

From: [Jacob Patterson](#)
To: [Peters, Sarah](#)
Cc: [CDD User](#)
Subject: Public Comment -- 6/23/21 Planning Commission Meeting, Appeal of MUP 1-21, Sunshine-Holistic
Date: Tuesday, June 15, 2021 3:35:12 PM

Planning Commission,

I am commenting to draw your attention to something that I believe was overlooked during the staff-level review and approval of this permit. One of the required findings for this MUP is that the Planning Commission determines that “The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity” and I believe you cannot make this finding. In my opinion, the subject matter of this particular finding is the central issue for this hearing. Specifically, the location and operating characteristics of the proposed cannabis dispensary is not compatible with the existing and future land uses in the vicinity of the project. The original staff report suggested or at least implied that this retail use is the same or equivalent to any other retail use but that is not accurate. Cannabis businesses, including dispensaries, are inherently different in nature and operating characteristics from other types of retail businesses. It is those differences from other types of retail that make this proposed use incompatible with the existing residential uses in the vicinity of the project, IMO. For example, since cannabis businesses are generally prohibited from using federally-regulated financial institutions like banks, by necessity, they often maintain significant cash stores on hand at the business location. They also maintain cannabis itself as their inventory. Both the high-level of cash and the cannabis itself at a cannabis business result in cannabis businesses being more attractive to armed robbery and violent crimes than other non-cannabis retail businesses. This presents a safety and quality-of-life concern for owners and residents of property in the vicinity of the cannabis retail business. As I speak to residents, the increased security and personal safety concerns are one of the major reasons why they feel that a cannabis business of any type is incompatible with their residential uses. No one wants to have to fear for their personal safety in their own home and back yards just because a cannabis business opens up next door. I don't believe any of the nearby residents have similar concerns about their proximity to non-cannabis businesses in the very same location, including the Floor Store, Goody's or other downtown stores. A store selling socks, like Pippi Longstockings, is not going to be a target for an armed robbery in the same way that living next to a cannabis dispensary or convenience store, which are known as much more likely to be subject to robberies, including armed robberies. The other downtown cannabis dispensary on Main Street doesn't have any residences right next door, which is why no one appealed that permit and no one objected to the City's ability to make this required finding that it is compatible with the existing and future land uses in the vicinity. If Sunshine-Holistic wants to operate a dispensary in our Central Business District, they should have selected a different location that is not immediately adjacent to single-family homes. Our town welcomes dispensaries in locations like the location of the already-approved "Bakery" on Main Street but this proposed spot is not such a location.

Best regards,

--Jacob

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Subject: Re: Public Comment -- 6/23/21 Planning Commission Meeting, Appeal of MUP 1-21, Sunshine-Holistic
Date: Tuesday, June 15, 2021 4:04:40 PM
Attachments: [Forbes Article Says Californian Dispensaries Are Being Targeted By Organised Crime Yet Again - Cannabis Law Report.pdf](#)
[Budtenders Arm Themselves As Gunmen Target Cannabis Dispensaries.pdf](#)
[Thieves Target Pot Industry Across California — and L.A. — in New Crime Wave - LA Weekly.pdf](#)

Planning Commission,

Here are a few articles that discuss the crime-aspects of cannabis dispensaries that relate to my written comment (sorry for the attachments rather than links but the City may consider adopting a policy recognizing linked versus attached documents in public comments).

Best,

--Jacob



Forbes Article Says Californian Dispensaries Are Being Targeted By Organised Crime Yet Again



Cannabis dispensary owners are worried by a second spate of pre-planned and organised robberies of premises statewide and some are suggesting that law enforcement just doesn't care .

Forbes reports..

Law enforcement's failure to protect cannabis businesses—even after they'd been burglarized once, twice, or, in the case of at least one San Francisco dispensary, BASA, four times—is shaking faith in marijuana legalization as a social experiment. Cannabis businesses pay possibly the highest taxes of any merchants in California. With state and local sales taxes as well as cultivation and excise taxes, the tax bill for legal weed in some cities exceeds 40 percent—a steep cost of doing business that, some merchants say, still doesn't earn legal cannabis any state protection.

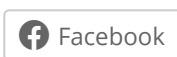
And now, rumors of a second wave of dispensary robberies this weekend—and significant doubts that police will be able (or willing) to respond—are leading cannabis entrepreneurs to prepare defend their businesses by themselves. This in in turn is casting doubt on the value, and the long-term viability, of legalization.

"It's everywhere. It's not just Oakland, they're talking about hitting all the dispensaries all over California: Vallejo, Sacramento, LA, the Bay Area," said Shawn Richard, the majority owner of Berner's on Haight, the Cookies-branded dispensary in San Francisco.

San Francisco police have arrested at least ten people in connection with last month's robberies, according to a police spokesman. But there are no reports of any charges being filed, or the crimes being "solved."

Read full story. <https://www.forbes.com/sites/chrisroberts/2020/07/02/legal-cannabis-businesses-are-preparing-to-get-robbed-again-will-police-protect-marijuana-legalization/#5a0dd4bd1009>

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Budtenders Arm Themselves As Gunmen Target Cannabis Dispensaries



Aaron Smith Contributor

Aerospace & Defense

I'm a seasoned reporter who covers the firearms industry

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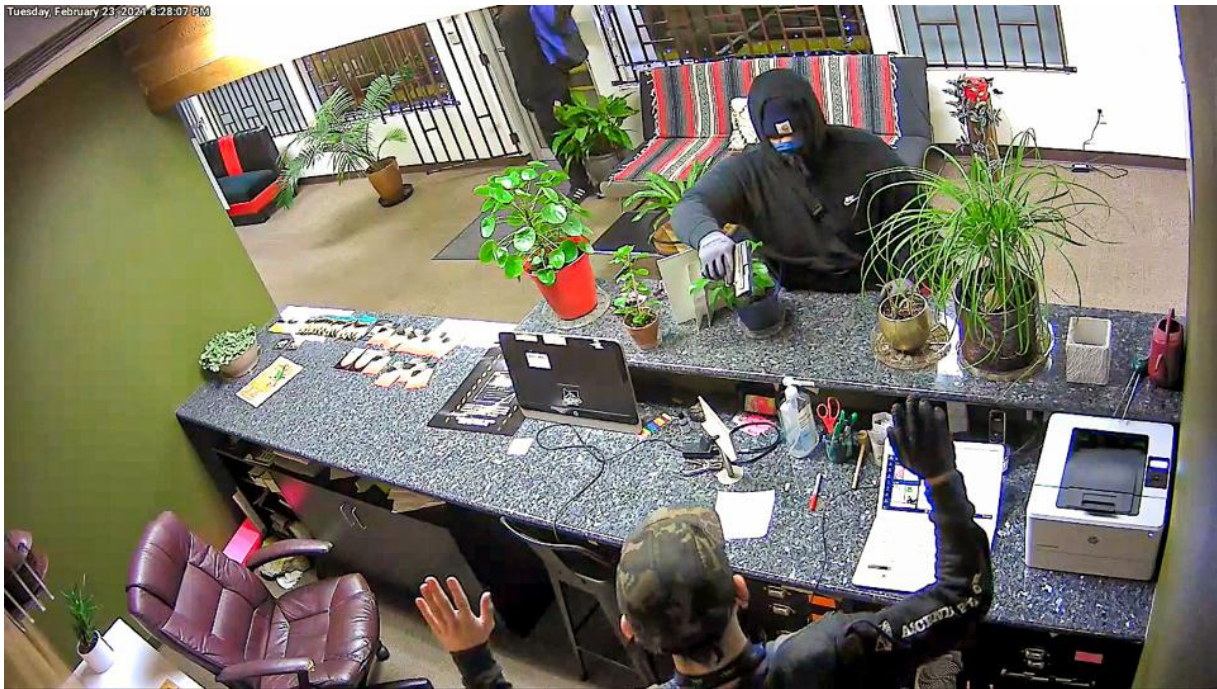


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A budtender was robbed a gunpoint at Ascend dispensary in Portland, Oregon, on Feb. 23, 2021.

