

March 4, 2021

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach

California

RECOMMENDATION:

Recommend that the City Council find the proposed Zoning Code Amendment exempt from the California Environmental Quality Act pursuant to Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) and Section 15061(b)(3) (Common Sense Exemption), as it will not result directly or indirectly in significant environmental impacts;

Recommend that City Council approve Zoning Code Amendment ZCA20-015 to amend language within Title 5 of the Long Beach Municipal Code and within the Downtown Planned Development District (PD-30) to allow the operation of adult-use cannabis dispensaries within Mixed-Use buildings in Downtown by way of Conditional Use Permit approval (Districts 1 and 2); and,

Accept Categorical Exemption 20-147 and approve a Conditional Use Permit (CUP20-016) to allow the establishment and operation of an adult-use cannabis dispensary located at 433 Pine Avenue in the Downtown Planned Development (PD-30) District. (District 1)

APPLICANT: Elliot Lewis for Casey Crow Collective
6700 Pacific Coast Highway
Long Beach, CA 90803
(Application No. 2011-03)

DISCUSSION

The applicant, Casey Crow Collective, is currently in the process of relocating its medical and adult-use dispensary from 5959 Cherry Avenue in the Community Auto-Oriented (CCA) District to 433 Pine Avenue in PD 30. Notwithstanding the 32- dispensary cap, medical cannabis dispensaries are permitted to be located in any zoning district allowing retail sales, including Planned Development Districts (PDs). However, adult-use cannabis dispensaries can only be located within the commercial zones shown in Table 1. Current regulations further require that adult-use cannabis dispensaries be co-located with medical cannabis dispensaries. Given the City's current regulatory



framework for cannabis dispensaries, the proposed relocation of an existing medical and adult-use cannabis dispensary to 433 Pine Avenue would not be permitted in PD-30. Consequently, the request necessitates the Long Beach Municipal Code (LBMC) amendments as described below.

The project at 433 Pine Avenue is currently finalizing the construction of interior tenant improvements to establish the medical cannabis dispensary within a 4,639-square-foot commercial space. The applicant also proposes to co-locate an adult-use cannabis dispensary with the medical cannabis dispensary. While the medical cannabis dispensary license can transfer over to the project site, as previously noted, the adult-use cannabis dispensary license is currently not allowed in PD-30, and, is moreover, not permitted in mixed-use buildings containing dwelling units citywide, as stipulated in Title 5 of the LBMC. Consequently, the proposed project necessitates a Zoning Code Amendment (ZCA) that would allow the operation of an adult-use cannabis dispensary within a mixed use building within PD-30. The proposed ZCA would entail the following Municipal Code amendments:

1. Amendments to the PD-30 use tables to allow adult-use cannabis business where retail uses are currently permitted with a Conditional Use Permit (CUP), and
2. Amendments to LBMC Title 5 to:
 - a. Allow cannabis dispensaries in mixed use buildings in PD-30, only; and,
 - b. Require that dispensaries in PD-30 adhere to PD-30's greater storefront transparency requirements.

Requested entitlements associated with this action are as follows:

- Zoning Code Amendment - Changes to the PD-30 Ordinance and to Title 5 of the LBMC. The Planning Commission serves in advisory capacity on legislative matters and would make a recommendation to the City Council.
- Conditional Use Permit - Requested to allow the operation of an adult-use dispensary in PD-30 (specifically at 433 Pine Avenue under this project), contingent on the approval of the ZCA.

Background

On January 1, 2016, the Medical Cannabis Regulation and Safety Act (MCRSA) took effect, creating a statewide regulatory and licensing system for medical cannabis businesses in California. On November 8, 2016, Long Beach voters approved Measures MM and MA. Measure MM established Chapter 5.90 ("Medical Marijuana Businesses") within the LBMC and created a regulatory structure for medical cannabis businesses in Long Beach. As a part of Measure MM, a limitation of 32 medical cannabis dispensaries was established on a citywide basis. Additionally, measure MM superseded many zoning regulations as to the land use tables defining where medical marijuana businesses are allowed in the City.

