Connect Create Collaborate

Carolina Peters <carolina.peters@lacity.org>

Fwd: Request for Opposition to Motion 7B 7C and Councilman Englander's Verbal Motion

1 message

John White <john.white@lacity.org> Mon, Dec 4, 2017 at 1:41 PM
To: Carolina Peters <carolina.peters@lacity.org>

Please attach the accompanying letter to CF14-0366-s4 as a communication from the public
---------- Forwarded message ----------
From: **Andrew Westall** <andrew.westall@lacity.org>
Date: Sat, Dec 2, 2017 at 10:14 AM
Subject: Fwd: Request for Opposition to Motion 7B 7C and Councilman Englander's Verbal Motion
To: John White <john.white@lacity.org>

Please add to Council File 14-0366-S4. Thanks!

---------- Forwarded message ----------
From: **Sarah Armstrong** <industry@safeaccessnow.org>
Date: Fri, Dec 1, 2017 at 5:02 PM
Subject: Request for Opposition to Motion 7B 7C and Councilman Englander's Verbal Motion
To: councilmember.wesson@lacity.org, councilmember.harris-dawson@lacity.org, councilmember.huizar@lacity.org, Cat Packer <cat.packer@lacity.org>, Andrew Westall <Andrew.westall@lacity.org>, Rachel.brashier@lacity.org, Solomon Rivera <Solomon.rivera@lacity.org>, Diana.yedoyan@lacity.org, Paul.habib@lacity.org

Please find below and attached a joint letter from the Southern California Coalition, The California Minority Alliance and Americans for Safe Access. Please note that the attached letter is signed.
##########################

December 1, 2017

The Honorable Members of the REIR Committee
Ms. Cat Packer
Executive Director
Department of Cannabis Regulation
200 N. Spring Street
Los Angeles, CA 90012

Re: Motion 7B – Martinez CF: 14-0366-S4 Motion requiring a 1,000 foot buffer between daycare centers and retail outlets/delivery services

Motion 7C – Bonin/Martinez CF: 14-0366-S4 Motion requiring the same buffer zones for pre-schools and licensed daycare centers as are imposed on schools K-12 (750 feet retail/micro-business, 600 feet delivery services/non-retail)

Verbal Motion – Englander CF: 14-0366-S4 motion to establish a cap per community plan and deducting micro-business activity from the imposed caps

Dear Honorable Members of the REIR Committee and Ms. Packer:

The Southern California Coalition, The California Minority Alliance and Americans for Safe Access are extremely concerned about the motions named above and respectfully ask the REIR Committee oppose these motions based on the following facts:

Motion 7B and 7C

Historically, sensitive uses were imposed to keep school-aged children (ages 5-18) who were unsupervised, away from medical cannabis dispensaries. The idea was to put a city block between dispensaries and areas where children might be present without adult supervision. 600 feet is the distance of an average city block, which is why state law imposes a 600 foot buffer zone from schools. It should be noted that current state law allows cities to impose whatever sensitive use radius they like.

Daycare centers and pre-schools do not contain unsupervised children. They contain children who are continually supervised by adults and who do not leave the premises unless accompanied by at least one adult, such as a parent. To ensure that children do not wander away, daycare centers and pre-schools erect barriers such as fences which would be beyond the capability of a small child to breach and which serve as an automatic barrier to interference from whatever businesses may be nearby.

Thus, requiring a 1,000 feet between daycare centers, pre-schools and retail outlets/delivery services or erecting a 750 foot set-off is not required to protect children in pre-schools or daycare facilities. These rules appear to serve a far more sinister purpose: to so limit land available for commercial development as to destroy an industry before it is even created.

Thousands of licensed daycare centers and pre-schools exist in the City of Los Angeles. So many, in fact, that these categories were excluded from the City's earlier sensitive uses because it was clear including them would exclude too much land.

Because licensed day care centers and pre-schools contained adequate protections from any kind of outside interference, and adults accompanied children entering or leaving the facilities, these facilities can be considered adequately insulated from all nearby businesses and should not require a set-off, much less a l,000 or a 750 foot set-off.