ASCEND SECURITY CAMERA

Cannabis retailers have been arming themselves in the wake of robberies of dispensaries in Oregon and Oklahoma that left two people shot dead.

Thousands of medical marijuana dispensaries have popped up in Oklahoma since voters legalized medical cannabis in 2018. Two men from Kansas were

Cookie Preferences

arrested last month on suspicion of committing a string of robberies at dispensaries in Oklahoma City, Guthrie and Perry.

The Oklahoma robbery spree turned deadly on April 30, when a suspected armed robber was shot dead in Ardmore by an employee at the Highest Choice, a dispensary in a strip mall that includes a gun shop.

“It was one of our employees who was able to act fast,” said Eric, a co-owner of the Highest Choice who identified himself only by his first name. “The situation presented itself and it was handled accordingly. If they present their weapon, you have every right to shoot them dead.”

He said that he wears a firearm, anticipating more robbers. “It’s not a chance of if, but when, it’s going to happen,” he said.

Detective Sgt. Juan Galicia of the Ardmore Oklahoma Police Department identified the dead man as Samuel Dollarhide of Texas, and said the investigation is ongoing.

While some dispensary workers take matters into their own hands, others employ armed guards. At the Stability Cannabis Shop in Oklahoma City on May 24, a security guard shot and [mortally wounded](#) a man who entered the dispensary and pulled a knife when he was refused service.

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A series of dispensary robberies in Portland, Oregon, where adult-use cannabis was legalized in 2014, turned deadly in December 2020 when budtender [Michael Arthur](#), the father of a 6-year-old, was killed at Cured

Green. It was the culmination of a dramatic spike in thefts at dispensaries in Multnomah County, which includes Portland. Dispensary thefts more than doubled to 99 in 2020, according to Jesse Bontecou, co-director of the Oregon Retailers of Cannabis Association, compared to 46 thefts in 2019, 46 in 2018 and 34 in 2017.

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Dispensaries are tempting targets for criminals because the weed can be resold in states where it's illegal and the stores tend to hold large amounts of cash. Even if a state has legalized marijuana, it's still classified as an illegal Schedule I narcotic by the federal government, so credit card companies won't process transactions from dispensaries and most banks won't give them loans — or allow them to open up accounts to deposit their cash.

Dispensary workers have reacted differently to the violence. "I'm really anti-gun," said Jina Yoo, owner of Cured Green. She said she's upgraded her security system and has a security guard on staff, but no guns.

"I don't need to talk about the gun, especially since my friend died from a gun," she said. "Guns are the most hateful things."

The reliance on cash in the cannabis business has led to a niche industry in security companies specializing in dispensaries, including Helix Security, Brickhouse Security, Cannabis Security Experts and Operational Security Solutions.

But some owners provide their own security. In Oregon, Bret Born owns the Ascend dispensary, where two employees, including his stepson, were robbed by gunmen in February. “They had my stepson at gunpoint and laid him out execution style,” he said.

The employees were not injured but the suspects stole \$469 cash and multiple jars of cannabis with an estimated street value of \$14,000 said Born. He speculated that the weed was stolen for resale in non-legal states.

Anticipating more robbers, Born has armed himself with an M&P 380 Shield EZ, a popular compact semiautomatic pistol from Smith & Wesson, and a Judge Public Defender, a burly Taurus revolver that fires alternating rounds of .45-caliber and 410 shotgun shells.

“I always carry a gun all the time,” said Born, a retired educator who grew up hunting in Ohio, but wasn’t in the dispensary when it was robbed. “If they had been here when I was here, it would have been like Oklahoma.”

“I’m looking at bringing security on, but doing it within,” said John Monteleone III, owner of the Fidus PDX cannabis shop in Portland, which was robbed last year of \$100,000 in cash and \$150,000 in cannabis.

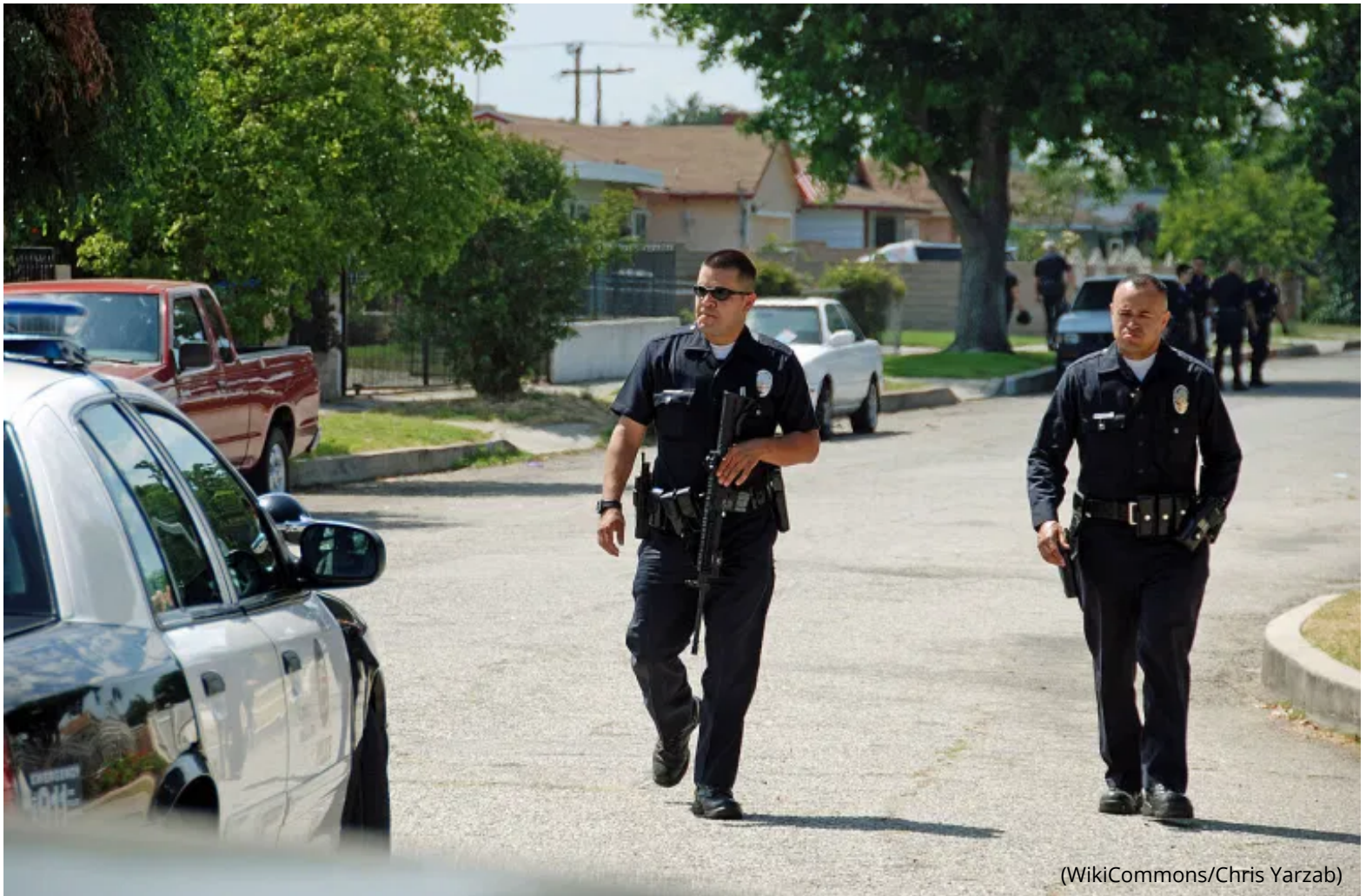
Monteleone, who grew up hunting and fishing in Bend, said he received permission from the Oregon Liquor Control Commission to carry his Glock and Smith & Wesson sidearms openly in his store, and he allows his employees to carry, too.