On November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA serves as the equivalent of MCRSA, from the standpoint of adult-use cannabis businesses. The following year, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which merged state regulations for medicinal and adult-use commercial cannabis activity into a single framework. MAUCRSA has given local governments the ability to regulate and/or prohibit adult cannabis activity within their jurisdictions.

Subsequently, in 2018, the City of Long Beach adopted additional changes to portions of LBMC Title 21 – Zoning and Title 5 – Regulation of Businesses, Trades and Professions, all pertaining to the regulation of adult-use cannabis. Changes to LBMC Title 21 included amendments of use tables in Chapters 21.31 (Residential Districts), 21.32 (Commercial Districts), 21.33 (Industrial Districts), 21.34 (Institutional Districts) and 21.35 (Park Districts). These amendments established the regulations that govern each adult-use cannabis type by its land use category. Regarding the allowance of dispensaries in particular, changes to Chapter 21.32 – Commercial Districts saw the addition of an “Adult-Use Cannabis Dispensary” category to Table 32-1, within Section 21.32.130 of the LBMC (whereby adult-use cannabis dispensaries would be allowed in each of the commercial zones), as shown in Table 1 below. However, it should be noted that these code amendments did not introduce specific changes to any of the PDs. As a result, adult-use cannabis dispensaries are currently not expressly permitted in any of the PDs (including PD-30).

Table 1 – “Adult-Use Cannabis Dispensary” in commercial zones

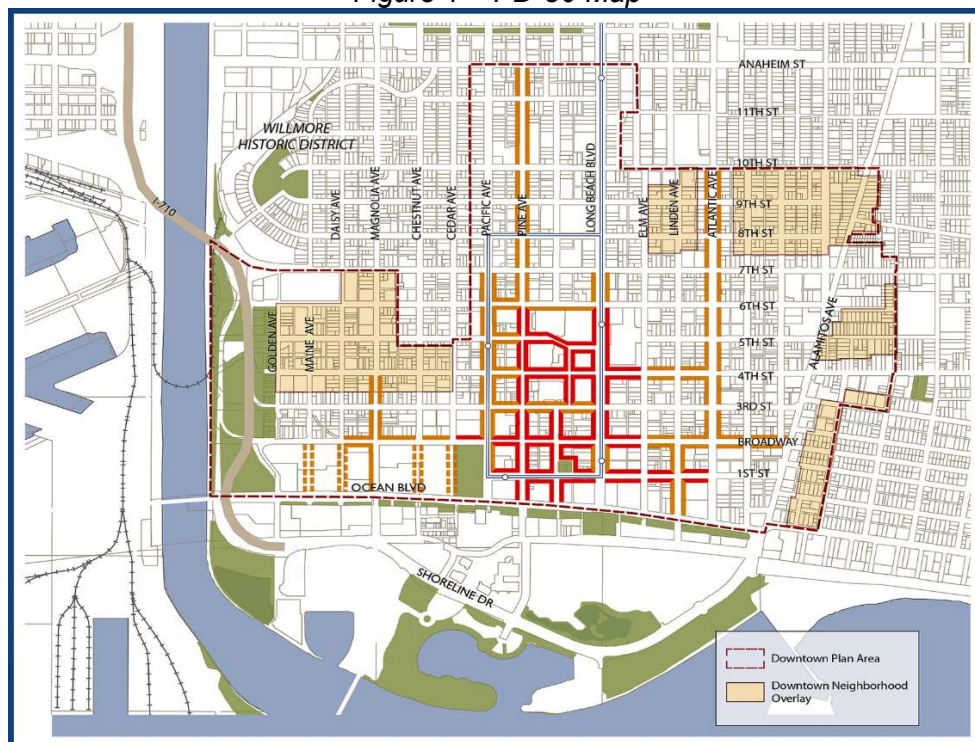
| | Neighborhood | | | Community | | | | Regional | Other |
|-------------------------------|--------------|-----|-----|-----------|-----|-----|-----|----------|-------|
| Retail Services | CNP | CNA | CNR | CCA | CCP | CCR | CCN | CHW | CS |
| Adult-Use Cannabis Dispensary | Y | Y | Y | Y | Y | Y | Y | Y | Y |