Motions 7B and 7C are insidious because all current retail operations currently eligible for Measure M Priority licensing which fall within 1,000/750 feet of a daycare center or pre-school would have to close even if they had occupied their location long before the daycare/pre-school began operation.

Neither motion contains "first in time first in right" language, nor do they contain any exception for existing, compliant businesses, who have obeyed all sensitive uses the City imposed during the ten years they have been operational.

By the terms of the current proposed ordinance these currently compliant businesses are not able to move during priority licensing and thus closure would be their only alternative as violating a sensitive use could result in $20,000.00 a day fines. Proposing motions which destroy businesses operating with the City's blessing for a decade, particularly when the motion's makers presented no evidence of these businesses ever injuring children, is at best inappropriate and at worst an abuse of governmental power.

In order to remain open, the motions force Measure M eligible businesses to sue, they have no other options but to present the actions of the motion's authors to a judge and hope that justice prevails. This creates a burden for the City and its taxpayers. Though the motion makers are the perpetrators, it is the City that will have to resolve the problem and the City's taxpayers who will have to pay the legal bills.

Any delivery service or retail operation which the City allows to open, is currently subject to sixty-eight pages of rules and regulations in the new, proposed ordinances, far more than any Measure M dispensary was ever subject to. One of those rules mandates that you prove you've never operated a business that was closed for being a nuisance or disobeying the laws applicable to it.

To the best of our knowledge, Measure M dispensaries have never caused problems for daycare centers or pre-schools, indeed the authors presented none when they put forward their motions. It stands to reason that new retail businesses who will be much more tightly regulated than their predecessors and who must prove they haven't been problematic in the past, won't cause problems either.

The committee has previously passed a motion which mandated retail cannabis businesses cannot abut a daycare center. Adding pre-schools to this rule would provide adequate protections.

For the reasons stated above, we ask that the Honorable REIR Committee oppose this motion.

Verbal Motion Put Forward by Council Member Englander

Council Member Englander now joins Council Member Martinez in proposing caps per community plan. We ask that the REIR Committee oppose this motion for the following reasons:

While the language used to describe this plan was "soft caps" in fact the plan is a hard and immovable barrier to the development of the cannabis industry in Los Angeles.

Previous to this motion, the City had carefully calculated available land based on sensitive use set-offs and zoning, which was traditionally how the City imposed organic caps on the number of cannabis businesses the City would accommodate. The addition of caps per community plan previously proposed by Ms. Martinez, was so hastily incorporated that the Department of City Planning states on its website that its maps depicting the number of businesses available in each community plan area do not reflect the land removed or the additional sensitive uses imposed on November 20th.

What this means, is that the City has no idea of exactly how much land is available for cannabis use under the proposed caps.

Capping by Population Was Never A Mechanism Intended for a Robust Marketplace

Historically, the concept of capping by population was first proposed when only retail dispensaries serving patients were contemplated. It was a way for small municipalities in isolated areas to ensure that there were enough facilities to serve residents. Typically the calculation was one dispensary for every 10,000 residents and the expectation was roughly 10% of that population would actually be patronizing dispensaries.

Los Angeles, beginning in 2018, will service not only its medical cannabis population, but the recreational market including tourists (44 million in 2016) as well as surrounding towns and counties (Ventura County which shares a border with Los Angeles is largely dry with only one open dispensary/delivery service in the entire county). You cannot take a plan designed for tiny cities which contemplated only dispensaries and impose it on a City of 4 million which is creating a diverse industry encompassing most licensing categories because large cities concentrate populations in areas where you wouldn't want manufacturing or cultivation to take place.

By imposing population caps, you frustrate manufacturing, cultivation, testing and distribution development because the parts of the City best suited to this activity don't have the population numbers required to designate enough licenses for that area.

Population Caps Are A Mechanism Which Materially Cripples The Social Equity Program

The most meaningful reason for abandoning population caps rests with the Social Equity Program. Population caps, zoning, and sensitive uses are components of land use regulation and cannot be waived for a social equity candidate. These mechanisms are meant to regulate land use and thus to be effective, have to apply to all licensees no matter what their status.