Stephanie Neil, compliance and inventory manager for Fidus, said she started training with firearms after “someone came at me with a butcher knife” when she was shopping in Portland. But she says she didn’t pursue a concealed carry license because, “I don’t even think I would be capable of making a decision in the moment.”

Bontecou of the Oregon Retailers of Cannabis Association said it’s “tragic” that dispensary workers “even have to consider arming themselves to be

LA WEEKLY

(<https://www.laweekly.com/>)



(WikiCommons/Chris Yarzab)

THIEVES TARGET POT INDUSTRY ACROSS CALIFORNIA — AND L.A. — IN NEW CRIME WAVE



JIMI DEVINE (<https://www.laweekly.com/guest-author/jimi-devine/>), x SEPTEMBER 9, 2019



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<u>TARGET-POT-</u>	<u>TARGET-POT-</u>	<u>TARGET-POT-</u>
<u>INDUSTRY-</u>	<u>INDUSTRY-</u>	<u>INDUSTRY-</u>
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Los Angeles is no stranger to the recent crime wave targeting California’s booming cannabis industry.

It’s now commonly known that the neighborhoods around cannabis dispensaries tend to be safer than their counterparts due to features like security guards, surveillance, and good lighting. But a recent wave of crime across the state is proving the giant piles of cash that bankless retailers are forced to hold on to are luring criminals looking for a quick big score.

The year has seen numerous robberies in [The Emerald Triangle](https://kymkemp.com/2019/08/14/legal-cultivator-ripped-off-for-30-pounds-of-wedding-cake-this-morning/) (<https://kymkemp.com/2019/08/14/legal-cultivator-ripped-off-for-30-pounds-of-wedding-cake-this-morning/>), [Sacramento](https://www.sacbee.com/news/local/crime/article229439304.html) (<https://www.sacbee.com/news/local/crime/article229439304.html>), [Oakland](https://sanfrancisco.cbslocal.com/2018/12/06/hayward-oakland-stockton-marijuana-crime-attack/) (<https://sanfrancisco.cbslocal.com/2018/12/06/hayward-oakland-stockton-marijuana-crime-attack/>), [Los Angeles](https://losangeles.cbslocal.com/2019/08/29/man-fatally-shot-in-south-la-marijuana-dispensary-2-detained/) (<https://losangeles.cbslocal.com/2019/08/29/man-fatally-shot-in-south-la-marijuana-dispensary-2-detained/>), and all points in between. These have included stick-up kids getting away with 20 pounds of flower with a retail value of \$156,000 and the cracking of a safe by someone a bit more technically adept in a separate incident. That latter effort was said to score \$161,000 destined to be taxes. Sacramento industry insiders say two places were hit in the same night.

“Last year a delivery service in Sac was robbed of \$250k worth of product. When they called police and it was on a weekend, they sent out a volunteer to take fingerprints,” said Jacqueline McGowan, founder of 8,000-strong California — City & County Regulation Watch Facebook group. “They didn’t care that the company had video of the robbers

including pictures of their cars and license plates. Would a jewelry store owner have been told that detectives don't work on weekends?"

Sacramento is also home to the California Bureau of Cannabis Control. We reached out to the state to ask if they keep an eye on how the policies being developed in Sacramento are impacting public safety across the state; the BCC told *L.A. Weekly* they do not compile that data.

An L.A. Problem Too

Moving closer to home, we asked the Los Angeles Department of Cannabis Regulation if they'd been monitoring the situation. While they weren't, there was a quick handoff to the Los Angeles Police Department and we started getting answers pretty quick.

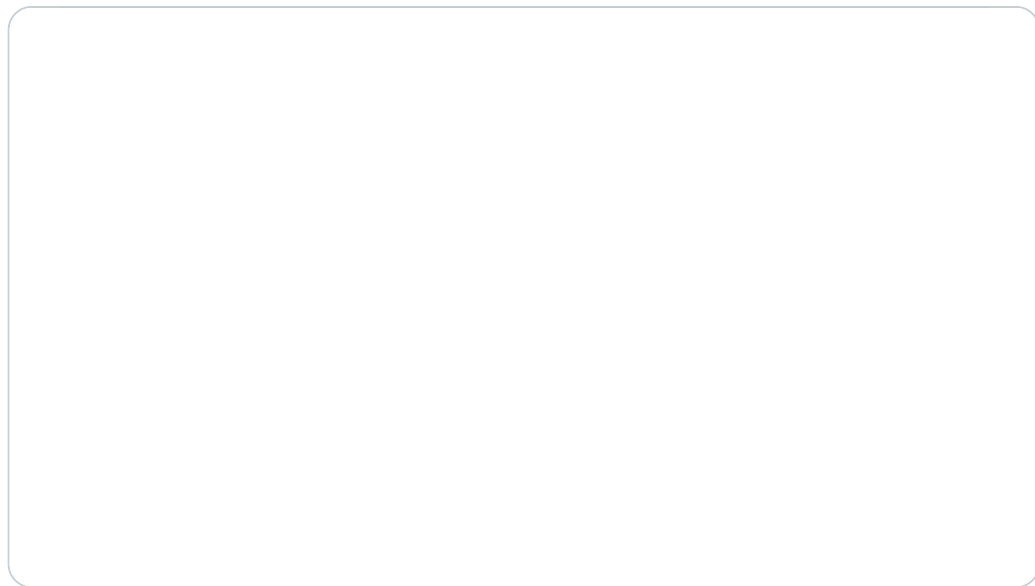
The LAPD reviews from local operators have gone a bit better than for some of their peers up north. "LAPD is always very cool if we have an issue. Matter of fact check out this pic of them in our lobby when the alarm went off. I'd say we are well protected!" said Buds & Roses president Aaron Justis. "They caught the burglars. They didn't catch them in the act but with our footage and other dispensaries footage, they identified the guy."