Changes to LBMC Title 5 included the addition of Chapter 5.92 - Adult-use Cannabis Business and Activities, providing all pertinent operational standards for the regulation of adult-use cannabis facilities. As a part of the adoption of Chapter 5.92, licensed dispensaries would be required to co-locate (i.e. hold both a medical license and an adult-use license at one location) and the City would only accept applications for adult-use dispensaries from the 32 existing medical cannabis dispensaries. As a result, the citywide limitation of 32 medical cannabis dispensaries was applied to adult-use cannabis dispensaries as well (notwithstanding the general citywide allowance of adult-use cannabis dispensaries in any of the commercial zones). In May of 2020, the City Council requested an amendment to the LBMC with specific attention to allowing retail cannabis businesses on the ground floor of mixed-use buildings.

Proposed PD-30 Amendments

The PD-30 Zoning District and regulations precede the changes in cannabis regulation, and PD-30 is currently “silent” regarding adult-use cannabis dispensaries. Although the PD-30 Zoning District Ordinance does not categorize adult-use cannabis dispensaries in Table 3-1 (Land Uses and Permit Requirements), several establishments exist in Downtown Long Beach. However, adult-use cannabis dispensaries are currently not allowed to be located within mixed-use buildings. In order to memorialize the allowance of adult-use cannabis dispensaries within mixed-use buildings in Downtown Long Beach, PD-30 must be amended to include adult-use cannabis dispensaries a category in the use table. As shown in Exhibit A - Proposed PD-30 Amendments, a “Cannabis Dispensary (Adult-use)” category is proposed to be added to the Retail Section of Table 3-1 within the PD-30 Ordinance. With the proposed amendment, an adult-use cannabis dispensary would require a Conditional Use Permit (CUP) approval within the Downtown Plan Area and would be prohibited within the Downtown-Neighborhood Overlay sections of PD-30. The proposed amendments would also indicate that the use would additionally be subject to Title 5 standards. Staff finds that the CUP requirement to approve such uses alongside the Title 5 regulations will sufficiently regulate the use, ensuring that these types of uses can operate in a manner compatible with the mix of commercial and residential uses within the downtown. Furthermore, Title 5 requires several buffers from sensitive uses such as schools and parks, along with a minimum 1,000-foot distance separation between dispensaries. These buffers will further ensure that there would not be an overconcentration of the cannabis dispensaries within the downtown. Figure 1 on the following page provides a map of PD-30 which delineates the Downtown Plan Area from the Downtown-Neighborhood Overlay area.

