
File #: 2017-379, Version: 1

Planning Commission

MEETING DATE: 9/20/2017

CASE NO. Zoning Ordinance Amendment No. 17-001

APPLICANT: City of Cathedral City

LOCATION: Citywide

REQUEST: Recommendation to the City Council regarding a proposed Zoning Ordinance Amendment to conditionally permit adult-use cannabis businesses and make other revisions to the Zoning Code related to cannabis businesses

STAFF:

Erica Vega, Assistant City Attorney

RECOMMENDATION:

That the Planning Commission adopt a resolution recommending that the City Council adopt an ordinance amending Chapters 9.08, 9.30, 9.36, 9.40, 9.42 and 9.108 of the Zoning Code to allow adult-use cannabis businesses and make other amendments related to cannabis businesses and finding such ordinance to be exempt from CEQA.

FINDINGS:

1. Zoning Ordinance Amendment (ZOA) 17-001 is consistent with the intent of the Zoning Code and the General Plan. The Zoning Code permits medical cannabis businesses and this ordinance would allow cannabis businesses to also engage in activity related to the recently legalized adult-use market. Such businesses would be subject to the same regulations as existing medical cannabis businesses. ZOA 17-001 is also consistent with Goal 2 of the Community Development Element of the General Plan, which seeks to optimize opportunities for economic-base building.

2. The adoption of this Ordinance is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to California Business and Professions Code section 26055(h), which provides that CEQA “does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.”

BACKGROUND:

The voters approved Proposition 64 at the November 2016 general election, which legalized "adult-use" of cannabis and established the foundation for state regulation and licensing of adult-use cannabis businesses. Proposition 64 also preserved local authority to regulate adult-use cannabis businesses. An adult-use cannabis business may not operate unless it has obtained the appropriate State and local approvals. Proposition 64 requires the State to begin issuing State licenses by January 1, 2018. In June of this year, SB 94 was signed into law, which integrated the State's licensing requirements for medicinal and adult-use cannabis businesses. As a result of Proposition 64 and SB 94, City staff is proposing to amend the City's cannabis regulations to permit adult-use businesses and to ensure consistency with the newly revised State regulatory scheme in SB 94. One part of these changes includes the revisions to the Zoning Code proposed by ZOA 17-001.

ANALYSIS:

ZOA 17-001 comprehensively amends the Zoning Code provisions related to medical cannabis businesses to allow adult-use and medicinal cannabis businesses in the City. If adopted, conditional use permits could be issued to any "cannabis business" and the City would not distinguish between medicinal and adult-use businesses from a land use regulation standpoint. Once a business had a conditional use permit from the City it may engage in both medicinal and adult-use activities (unless the business' State license(s) dictate otherwise).

ZOA 17-001 makes no changes to the existing substantive regulations on cannabis businesses in Chapter 9.108 of the Zoning Code. There are numerous revisions proposed to the procedural aspects of the Chapter. Procedures related to the original approval of a conditional use permit are retained, but ZOA 1-001 proposes to eliminate existing procedures for modifications, suspension and revocation specific to cannabis conditional use permits. Instead, existing procedures in Chapter 9.72 that apply to all other conditional use permits will be utilized. In addition, the existing enforcement procedures in Chapter 9.108 are removed and instead the City will be relying on the generally applicable enforcement tools available for violation of any other permit or Code provision. These procedural changes result in a substantial streamlining of Chapter 9.108.

In addition, ZOA 17-001 proposes the elimination of "transportation site" as a separate use that requires a separate conditional use permit. SB 94 eliminated transporters as a separate licensing category, and the activities that were previously classified as transportation activities are now within the scope of a distributors license. As such, city staff is proposing a similar revision to Chapter 9.108 to allow the activities that were previously allowed on a "transportation site" to occur at a "distribution site."

Another change proposed to Chapter 9.108 is the definition of "excessive concentration." The current code requires the City to make a finding that the approval of a dispensary would not result in an "undue concentration," which is not defined. SB 94 includes a similar finding for the purposes of State licensing, but uses the term "excessive concentration." Staff is proposing the Code be revised to use "excessive concentration" rather than "undue concentration" for consistency with State law.

For the purposes of state licensing, SB 94 defines an “excessive concentration” of dispensaries in a manner similar to “undue concentration” in the context of alcoholic beverage licensing - by comparing the ratio of approved dispensaries to population in the subject census tract to the Countywide average ratio of dispensaries to population. Since most cities in Riverside County do not permit cannabis businesses, this definition is not workable for the City. However, SB 94 expressly allows local agencies to set a definition of “excessive concentration” that would supersede the State’s definition. ZOA 17-001 proposes a two-part definition of excessive concentration that reflects the current prohibition on new dispensaries south of Interstate 10 (e.g. anything more than 20 dispensaries is an excessive concentration for this area), and a proposed 500-foot setback between dispensaries north of Interstate 10.

Finally, ZOA 17-001 changes the zones where certain cannabis businesses will be allowed. Testing laboratories are proposed to be permitted with a conditional use permit in the I-1 (Light Industrial), CBP-2 (Commercial Business Park) and PCC (Planned Community Commercial) districts, which are the districts where cultivation and manufacturing are allowed. In addition, ZOA-17-001 proposes to remove all cannabis businesses as conditionally permitted uses in the OS (Open Space) zone.

PUBLIC NOTIFICATION:

A public hearing notice was published in accordance with the City Municipal code and CEQA (see Attachment 3).

ATTACHMENTS:

Attachment 1: Planning Commission Resolution

Attachment 2: Ordinance Exhibit A

Attachment 3: Public Hearing Notice