LAPD HQ 
@LAPDHQ



Caught on Video -- Three suspects forced their way into a marijuana dispensary at a strip mall on PCH in Harbor City. Their getaway car was a possible Jaguar with tinted windows & chrome rims. Any info contact LAPD Harbor Burglary Detectives 310-726-7850 bit.ly/2vMuQTD



9:18 PM · Aug 15, 2018



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While the analyst supporting the LAPD Gang and Narcotics Division Cannabis Support Unit wasn't available to give the exact breakdown of crime in L.A. between licensed and unlicensed operators, Detective Vito Ceccia told *L.A. Weekly* his "well-educated" guess was the lion's share of robberies are happening at unlicensed locations. The police end up there on calls despite the obvious consequences of them coming in and realizing the lack of a permit.



Buds and Roses

Ceccia provided the Year to Date L.A. Crime Stats for all crimes at cannabis facilities, regardless of their legality, as of September 4, 2019. The LAPD has tracked 20 robberies, 30 aggravated assaults, 3 burglary/theft from motor vehicle crimes, 15 theft-related crimes, and 57 burglaries. This totals out to about 77 property crimes and 50 violent crimes.

Those numbers also top last year's. The total number of crimes by late September 2018 was 105, according to the data the LAPD provided Crosstown (<https://xtown.la/2018/09/28/the-lapd-is-there-to-protect-your-cannabis/>). 70 of those crimes happened in a retail or medical dispensary.

Then on top of all those numbers are the many crimes that go unreported.

For the most part, the officers are familiar with their divisions. They already know who is operating without a license according to Ceccia. Regardless of the legality of a dispensary operation, if there is any kind of crime it's put on LAPD's radar locally within the division.

We asked what LAPD is doing to get licensed operators ahead of the curve in protecting their operations. Ceccia says while the licensed operators do fall victim to crime, "they're more diligent about how they control their money."

When asked about general banking issues in the industry leading to tempting piles of cash for would-be robbers, Ceccia said alternatively from beliefs by many industry advocates he thinks licensed operators are depositing their money regularly, much of the time with armed transport.

"It's not someone with a duffel bag throwing it in the trunk just bringing it to a house or other location," Ceccia said. "The city is allowing [operators] to pay their taxes with that cash, so obviously some of the money is going to that."

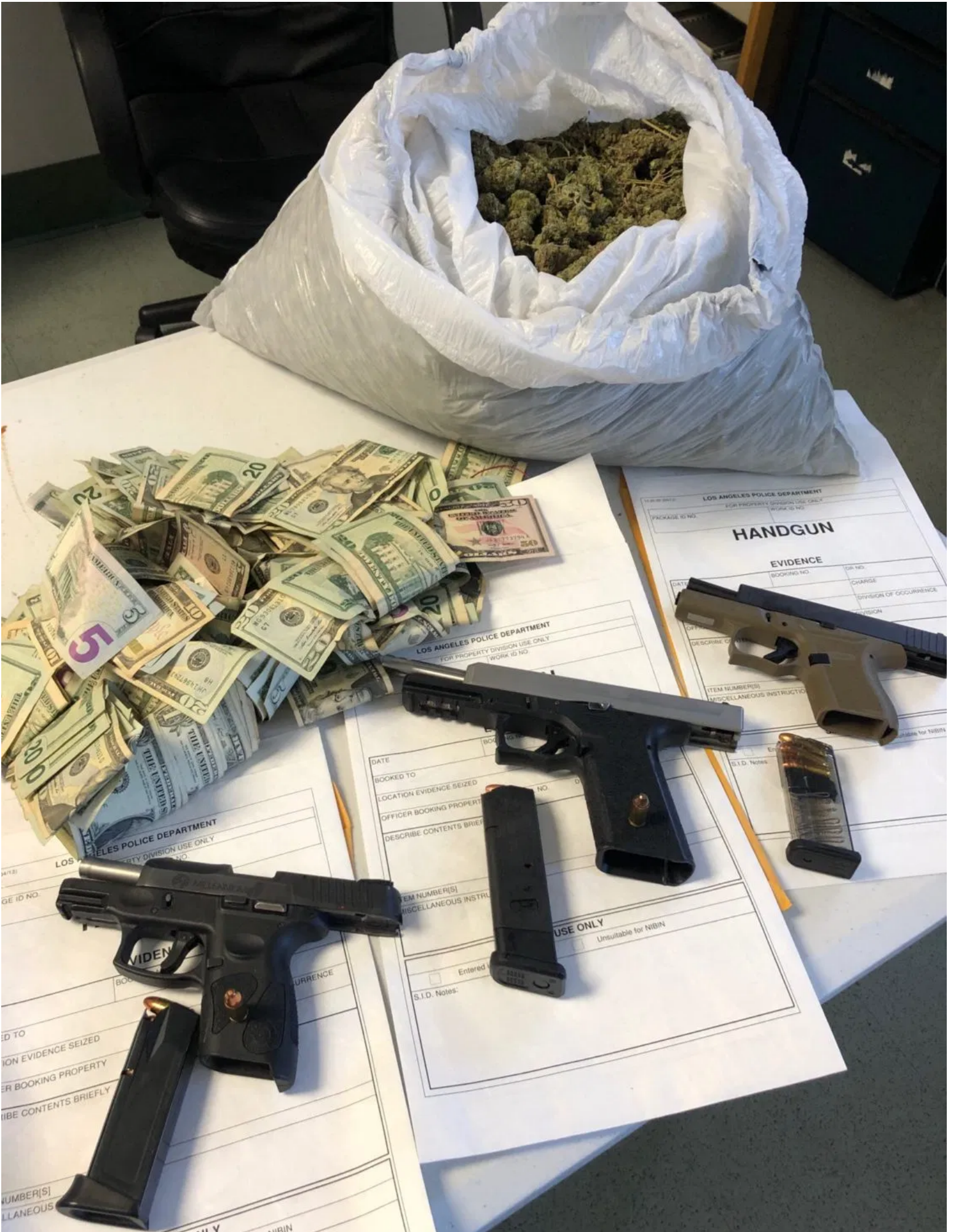
Ceccia says the lack of security measures at unlicensed locations make them a bigger target and more likely to be a victim than those who have jumped through the hoops of the permitting process. "But when you say both of them are victims of robberies, absolutely," Ceccia said, "When the robbery occurs it's usually for the product, the money, or both."

We asked Ceccia if it was difficult to work with legacy operators that have been traditionally wary of cooperation with law enforcement given the decades they spent in California's black, then grey, market to what we have now.

"From my perspective, being a plain-clothed investigator that has been doing police work for almost 25 years, I haven't received or heard about that much resistance or anxiety when I go into one of these locations," Ceccia replied. He says most of them are good partners to the city, law enforcement, their communities, and "as far as I can tell transparent in their operations because they're doing everything they're supposed to be doing."

Ceccia went on to note on the transition of the times.

"You gotta understand, when you get a police officer that's more than five years on the job, it's like a cultural punch in the gut. You gotta understand for someone like myself doing this for 25 years; sales, transportation, possession for sales was always a felony. It was always a good felony."



HANDGUN

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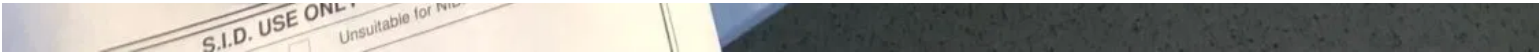
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(Courtesy of LAPD)

Ceccia claimed officers spent most of their time going after people with the intent to distribute. “Now you tell someone who has been working narcotics the last 10, 15, 20 years. ‘Hey this is no longer a felony’ and someone who has been working patrol that this is no longer a felony, initially it’s hard to wrap your head around.”