By layering in a population cap on top of existing zoning and sensitive use regulations the Social Equity Program is effectively hobbled because sooner or later every social equity candidate must have land on which to conduct his or her business. Population caps are deadly in this respect because even with a 1:1 ratio issuance of priority licenses to social equity licenses, the social equity licensee is not just looking for a compliant spot, he or she is racing the clock. At any time the quota in his/her business category may have been reached in the community plan area where a candidate is able to lease, and with it the complete inability to achieve licensure.

Tying Population Density to the Number of Licenses Issued Serves as an Automatic Bar to Business Development

Perhaps the most discouraging aspect of tying all retail and non-retail licensing to population density is that it is an insidious method of limiting businesses development. We don't want manufacturing in high density population areas,

because that's where a lot of families live. This is precisely the reason for creating manufacturing zones in the first place.

When you tie the number of businesses licensed to population density quotas then layer on zoning and sensitive uses, the number of businesses allowed per population numbers may look substantial on paper but the number of actual businesses that could find a compliant location is actually much less because of the zoning and sensitive use restrictions in a high population area.

At this time, the City has released no maps or figures which show the actual number of licenses available once sensitive uses and zoning are figured into the hard population caps. This means that the City has no idea exactly how many licenses might be available using hard caps rather than its traditional method of zoning combined with sensitive uses.

Other factors which argue for the abandonment of population caps include but are not limited to:

- Landlords are often reluctant to rent to cannabis businesses.

- Landlords, once they become aware of the scarcity of land, adjust up their rental prices. Population caps will increase already high rental rates.

- The City Attorney's office is still in the process of closing unauthorized dispensaries. Until this process is finished there is no way to determine how much land would be available in each community plan as the result of these closures.

- If the City does not allow retail outlets to service both medical and recreational clients at the same location, licensees will need to double the number of locations they lease.

- The proposed ordinance bans subletting. In areas where the population supports multiple cannabis businesses, but has a shortage of properly zoned land, licensees cannot sublet to adjust for the shortage.

The City has traditionally used sensitive uses and zoning to control the number of cannabis businesses in the City and this has proved to be an effective strategy. To transition to hard caps based on population numbers is unworkable as demonstrated above.

The City has released no data on how zoning and sensitive uses would diminish the number of licenses in high population areas and as a result may be needlessly limiting job creation and tax revenues. Hard caps would cripple the Social Equity Program. Council Districts that wished to encourage cannabis manufacturing and cultivation would automatically be stopped from doing so, if the population in their manufacturing districts did not support licensure.

For the reasons stated above, we respectfully request that the REIR Committee oppose a system of hard caps based on population density and support a return to the City's traditional method of regulating land use through the mechanisms of zoning and sensitive uses.

Sincerely,

Virgil Grant	Donnie Anderson	Sarah Armstrong JD
President	Chairman	Director of Industry Affairs
Southern Californian Coalition	California Minority Alliance	Americans for Safe Access

November 30, 2017

The Honorable Members of the REIR Committee
Ms. Cat Packer
Executive Director
Department of Cannabis Regulation
200 N. Spring Street
Los Angeles, CA 90012

Re: Motion 7B – Martinez CF: 14-0366-S4 Motion requiring a 1,000 foot buffer between daycare centers and retail outlets/delivery services
Motion 7C – Bonin/Martinez CF: 14-0366-S4 Motion requiring the same buffer zones for pre-schools and licensed daycare centers as are imposed on schools K-12 (750 feet retail/micro-business, 600 feet delivery services/non-retail)
Verbal Motion – Englander CF: 14-0366-S4 motion to establish a cap per community plan and deducting micro-business activity from the imposed caps

Dear Honorable Members of the REIR Committee and Ms. Packer:

The Southern California Coalition, The California Minority Alliance and Americans for Safe Access are extremely concerned about the motions named above and respectfully ask the REIR Committee oppose these motions based on the following facts:

Motion 7B and 7C

Historically, sensitive uses were imposed to keep school-aged children (ages 5-18) who were unsupervised, away from medical cannabis dispensaries. The idea was to put a city block between dispensaries and areas where children might be present without adult supervision. 600 feet is the distance of an average city block, which is why state law imposes a 600 foot buffer zone from schools. It should be noted that current state law allows cities to impose whatever sensitive use radius they like.

