

From: [Halkiotis, Paul](#)
To: [Roland Bartl](#); massplanners@cs.umb.edu
Subject: RE: [Massplanners] medical marijuana -through zoning bylaws/ordinances
Date: Thursday, November 29, 2012 2:07:32 PM

Good Afternoon,

I also agree with Roland's assessment of this situation. At a department head meeting yesterday the School Superintendant asked what the Town was going to do about this problem, even though voters approved question # 3 by 9,069 in favor 5,627 opposed. I observed the same kind of knee jerk reaction from some communities when tattoo parlors were legalized in the state. Many are quick to compare this use to adult uses and some communities have already enacted similar regulations. However, many of you will recall that before we were able to enact adult use zoning districts, separating them from schools and churches, there were multiple studies done that documented the negative socioeconomic impacts associated with certain adult uses. The documented increased crime was used to support requiring setbacks from schools and other uses. Based on that data, many communities enacted adult use bylaws that could withstand judicial challenges. My question to those communities that rushed to adopt zoning bylaws for Medical Marijuana that mirrored their adult use bylaws is: where is the data to support a legal challenge? One of our rolls as professional planners is to make sure that our communities adopt zoning regulations that can withstand judicial review.

CVS, Walgreens and Rite Aid dispense more powerful and addictive medications, also prescribed by licensed physicians. Why aren't pharmacies required to locate in the adult use zone on the boarder of a neighboring town?

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From: massplanners-bounces@cs.umb.edu [<mailto:massplanners-bounces@cs.umb.edu>] **On Behalf Of** Roland Bartl
Sent: Tuesday, November 27, 2012 4:11 PM
To: massplanners@cs.umb.edu
Subject: Re: [Massplanners] medical marijuana -through zoning bylaws/ordinances

Colleagues:

I do not think we as Planners should be jumping to any quick action here as far as zoning is concerned. First, Massachusetts voters statewide approved the ballot measure by a significant margin (63%), including Melrose by 63%, Reading by 59%, and Wakefield by 54%, to stick with the named three communities that now want to ban medical marijuana dispensaries. So, what is going on here? Vote to approve on the ballot, and then move on a local bylaw that would prohibit it in "my town" ? Looks like a case of NIMBY to me.

It is my understanding that communities who try to prohibit medical marijuana dispensaries altogether may be rather ill-advised in light of the new State law, which looks at minimum and maximum numbers of facilities per county. Do these communities think they can just take themselves out of the county map? While medical marijuana dispensaries would seem to violate

Federal law, local communities cannot take up enforcement of Federal law.

So, cities and towns can probably regulate medical marijuana dispensaries through zoning. But, given the ballot measure as it was approved by the voters, what is there to regulate? How is a medical marijuana dispensary different from a walk-in clinic for flu shots, for instance. Don't we all have zoning regulations for medical facilities? What is it, that would prompt us to single out medical marijuana dispensaries as a separate use and regulate it differently – the drug aspect? Do we do this for liquor stores where people can buy 80-proof w/o a prescription? For convenience stores that sell cigarettes and lottery tickets? For drug stores that sell sleeping medications over the counter, and oxycontin and other addictive drugs by prescription? Given how the ballot measure is written, we need hardly be concerned about too many of such facilities crowding into one area; early difficult experiences in Colorado and California, which is proffered as a reason for a proposed prohibition in Reading.

It seems to me that medical marijuana dispensaries certainly require proper oversight and licensing by State and local Health agencies and the ballot measure as adopted addresses this. But, zoning measures look like an overreaction. I realize that, as planners serving our communities, we may be asked to draft up some kind of regulation on medical marijuana dispensaries. But let us not be too eager or too easily pushed around. Let's instead remember our role and purpose as educators to our community, and let's try to find what is the ethical thing to do or not to do. I certainly could not advocate for a zoning amendment that is based on fear and innuendo, that stigmatizes medical marijuana providers and users, and that favors or accommodates intolerance.

How about that for a discussion item at the next conference?

BTW: For those of you who must look at a zoning reaction, my assistant Kristen Guichard, pointed me at the July 2011 issue of APA's Zoning Practice on medical marijuana. Enjoy!

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From: massplanners-bounces@cs.umb.edu [mailto:massplanners-bounces@cs.umb.edu] **On Behalf Of** Gary Bechtholdt
Sent: Tuesday, November 27, 2012 11:59 AM
To: massplanners@cs.umb.edu
Subject: [Massplanners] medical marijuana -through zoning bylaws/ordinances

How are communities addressing medical marijuana -through zoning bylaws/ordinance?

It's my understanding some communities (Melrose, Reading & Wakefield –to name a few) may have recently revised their zoning provisions to prohibit medical marijuana dispensing sites within their communities.

Can towns simply define the use and prohibit them?

Thanks,

-Gary

R. Gary Bechtholdt II
Northbridge Town Planner

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