Ceccia says legacy operators have to understand certain members of the police department have to go through an acclimation period. “Where they get used to it.”

Ceccia says now it’s similar to a lot of the codes they enforce around alcohol and tobacco.

“As new officers come on and the mindset changes, that apprehension is going to go away. But I think on both sides of the fence there’s that apprehension. Some people in law enforcement may not fully accept the current state of affairs. Then you have legacy operators who at one time may have been operating in the shadows and now they’ve done everything they’re supposed to do, they have a license, but they’re still leery anytime a black-and-white pulls up near their store.”

Ceccia believes part of the stress on local operators is due to federal regulations. He thinks despite President Donald Trump and his Department of Justice reaffirming they won’t be going after state-legal operators, things could change in an instant at the federal level. Ceccia says he gets that concern is part of the problem. “I mean you just never know. If I were one of those legacy operators I’d be more fearful of that happening than local law enforcement.”

The Dual Advocate

Dale Schafer has watched the evolution of marijuana in California from both sides of the fence. Both as a lawyer representing members of the law enforcement community, and as a medical marijuana activist hit with a [five-year mandatory minimum prison sentence](https://www.eastbayexpress.com/oakland/what-five-years-in-prison-taught-california-former-dispensary-owner-dale-schafer-and-why-hes-thinking-about-getting-back-into-the-marijuana/Content?oid=4806997) (<https://www.eastbayexpress.com/oakland/what-five-years-in-prison-taught-california-former-dispensary-owner-dale-schafer-and-why-hes-thinking-about-getting-back-into-the-marijuana/Content?oid=4806997>), alongside his wife and fellow activist Dr. Marion “Mollie” Fry. They were released in late 2015 and Schafer immediately got back into the industry.

“I’ve been inside law enforcement politics. I used to represent cops. I still have connections to law enforcement, old friends. We still talk about issues in law enforcement. So I have that perspective, then I went through the colon of the criminal justice system and spent some time in prison. So I’ve looked at it from that angle,” Schafer told *L.A. Weekly* in a phone interview.

Schafer says he has seen the best kind of cooperation take place when it comes to the cannabis industry and cops, but has also seen “knucklehead tribalism.”

“The coordination is not always what we may want to see on the enforcement side,” Schafer said, “There are obviously some people out there we need to figure out how to grab. So the issue of law enforcement resources being used for crimes in this industry is not one where you’re going to find a lot of support in law enforcement.”



Schafer family (Courtesy of Heather Schafer)

Schafer believes a lot of people just “check off the box” with their security plans. The expert Schafer works with on security plans is a former cop. “He’s been frustrated. He’s written security plans from the perspective of ‘I want to protect your business from criminals I know are coming’ and businesses don’t want to invest or maybe don’t have the money to invest in that deeper level of security.”

But when someone comes in and steals cash and/or a \$100,000 or more in product operators outlooks on preparations change.

“There is a ton of money from the industry going to the coffers of different jurisdictions, and one would expect we have at least the attention of law enforcement to put some resources toward the industry,” Schafer said, “But that’s not how the politics are working on the cop side.”

Since a decent amount of the money coming in is going directly to law enforcement, we asked Schafer what it would take to get less supportive agencies to be more protective of their own new revenue stream? Or does it simply not balance out to how much was being raked in under full-court press prohibition? Is there an incentive to protect these businesses?

"The short answer is no," Schafer replied, "Inside the politics of law enforcement there is a feeling that the stoners won. It's hard to get anyone to put it into those kind of words, but the war on drugs was a moneymaker for law enforcement."

Schafer didn't want to use the word gravy train, but if you were cooperating with federal and state policy targeting cannabis and other drugs when enforcement really geared up you got money in your coffers. "Prop. 64 pulled the rug out from under enforcement and justification for resources to go after marijuana," he said.

Inside law enforcement special interests groups the conversation has changed to how are they going to move on from this transition in enforcement paradigms? "Who's getting paid? Do I get a chance if I'm just writing up misdemeanor cultivation cases?"

"Cops get points for the things they do, it's kind of like the military. They like you to tell us they went out and got bodies," Schafer said, "Well, misdemeanor bodies aren't going to get you as far as felony bodies. It's not simple, but there are a lot of pieces to this. And on the law enforcement side, they watched after SB 420. The industry started spraying starter fluid and just took off."

Schafer said from law enforcement's perspective it was out of control, "cops got their asses kicked a number of times so they didn't quite know what to do with enforcement." This led to paths like zoning enforcement, "then we eventually got regulations the state would soft enforce through fines and revocations."

After all this, Schafer said it's important for businesses to understand they have to protect themselves first. If they rely on law enforcement, depending on the willingness of the agency, they could be let down.

Schafer says as legalization has rolled out from the bigger cities to smaller rural areas, gangs have figured out how to target the industry. Schafer doesn't know how or why but suspects it's simple because how accessible the operators' security plans are to the public or any of the various places involved in the vetting process.

"As with anything, employees will waggle their tongues for money. Inside information can get out. These businesses are being hit in ways that would make someone in law enforcement or security think these people are investigating and perhaps gaining information from employees. They got a plan, they're going to be able to come in and hit you, and law enforcement isn't going to be able to stop that unless they really track people down and put resources in. And then we're back to who is going to do this?" said Schafer with a laugh.

We asked Schafer if the giant piles of cash sitting around to pay taxes played a role in the motivations of criminals.

"That's hard to know," he replied. He spoke on a client in Sacramento that had recently been robbed. "They got hit and I don't think they were lax in security or anything like that, but banking is a terrible problem."

Schafer next weighed in on if regulators at the state and local level are doing anything to push operators to secure their cash? He said no, "right now the state is more reactionary."

"They still haven't onboarded enough employees to carry out the programs they're mandated to carry out," Schafer said, "The state, almost by its nature, is not doing enough. If there really was liaisons and cooperation between the state, operators, and law enforcement for this kind of activity there would be alerts out. There would be notifications out. There would be hyper-alertness that, 'hey someone in your area got hit. Be on alert.' That's left up to operators in competition with each other to let somebody else know. And I don't think that's a long term sustainable situation."

Federal Solutions

One of the fastest solutions to not allowing criminals to get their hands on the giant piles of cash is for them not to exist in the first place. The National Cannabis Industry Association weighed in on how things are going on Capitol Hill in regards to banking access.

“This is first and foremost an issue of lack of access to banking and financial services,” NCIA Media Relations Director Morgan Fox told *L.A. Weekly*. “No other businesses apart from banks themselves are forced to keep large amounts of cash on hand and make themselves targets, and cannabis businesses should not be forced to protect themselves like banks just to be able to operate normally. Hopefully Congress will address this issue and move to pass the SAFE Banking Act when they return to DC next week.”

Fox said the heavy financial burdens placed on cannabis businesses at the local, state, and federal level also plays a role.

“High tax rates are forcing businesses to keep way more cash on hand than they would normally need to, and it is certainly contributing to making them targets for crime. But it is not just taxes,” Fox said, “No banking means they have to keep payroll and all other expenses on hand, as well as reserves to cover unexpected costs. It is an untenable situation, but one which can be easily rectified by lawmakers.”