Daycare centers and pre-schools do not contain unsupervised children. They contain children who are continually supervised by adults and who do not leave the premises unless accompanied by at least one adult, such as a parent. To ensure that children do not wander away, daycare centers and pre-schools erect barriers such as fences which would be beyond the capability of a small child to breach and which serve as an automatic barrier to interference from whatever businesses may be nearby.

Thus, requiring a 1,000 feet between daycare centers, pre-schools and retail outlets/delivery services or erecting a 750 foot set-off is not required to protect children in pre-schools or daycare facilities. These rules appear to serve a far more sinister purpose: to so limit land available for commercial development as to destroy an industry before it is even created.

Thousands of licensed daycare centers and pre-schools exist in the City of Los Angeles. So many, in fact, that these categories were excluded from the City's earlier sensitive uses because it was clear including them would exclude too much land.

Because licensed day care centers and pre-schools contained adequate protections from any kind of outside interference, and adults accompanied children entering or leaving the facilities, these facilities can be considered adequately insulated from all nearby businesses and should not require a set-off, much less a 1,000 or a 750 foot set-off.

Motions 7B and 7C are insidious because all current retail operations currently eligible for Measure M Priority licensing which fall within 1,000/750 feet of a daycare center or pre-school would have to close even if they had occupied their location long before the daycare/pre-school began operation.

Neither motion contains "first in time first in right" language, nor do they contain any exception for existing, compliant businesses, who have obeyed all sensitive uses the City imposed during the ten years they have been operational.

By the terms of the current proposed ordinance these currently compliant businesses are not able to move during priority licensing and thus closure would be their only alternative as violating a sensitive use could result in $20,000.00 a day fines. Proposing motions which destroy businesses operating with the City's blessing for a decade, particularly when the motion's makers presented no evidence of these businesses ever injuring children, is at best inappropriate and at worst an abuse of governmental power.

In order to remain open, the motions force Measure M eligible businesses to sue, they have no other options but to present the actions of the motion's authors to a judge and hope that justice prevails. This creates a burden for the City and its taxpayers. Though the motion makers are the perpetrators, it is the City that will have to resolve the problem and the City's taxpayers who will have to pay the legal bills.

Any delivery service or retail operation which the City allows to open, is currently subject to sixty-eight pages of rules and regulations in the new, proposed ordinances, far more than any Measure M dispensary was ever subject to. One of those rules mandates that you prove you've never operated a business that was closed for being a nuisance or disobeying the laws applicable to it.

To the best of our knowledge, Measure M dispensaries have never caused problems for daycare centers or pre-schools, indeed the authors presented none when they put forward their motions. It stands to reason that new retail businesses who will be much more tightly regulated than their predecessors and who must prove they haven't been problematic in the past, won't cause problems either.

The committee has previously passed a motion which mandated retail cannabis businesses cannot abut a daycare center. Adding pre-schools to this rule would provide adequate protections.

For the reasons stated above, we ask that the Honorable REIR Committee oppose this motion.

Verbal Motion Put Forward by Council Member Englander

Council Member Englander now joins Council Member Martinez in proposing caps per community plan. We ask that the REIR Committee oppose this motion for the following reasons:

While the language used to describe this plan was "soft caps" in fact the plan is a hard and immovable barrier to the development of the cannabis industry in Los Angeles.

Previous to this motion, the City had carefully calculated available land based on sensitive use set-offs and zoning, which was traditionally how the City imposed organic caps on the number of cannabis businesses the City would accommodate. The addition of caps per community plan previously proposed by Ms. Martinez, was so hastily incorporated that the Department of City Planning states on its website that its maps depicting the number of businesses available in each community plan area do not reflect the land removed or the additional sensitive uses imposed on November 20th.

What this means, is that the City has no idea of exactly how much land is available for cannabis use under the proposed caps.

Capping by Population Was Never A Mechanism Intended for a Robust Marketplace

Historically, the concept of capping by population was first proposed when only retail dispensaries serving patients were contemplated. It was a way for small municipalities in isolated areas to ensure that there were enough facilities to serve residents. Typically the calculation was one dispensary for every 10,000 residents and the expectation was roughly 10% of that population would actually be patronizing dispensaries.

