuana-grow-guide/seaofgreen.html>

To learn more about both methods and other relevant info.: [http://en.wikipedia.org/wiki/Cannabis\\_cultivation](http://en.wikipedia.org/wiki/Cannabis_cultivation)

For an example the 1000 square foot growing oration could produce up to 900 plants if someone wanted go that route, those would supply roughly 4 ounces per plant per harvest every 70 days on average. That in itself easily exceeds all the projected patients in Prescott Valley obtaining 1 oz per month each on average, and it will take 2-3 year to reach that number of patients. If our organization gets this license we will try to keep one location meeting the need as long as humanly possible. Having two locations doubles our security concerns and causes a transportation expense, we will put that off until it is the only option.

Anyone that tells you they could remotely need more than a maximum total of 2000 square feet of growing area to provide for the realistic expected medical needs of Prescott Valley for the next few years is not being honest! The responsible thing to do in my opinion is allow the 1000 square feet that you recommended and allow more space if and when it proves necessary to meet the local demand, 1000 square feet at a time. That way local demand dictates the size of a growing facility and number of marijuana plants in a responsible manner.

We would have a "man trap" where people enter into a small professional reception area. Upon a patient proving they have a legal and legitimate reason to access the medical marijuana and paraphernalia, they would be allowed to then enter the area where those items are respectfully displayed. We weren't planning on providing deliver services unless their was a strong demand, however realize that anything that keeps the dispensary from delivering will increase the number of local caregivers. They are essentially MMJ delivery agents, and many iof them will be coming from outside the 25 mile area with unregulated MMJ if the demand is here. This isn't so much a point of contention as it is making sure the consequences aren't a surprise.

We would respectfully request that the hours are allowed to be 9 AM to 6:30 or 7 PM, I mentioned that as some people get off work at 6 PM need their medicine on their way home. This allows them to not have their medicine sitting in their car all day or on their person at work. Again Zoning regulations for C2 do allow for a small commercial greenhouse operation and perhaps with a cap at 500 or ideally 1000 feet for growing area that could be something that allows us to keep this in a more professional and less industrial location? Being around other business that keep similar hours and have people coming and going is an obvious security benefit for our clients and employees. We will have nothing to hide and our business will be professional and respectable, one of our main goals is to earn the respect of our community!

There is in fact a lot of profit in not for profit. We will be competing with people who want to make a million dollars per year or more right here with an enterprise that barely exists within the frame work of the state law and is has absolutely no compliance within Federal regulations! While by comparison we only want to responsibly provide this natural medicine to the legitimate patients in our community that truly deserve to have it, and simply make a respectable living in the process. We are already donating more than half our profits to other local charities, so this should be crystal clear right from the beginning?! If we can pay local taxes on top of the \$40 per ounce luxury tax we will, I feel medical marijuana should be taxed just the same as any other tangible commodity. Even though it is a medicine, the sales should benefit the local community as much as possible.

Tax: <http://azcapitoltimes.com/news/2010/03/25/senate-oks-medical-marijuana-tax/>

If you have any other questions or comments please do feel free to contact me.

Thank you,  
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