The nation’s oldest marijuana reform organization has also been pushing the issue of banking access and its relationship to public safety as well. NORML [testified to the United States Senate](https://nornl.org/pdf_files/testimony/Senate_2019_NORML_Federal_testimony_banking.pdf) (https://nornl.org/pdf_files/testimony/Senate_2019_NORML_Federal_testimony_banking.pdf) Committee on Banking, Housing, and Urban Affairs last month on the subject.

NORML’s California-based Deputy Director Paul Armentano told *L.A. Weekly* federal lawmakers are mandating that this rapidly growing multi-billion dollar industry operate on a cash-only basis in “an environment that makes businesses more susceptible to theft and more difficult to audit.”

Armentano went on to note the current status of banking and associated lack of merchant services also places the safety and welfare of these businesses’ customers at risk, “as they must carry significant amounts of cash on their persons in order to make legal purchases at retail facilities. Similarly, it needlessly jeopardizes the safety of retail staffers, who are susceptible to robbery.”

“No industry can operate safely, transparently, or effectively without access to banks or other financial institutions and it is self-evident that this industry, and those consumers that are served by it, will remain severely hampered without better access to credit and financing,” Armentano said, “Ultimately, Congress must amend federal policy so that these growing numbers of state-compliant businesses, and those millions of Americans who patronize them, are no longer subject to policies that needlessly place them in harm’s way.”

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safe.” But he said their lives are “literally at risk” and they’re frustrated by how the Portland Police Bureau has handled the robberies.

“There is a perception, whether it’s accurate or not, that we’re easy targets because the police do not do adequate policing,” he said.

Portland Police public information officer Lt. Greg Pashley said there are 814 officers assigned to protect a city of about 600,000 residents.

“There are fewer sworn employees working for the Police Bureau than at any time in modern history, which has a big impact on our ability to provide the kind of service the community expects and we wish we could provide,” he said. “So, it is probably true to say that the police aren’t doing enough. We are doing what we can with the resources we have.”

Lt. Pashley said that while it is lawful for Portlanders to possess firearms, “we urge those who do, to exercise great caution.”

Bontecou wants Congress to pass the SAFE Banking Act, which would legalize cannabis financing and reduce dispensaries’ reliance on cash.

But Born says the cannabis itself is a tempting target, especially for thieves from prohibition states like Kansas and Texas.

“We need to take away the perceived value of the jar on my shelf,” he said. “SAFE Banking would be huge, but on the other hand, people need to access it in the state they want, and eliminate the black market.”



Aaron Smith

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From: [Pat Bell](#)
To: [CDD User](#)
Subject: Appeal to Approve Minor Use Permit 1-21 (MUP 1-21)
Date: Tuesday, June 22, 2021 5:34:30 AM

I am asking the Planning Commission to reverse their decision to permit the use of the building at 144 N Franklin Street as a cannabis dispensary with delivery service. I live directly behind this building and know that giving Sovereign this permit will negatively impact the quality of my life, my property value, and my safety. My concerns include increased pedestrian and vehicular traffic and noise, but more importantly, my personal and my neighbors' safety living near a cash only business with the potential for robberies and other violent crimes. The lure of cash and the knowledge that cannabis dispensaries are reluctant to involve law enforcement will lead to increased crime in this neighborhood. Most of the homes are owner-occupied. We have invested in our properties. A cannabis dispensary does not fit in this neighborhood due to the potential threat to our safety and our quality of life. Please reconsider and reverse your decision to allow Sovereign to open a cannabis decision in our neighborhood.

Patricia M. Bell
147 N McPherson Street

Sent from my iPad

Heather Gurewitz

June 22, 2021

Community Development Department

Fort Bragg Planning Commission,

We operated the Floor Store for 20 years out of the building and warehouse at 144 N Franklin St. We received deliveries from major flooring companies using various trucking companies, A-Tech, Al Lewis, Oak Harbor Freight, WSL, Fed Ex, UPS and others. With the warehouse stocked with flooring goods, we also delivered flooring products that customer's special ordered or purchased from stock goods such as wood, carpet, pad, vinyl etc. We did not get complaints from our neighbors while running our business there. We were open full time and often had sales on the weekends.

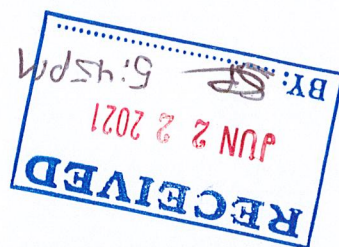
Before we took over that location at 144 N Franklin, it was the well-known restaurant Goddy's. They received deliveries for supplies for the restaurant and they served pizzas in house along with to go orders from their menu. They were also open for a full work week. When you live anywhere on McPherson Street near the CBD, there are going to be standard operating requirements such as deliveries.

The neighbors that were directly behind the floor store at 144 N Franklin have lived there for many years and we did not get complaints from them about our business or deliveries. They were very neighborly and supportive of our business. We are now located only one block east of 144 N Franklin St at 126 N McPherson remaining in the same neighborhood. I do not see how the dispensary will impact our neighborhood in a negative way on McPherson St.

I would like to see this permit approved.

Thank you for your time,

Lyndia Pyeatt



05/07/2021

Dear John Smith/Community Development Department,

I am a local business owner and resident of Fort Bragg, I own the property located at 144 N Franklin St..

When I was approached by Sunshine Holistic to lease the building at 144 N Franklin St, my first reaction was that I would need to go to the city and see if this project would be within the city guidelines. I went to the city and asked several questions.

Is this allowed?

Should I have any concerns?

What is the procedure?

I was told that it was not only allowed but that the city was onboard with the dispensaries coming into the city limits and it appeared that there was a standard procedure to follow for the permit. There were no red flags with this project and the permit process should go smoothly.

I then called my insurance company and went over the details with them to make sure the building would be properly insured.

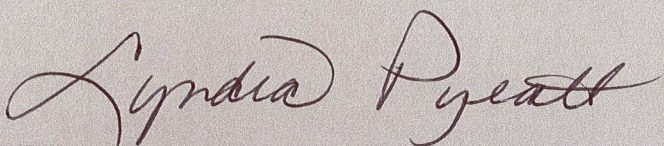
I called my local bank and set up a meeting to go over the plan and confirmed the banking process.

After doing my homework, feeling confident that there were no issues, I contacted Sunshine Holistic and told them that I would lease them the space.

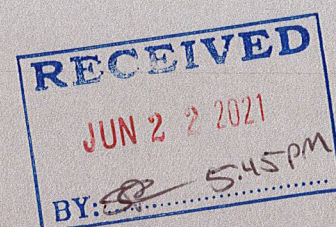
This is a viable business joining and giving support to the other local businesses and at the same time filling a vacant building on Franklin St.

I also have a business within 1 block of this location and the upgrades and security that is in the plan for 144 N Franklin Street will be a positive addition to the surrounding area.