Los Angeles, beginning in 2018, will service not only its medical cannabis population, but the recreational market including tourists (44 million in 2016) as well as surrounding towns and counties (Ventura County which shares a border with Los Angeles is largely dry with only one open dispensary/delivery service in the entire county). You cannot take a plan designed for tiny cities which contemplated only dispensaries and impose it on a City of 4 million which is creating a diverse industry encompassing most licensing categories because large cities concentrate populations in areas where you wouldn't want manufacturing or cultivation to take place.

By imposing population caps, you frustrate manufacturing, cultivation, testing and distribution development because the parts of the City best suited to this activity don't have the population numbers required to designate enough licenses for that area.

Population Caps Are A Mechanism Which Materially Cripples The Social Equity Program

The most meaningful reason for abandoning population caps rests with the Social Equity Program. Population caps, zoning, and sensitive uses are components of land use regulation and cannot be waived for a social equity candidate. These mechanisms are meant to regulate land use and thus to be effective, have to apply to all licensees no matter what their status.

By layering in a population cap on top of existing zoning and sensitive use regulations the Social Equity Program is effectively hobbled because sooner or later every social equity candidate must have land on which to conduct his or her business. Population caps are deadly in this respect because even with a 1:1 ratio issuance of priority licenses to social equity licenses, the social equity licensee is not just looking for a compliant spot, he or she is racing the clock. At any time the quota in his/her business category may have been reached in the community plan area where a candidate is able to lease, and with it the complete inability to achieve licensure.

Tying Population Density to the Number of Licenses Issued Serves as an Automatic Bar to Business Development

Perhaps the most discouraging aspect of tying all retail and non-retail licensing to population density is that it is an insidious method of limiting businesses development. We don't want manufacturing in high density population areas, because that's where a lot of families live. This is precisely the reason for creating manufacturing zones in the first place.

When you tie the number of businesses licensed to population density quotas then layer on zoning and sensitive uses, the number of businesses allowed per population numbers may look substantial on paper but the number of actual businesses that could find a compliant location is actually much less because of the zoning and sensitive use restrictions in a high population area.

At this time, the City has released no maps or figures which show the actual number of licenses available once sensitive uses and zoning are figured into the hard population caps. This means that the City has no idea exactly how many licenses might be available using hard caps rather than its traditional method of zoning combined with sensitive uses.

Other factors which argue for the abandonment of population caps include but are not limited to:

- Landlords are often reluctant to rent to cannabis businesses.
- Landlords, once they become aware of the scarcity of land, adjust up their rental prices. Population caps will increase already high rental rates.
- The City Attorney's office is still in the process of closing unauthorized dispensaries. Until this process is finished there is no way to determine how much land would be available in each community plan as the result of these closures.
- If the City does not allow retail outlets to service both medical and recreational clients at the same location, licensees will need to double the number of locations they lease.
- The proposed ordinance bans subletting. In areas where the population supports multiple cannabis businesses, but has a shortage of properly zoned land, licensees cannot sublet to adjust for the shortage.

The City has traditionally used sensitive uses and zoning to control the number of cannabis businesses in the City and this has proved to be an effective strategy. To transition to hard caps based on population numbers is unworkable as demonstrated above.

The City has released no data on how zoning and sensitive uses would diminish the number of licenses in high population areas and as a result may be needlessly limiting job creation and tax revenues. Hard caps would cripple the Social Equity Program. Council Districts that wished to encourage cannabis manufacturing and cultivation would automatically be stopped from doing so, if the population in their manufacturing districts did not support licensure.

For the reasons stated above, we respectfully request that the REIR Committee oppose a system of hard caps based on population density and support a return to the City's traditional method of regulating land use through the mechanisms of zoning and sensitive uses.

Sincerely,

Virgil Grant	Donnie Anderson	Sarah Armstrong JD
President	Chairman	Director of Industry Affairs
Southern Californian Coalition	California Minority Alliance	Americans for Safe Access