Figure 1 – PD-30 Map

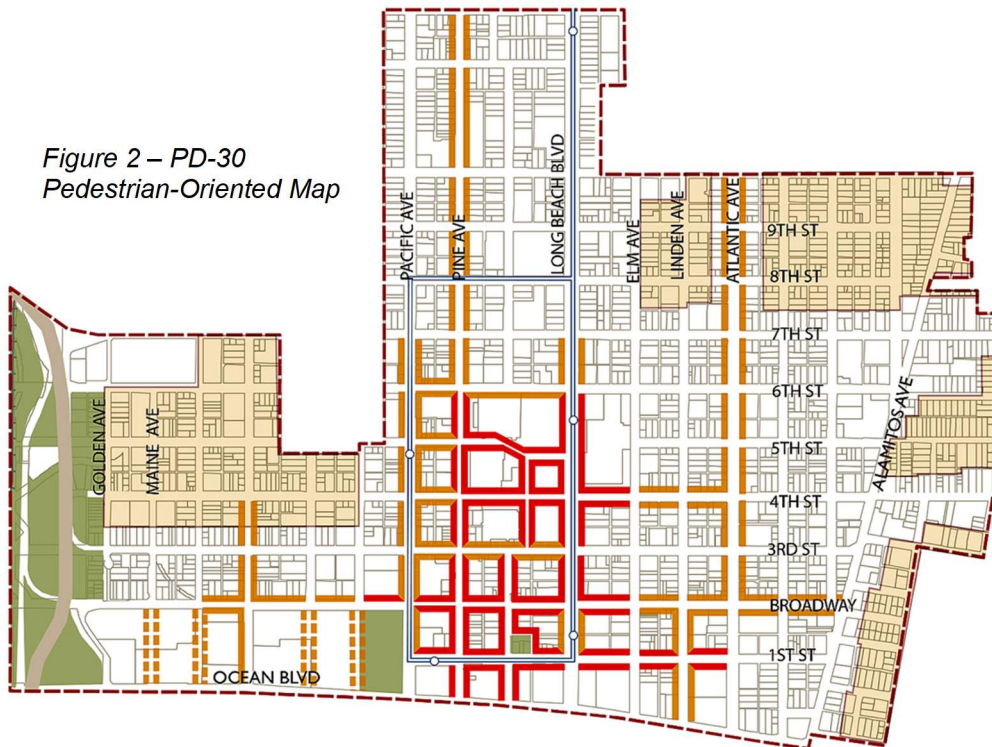


Proposed Title 5 Amendments

In conjunction with the PD-30 amendment, changes to four different sections of Title 5 are proposed and are summarized below (Exhibit B - Proposed Title 5 Amendments).

- **5.92.420 – Location Requirements** - Section 5.92.420 of the LBMC currently prohibits any adult-use cannabis premise from being located within a building which contains any dwelling units. As Downtown is made up of a significant percentage of mixed-use properties, particularly in the Downtown Core, adherence to Section 5.92.420 would substantially limit the locations in which an adult-use cannabis dispensary can be established. The proposed amendment to Section 5.92.420 would provide an exception for adult-use cannabis dispensaries located in PD-30.
- **5.92.760 – Visibility** - Section 5.92.760 of the LBMC has visibility standards in relation to public rights-of-way. It states, "...there shall be no exterior evidence of cannabis goods, graphics depicting cannabis goods, or commercial cannabis activity, except for signage authorized by this Code." However, PD-30 has standards that can potentially be interpreted in conflict with Title 5 visibility regulations. Section 3 of the PD-30 Ordinance identifies specific locations by which a certain percentage of active pedestrian-oriented uses is required Figure 2 below shows a more detailed look at the PD-30 map, with main and secondary pedestrian-oriented streets shown in red and yellow-orange, respectively.

Figure 2 – PD-30
Pedestrian-Oriented Map



On main and secondary pedestrian-oriented streets, “clear, nonreflective display windows or doors shall comprise at least 60 percent of the ground-floor street façade of active, pedestrian-oriented uses. Interior blinds, drapes, posters, signage, and interior shelving for product displays visible from the public right-of-way shall obscure no more than 10 percent of the transparent areas of each respective storefront.” Proposed amendments to Section 5.92.760 of the LBMC would add language to reinforce the window transparency requirements set forth on main and secondary pedestrian-oriented streets in Downtown, per the development standards found in PD-30. Staff believes that the floor plans of future cannabis dispensaries on pedestrian-oriented streets in Downtown can be designed to comply both with Title 5 product visibility requirements and the transparency standards of PD-30, without conflict. Therefore, proposed language would inform potential applicants of their responsibility to design facilities that will comply with both standards.

- **5.92.765 (C) - Building Design** - Section 5.92.765 (C) of the LBMC sets forth building design requirements applicable to cannabis businesses. It states, “On any new commercial or industrial building elevation fronting the street, windows shall comprise at least thirty percent (30%) of the ground floor building elevation... Existing buildings located on public right of ways classified as neighborhood connectors or greater, with elevations visible from the public right of way, shall maintain a minimum window area of at least twenty-five percent (25%) of said building elevation when incorporated with other architectural features and treatments.” The PD-30 transparency requirements can be interpreted in conflict with the current window percentage standards of Section 5.92.765 (C). Therefore, language is proposed in Section 5.92.765 (C) to require such uses to comply with the greater transparency requirements of PD-30, where applicable.
- **5.92.955 – Interior Signage** - Section 5.92.955 of the LBMC requires dispensaries to post certain notices on the interior of their establishment. In order to inform potential applicants of their obligation to comply with the PD-30 requirement not to obscure more than ten percent of transparent windows/doors, additional language is proposed in Section 5.92.955 to reinforce the PD-30 transparency standards for pedestrian-oriented streets.