Thank you,



Lyndia Pyeatt



From: [Lemos, June](#)
To: [Peters, Sarah](#)
Subject: FW: Add to June 23rd planning commission agenda packet
Date: Tuesday, June 22, 2021 2:25:54 PM

From: Jay Koski <jaynscout95@gmail.com>

Sent: Tuesday, June 22, 2021 12:58 PM

To: Lemos, June <Jlemos@fortbragg.com>; Gurewitz, Heather <Hgurewitz@fortbragg.com>; Miller, Tabatha <TMiller@fortbragg.com>; Peters, Lindy <LPeters2@fortbragg.com>; Norvell, Bernie <Bnorvell2@fortbragg.com>; Albin-Smith, Tess <Talbinsmith@fortbragg.com>; Morsell-Haye, Jessica <Jmorsellhayes@fortbragg.com>; Rafanan, Marcia <Mrafanan@fortbragg.com>

Subject: Add to June 23rd planning commission agenda packet

I can't understand why no matter what happens when it comes to opposals to this project It always comes back to Heather Gutierrez. When is the city going to put a fresh set of eyes on it. It's very obvious where Heather stands on this project since the very beginning she just pushes it through, her recommendations are always approval approval approval on everything not considering any of the complaints or petitions that the people of the city have pushed forward against this project. This location is already been denied once by the planning commission and the city council. When a project is appealed by the people or the applicant you need to put a new person on the project not the same person who has been controlling it from the beginning because all you are getting is the same result as when the projects started and the complaints are not even considered or addressed by Heather. She keeps saying that it fits the scope of the previous businesses that have been in this location how can you compare marijuana to pizza or an ice cream shop or a floor store there's no comparison it's apples and oranges and she's trying to say these are like the same types of retail businesses. This project once again needs to be denied it does not belong near single family dwellings or our neighborhood grocery store post office or bank.

Jay Koski

From: [Jacob Patterson](#)
To: [Peters, Sarah](#)
Cc: [CDD User](#)
Subject: Final Written Public Comment -- 6/23/21 PC Mtg., Item No. 6B, MUP 1-21
Date: Wednesday, June 23, 2021 1:01:08 PM
Attachments: [20210623 Public Comment MUP 1-21.pdf](#)

Planning Commissioners,

Attached is my final written public comment for the public hearing tonight. Per Chair Logan's request, I have refrained from attaching the referenced staff report for the prior MUP for the Bakery on Main Street but I encourage the Planning Commission to review the linked document to see how the City has interpreted and applied the required findings for past MUP reviews of cannabis dispensaries.

Thank you for your consideration of these comments.

Best regards,

--Jacob

June 23, 2021

Dear Fort Bragg Planning Commission,

I would like to take this opportunity to write to the Planning Commission in support of the appellants and to raise several points concerning this appeal of Minor Use Permit (MUP) 1-21 for your consideration during tonight's public hearing. First, I will address apparent problems with staff's recommended interpretation of the City's code as applied to this proposed project. Second, I will address several purported facts presented in the staff report that are not accurate and which are material to the necessary analysis and on which the staff recommendations are based. Finally, I will address the CEQA analysis offered in the agenda materials prepared by City staff.

1. Staff's Recommended Interpretation of the City's Code

Staff offers their interpretation of the City's code as it relates to the requested MUP but that interpretation is neither reasonable nor does it comport with applicable rules used to interpret statutes, codes, and ordinances, at least not in my opinion. While I agree it is true that courts will generally defer to the City's reasonable interpretations of its own ordinances, local interpretations are only given deference if they follow the normal and applicable rules of statutory interpretation. These rules described below (also called "canons") should be considered by the Planning Commission as you evaluate the staff recommendations and public comments concerning this entitlement review.

Literal Rule – The review authority interprets based on the plain language of the code (i.e., the literal and ordinary meaning). Interpretation starts with this approach and you only move onto the other rules if following the literal rule leads to obvious unintended consequences or results that run counter to the underlying purpose of the ordinance.

Golden Rule – The review authority interprets based on legislative intent where applying the literal rule would have an absurd or obnoxious result that undermines the intent of the ordinance. This interpretive approach is used when the literal rule is inappropriate.

Mischief Rule – The review authority interprets the code to extend the language to fill in gaps or loopholes in the ordinance as written because failing to do so would undermine the overall purpose. This interpretive approach is used when the literal rule and golden rule don't apply because the code does not address the particular situation but what is under consideration clearly relates to the topics covered by the code; it is a pragmatic approach to interpretation. This can occur, for example, when a code provides a list of exceptions to the standard rule (e.g., the exemptions in the draft formula business ordinance) and that list omits the particular circumstances currently under consideration that are substantively similar to what is explicitly listed in the code. In that case, a new similar exception can be read into the code to cover the present situation.

Purposive Approach – Derived from the mischief rule to interpret code within the context of the adopting ordinance’s purpose, including extraneous information from the legislative history of the ordinance. This comprehensive interpretive approach replaces the other three hierarchical “rules” with a single integrated process that focuses on implementing the purpose in addition to the technical language of the ordinance.

Other sub-rules of statutory interpretation apply, which have been developed through case law, etc., and they are informative to the matter under consideration tonight.

The rule against surplusage requires interpretive bodies to give each word and clause of an ordinance operative effect, if possible. Stated another way, you should not interpret any code provision in a way that would render it or another part of the code inoperative or redundant.

The connected grammatical rules, the last antecedent and series-qualifier cannons, provide that a limiting clause or phrase should ordinarily be read as modifying only the noun or phrase that it immediately follows (i.e., the closest clause in the sentence) unless the sentence is structured to clearly apply the limiting clause to the entire list of items (e.g., through punctuation like a comma or semicolon separating the limiting clause from the final item in the list of relevant terms or provisions). Accordingly, when you are faced with a list of terms in the code (e.g., separate and distinct findings), you should read and interpret each term to convey some distinct meaning relative to the other terms.

In addition, continuing to follow local precedent is an important consideration because the City should be consistent in how it interprets and applies the same provisions of the code to different projects over time or it is susceptible to allegations of arbitrary and capricious decision-making where some projects are being treated differently than other, similarly situated, projects. That is, once a particular interpretation is established, future application of that provision to should employ the same interpretation.

In this case, each finding must be interpreted to require supporting analysis and conclusions about that particular finding that will not make other findings duplicative, redundant or unnecessary and which is consistent with prior permit reviews. For example, the Planning Commission is tasked with two separate findings, that (1) “The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Development Code and the Municipal Code” and (2) “The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.” These separate findings must be interpreted to require different analysis for each finding that addresses the plain language of the finding as well as the underlying purpose of the finding in a way that is not redundant the analysis supporting other findings and which does not render as “surplus” any term or provision in the code.

The first of the findings mentioned above is primarily about whether the proposed use is allowed in the applicable zoning district. The second of these findings is about if the specifics of the proposed activity is compatible with the nearby land uses. Unfortunately, and in violation of

the basic rules of statutory interpretation, including those described above, staff's interpretation of the second finding focuses on precisely what the first finding is about: whether or not the zoning applicable to this location allows the proposed land use, including an irrelevant (IMO) discussion about potential buffer zones that is based on a false assumption that buffer zones were considered and rejected by the City when the ordinance was adopted or that this finding has anything to do with buffer zones, which it does not.

