Memo

To: City Council

From: Adult Use Marijuana Council Subcommittee
      Matt Nazar, Director of Development Services

Date: May 3, 2018

Re: Current Progress and Intermediate Recommendations

The subcommittee has met one to two times each month since January using each meeting to accomplish a number of things:

1. gather information about what other municipalities have done both in Maine and elsewhere in the country where marijuana is legal; and

2. toured a medical marijuana cultivation and production facility in Auburn to understand how such facilities function, since adult use facilities could function in a similar way; and

3. better understand how the adult-use marijuana market and medical marijuana market will affect each other, especially where there are an unknown and currently unknowable number of medical marijuana caregivers operating in Augusta in a wide variety of ways (with 5,000 caregivers in the state, we suspect there are a significant number in Augusta); and

4. begin to craft regulations on where and how many adult use retail stores, cultivation facilities, and manufacturing facilities can happen in Augusta.

On May 2, the Legislature overrode the Governor’s veto of the Adult Use Marijuana law (LD 1719) that they had passed, which significantly modifies the law passed by the voters at the ballot box two years ago. The new law requires state rule making before state licenses for adult use marijuana establishments can open. That rulemaking is not expected to happen under this governor, so realistically it will be late 2019 at the earliest before adult use retail stores or cultivation facilities can legally open.

However, the current medical marijuana law is silent on medical marijuana storefronts and we’ve seen those starting to open elsewhere in the state. One has opened in Manchester, just over the Augusta city line. Until the legislature finalizes their changes to the medical marijuana laws in a bill that’s currently being held in the Senate (LD 1539), the state of medical marijuana sales via caregivers remains in a bit of a “wild-west” status.
To deal with that issue of medical marijuana caregiver gray areas, the subcommittee recommends a couple of Council actions. First, a clear moratorium on caregiver stores or storefronts would give Augusta time to create coordinated regulations for both adult use stores and caregiver stores. Corporation Council has provided the language necessary for that moratorium. Second are home occupation regulations that clearly outline how a caregiver can legally operate in Augusta as a home occupation.

The original caregiver concept was for them to have up to five total patients and up to six flowering plants per patient. A caregiver that operates this way would be expected to have very little outward impact on a neighborhood and could operate as a home occupation fairly unnoticed. Some caregivers have adopted the approach that an individual is only their patient when they arrive to obtain their medical marijuana, meaning the caregiver could be dispensing to tens or hundreds of patients. That could have a much more significant impact on a neighborhood than is expected via the home occupation standard. To deal with this, the subcommittee recommends adopting specific home occupation standards for medical marijuana caregivers, enabling the caregiver truly working with only five patients to continue to operate as they have been from their home while attempting to prevent larger volume caregivers from operating as home occupations.

The standards that the subcommittee recommends adding to the Land Use Ordinance for medical marijuana caregiver home occupations are:

1. The portion of the home where medical marijuana is cultivated and products are stored must be secured and locked at all times.

2. All medical marijuana caregiver cultivation operations shall be in a building.

3. Only two patient trips to the home are permitted per day.

4. All patient visits must be by appointment.

5. The caregiver shall maintain an odor control system such that marijuana odor will not be detectible outside the building where cultivation and/or storage occurs.

The subcommittee recommends that the City Council request that the Planning Board hold a public hearing on these standards and make a recommendation back to the City Council regarding the standards. The standards can be added to the correct subsection of the Land Use Ordinance during a Planning Board public hearing, and the Council can take whatever action it wishes after recommendation from the Planning Board.

The subcommittee will continue to meet a few more times to draft more significant changes to the Land Use Ordinance, regulating where both adult use and larger caregiver operations can happen in Augusta, including standards that they will all have to meet. The subcommittee may then have to take a break and not draft licensing standards until state rulemaking is underway, so that our local standards can properly integrate with state rules. That work may have to wait until 2019.