Staff's recommended interpretation likely is not reasonable, in part, because the relatively narrow focus of the analysis on what the zoning allows does not reflect the underlying purpose of requiring the second finding in addition to the first finding and because staff's interpretation effectively renders the second finding redundant to the first rather than interpreting each finding in such a way to have distinct and independent meaning. Staff's recommended interpretation is also not consistent to prior MUP reviews, including the City's prior interpretation of the same code language regarding these particular findings during the two prior MUP reviews for cannabis dispensaries that were approved at the administrative level.¹ As such, the Planning Commission should reject staff's recommended interpretation of these code provisions and seriously consider the positions advanced by the appellants and neighbors to this proposed project.

Moreover, it is important to recognize that the City did not decide to treat cannabis retail the same as other types of retail establishments because other retail is permitted by right within Central Business District (CBD) zoning, whereas cannabis retail requires heightened review and an MUP before it is permitted anywhere, including property zoned CBD. This heightened review requires that each of these findings are met and advances the underlying purpose of the adopting ordinance, which was to recognize that while cannabis retail is generally appropriate for CBD zoning, it can only be approved if the City determines these specific findings can be made and to ensure that the dispensary will not be incompatible with the neighboring uses. Other standard retail uses do not go through that heightened review process with a few minor exceptions (e.g., drive-through retail or retail that is 10,000 sq. ft or larger, which require a use permit and the same findings as cannabis retail). Interpreting the code to effectively treat cannabis retail as being allowed anywhere other retail uses are permitted, violates the rules of interpretation because it renders the code language requiring heightened review and these specific findings redundant and superfluous to other findings and provisions of the code (i.e., mere surplusage). Thus, staff's recommended interpretation is not reasonable or consistent with the rules of statutory interpretation and the Planning Commission should base its determination on an interpretation of the code that treats different code provisions as having distinct purposes and meanings rather than repeating required analytical topics that are addressed elsewhere in the code.

¹ See, e.g., the staff report for MUP 1-20 concerning the Bakery on Main Street, available in the City's Legistar archive at: <https://cityfortbragg.legistar.com/View.ashx?M=F&ID=8237009&GUID=9D8085D9-4C15-449E-AE1D-8A9F2A337BDB>.

2. Inaccurate but Material Facts

The staff report includes and bases its recommended actions on three purported facts that are inaccurate or false. Since these facts are material to the analysis, that is the conclusions depend on these facts being true, the recommendations should be rejected and the Planning Commission should instead base its conclusions on accurate facts and circumstances and resulting analysis that incorporates accurate information. (This is distinct from issues of interpretation where different analysis and conclusions are possible because there are multiple reasonable ways to evaluate the relevant topic.) Permit reviews only work as intended if relevant facts under consideration are true and accurate.

First, the staff report (but not the draft resolution, which does not address the topic of CEQA review at all so the Planning Commission is not actually making any findings related to CEQA) asserts on page 13 that the project is “exempt from CEQA under section 15301 Existing Facilities” and “There are no exceptions to the exemption and there are no potential significant environmental impacts from this project.” However, asserting that there are no exceptions to the exemption is not an accurate statement because categorical exemptions, including the cited exemption for existing facilities, are subject to numerous potential exceptions, each of which must be analyzed prior to any attempt to rely on the categorical exemption. Among these exceptions to categorical exemptions is the “unusual circumstances exception” which was discussed in detail in the public comment from Gene and Diana Mertle and incorporated into the appeal itself even though it was not addressed in the staff report at all, including its total omission from the table summarizing the different issues raised in the appeal even though the appeal raises this specific issue. Other exceptions to relying on categorical exemptions include projects that may impact historic resources but none of these exceptions have been analyzed or discussed, instead the staff report falsely asserts that “There are no exceptions to the exemption” but the Planning Commission should reject that conclusion because it is based on a incorrect statement.

Second, the staff report on page 4 asserts that “The City Council discussed, considered and rejected imposing buffers for cannabis uses” but that is not an accurate statement. It is true that the Planning Commission and City Council discussed specific language staff included in the original draft of the ordinance that was based on a state-recommended but not required provision to impose a defined buffer between commercial cannabis uses and places where children congregate (e.g., schools and day care centers) but neither the Planning Commission nor the City Council discussed or considered the broader topic of buffers, including buffers between cannabis retail and residential uses.² The state has recommendations that specifically

² Page 10 of the staff report for MUP 1-20, summarizes the local legislative history regarding the consideration of buffer zones as follows: “The ILUDC permits cannabis retail uses in the various commercial zoning districts with approval of a Minor Use Permit. The State of California prohibits cannabis retail uses within a 600-foot radius of a

apply to residential buffers but residential buffers were never included in the draft ordinances prepared by prior staff nor was the topic discussed, considered or rejected during the adoption of the ordinances. In fact, the concept that neighbors could raise issues regarding compatibility with surrounding land uses was discussed and emphasized during the Council adoption of the ordinance as part of why an MUP is required for cannabis retail rather than just allowing cannabis retail by right. Far from rejecting the concept that residential uses might be incompatible with cannabis retail, the City Council actually emphasized that this specific issue could and would be addressed through the heightened review process that applies to MUPs.

Third, the staff report asserts that the existing land uses surrounding the proposed project are commercial to the east and residential to the south. The neighbors and appellants to the east of the project can attest that their land uses are residential and not commercial and that fact is central to the issues before the Planning Commission in this appeal. Likewise, the existing land use to the south of the proposed project are commercial (a barbershop, vacant store front, art gallery, and print shop).

3. Staff's Recommended CEQA Analysis

One of the grounds of this appeal is that the CEQA exemption suggested by staff is not applicable to this project because applicable exceptions to relying on that categorical exemption apply to the project, namely the unusual circumstances exception from categorical exemptions. As mentioned above, staff asserts that "There are no exceptions to the exemption and there are no potential significant environmental impacts from this project." This is incorrect both factually and logically based on appropriate and relevant analysis. Moreover, even if the project could rely on the cited categorical exemption, it would not be exempt from CEQA; appropriate reliance on an applicable categorical exemption only means that the project is exempt from further environmental review under CEQA because the City has determined that further, more detailed review is not necessary based on the facts and circumstances presented by the project.

Contrary to staff's assertion, and in line with the positions taken by Councilmember Tess Albin-Smith when she voted to uphold the Planning Commission's denial of this applicant's first application for permits for a commercial cannabis business at this location, proposed development on this site and location within the City's historic downtown should not attempt to rely on categorical exemptions from further environmental review under CEQA because the

school, day care center, or youth center that is in existence at the time the license is issued. However, the state will waive this prohibition if a local jurisdiction specifies a different radius. The City Council considered this issue when adopting the local cannabis business ordinance, and elected to not limit a cannabis business' location based on its proximity to schools, day cares or youth centers. The Council was concerned that in a City so small, these proximity prohibitions could make it nearly impossible to establish a cannabis retail use. ¶ Nonetheless, applications for Minor Use Permits can be denied if the review authority finds that the proposed location of the use is incompatible with existing and future land uses in the vicinity. Additionally, special conditions may be placed on a permit approval to mitigate any potential impacts to nearby properties."

unusual circumstances exception to categorical exemptions arguably apply to this site. Staff did not address the unusual circumstances exception or any other potentially applicable exemption in any of their analysis but the Planning Commission should consider these exemptions as you review this appeal on its merits because this specific issue was raised in the appeal.

Best regards,

A handwritten signature in black ink, appearing to read 'J.R. Patterson', with a long horizontal stroke extending to the right.

Jacob R. Patterson