Zoning Code Amendment Findings

In accordance with state law, the proposed amendments are congruent with the General Plan (Exhibit C - ZCA Findings). Specifically, the proposed changes are consistent with the Land Use Element’s goals for Downtown Long Beach. The Downtown (DT) PlaceType designation encourages a mix of land uses and housing types, with a focus on providing active ground-floor shops, restaurants and cafes. It promotes a highly urbanized core featuring compact development composed of a mix of compatible uses, building types and styles. Introducing adult-use cannabis dispensaries as a recognized use category eliminates the current ambiguity in the regulations and appropriately implements the with the goals of the DT PlaceType as it relates to the subject use. Dispensaries are recognized as retail uses, which generally falls within the vision of providing active ground-floor shops among the mix of compatible uses. The proposed amendments also require that such uses seek a conditional use permit to ensure sensitive integration of these uses and compatibility with surrounding uses.

Conditional Use Permit (CUP)

The applicant is requesting a CUP to allow the operation of the adult-use dispensary at 433 Pine Avenue, contingent on the approval of the Zoning Code Amendment. The project site is located on the east side of Pine Street between 4th Street and 5th Street (Exhibit D - Location Map). It is approximately 16,910 square-feet in size and is currently developed with a 4-story mixed-use building of approximately 43,978 square-feet. The ground floor consists of 6,119 square-feet of commercial space and three residential units. The remainder of the building (levels 2-4) includes a total of twenty-five units. The site is located within the Downtown Planned Development District (PD-30) and has a General Plan PlaceType designation of DT. Surrounding land uses are identified in Table 2 below.

Table 2 – Adjacent Zoning and Land Uses

| DIRECTION | ZONING | RIGHT-OF-WAY BOUNDARY | LAND USES |
|-----------|--------|-----------------------|--|
| North | PD-30 | Not applicable | Mixed-use (commercial & residential within the historic Kress Building) |
| South | PD-30 | Not applicable | Mixed-use (commercial & residential within the historic Walker Building) |
| East | PD-30 | Pine Avenue | Mixed-use (commercial & residential) |
| West | PD-30 | Solano Court alley | Multi-family residential / parking |

The applicant is currently in the process of finalizing construction of tenant improvements for a 4,639-square-foot medical cannabis dispensary, approved on June 24, 2020, by the Department of Development Services (Exhibit E - Plans) and proposes to co-locate an adult-cannabis dispensary at the subject location.

In order for the Planning Commission to approve the requested CUP, positive findings must be made (Exhibit F - CUP Findings). These findings include the requirement that the use not be detrimental to the surrounding community and that it carries out the intent of the General Plan. Regarding the effects on the surrounding community, staff does not anticipate any detrimental impacts resulting from project approval. The project site has already received building permits for a medical cannabis dispensary. Approval to allow the incorporation of adult-use cannabis to the site will not change the integrity of the operation of the dispensary, which is defined as a retail use. The project site consists of approximately 6,119 square-feet of ground-level commercial space. The dispensary will occupy 4,369 square-feet of that space. Pine Avenue is lined with mixed-use properties that have ground-level commercial space, consisting largely of retail and restaurant uses. It is anticipated that the adult-use cannabis dispensary would be compatible with the active ground-level uses that are currently established along Pine Avenue. LBMC Title 5 sets forth a comprehensive list of operational and safety standards with which the applicant will be required to comply. Furthermore, several conditions of approval will be incorporated to support the requirements of LBMC Title 5 including security measures, lighting, hours of operation, prohibition of loitering, noise and odor control, and proper interior and exterior maintenance (Exhibit G -

Conditions of Approval). The CUP would also be conditioned so that it will not be effective unless the ZCA is approved and in effect.

The operation of an adult-use dispensary subject to draft conditions of approval is not expected to cause any negative impacts to the Downtown area, particularly Pine Avenue. The southern portion of Pine Avenue (in relation to PD-30) is located in an area characterized as the “Business and Entertainment Area” of Downtown, serving as the City’s business, retail and tourism hub, and home of many of the City’s historic and cultural commodities. Furthermore, Pine Avenue is identified as a street in Downtown that offers great pedestrian activity with its predominance of ground-floor retail, public spaces and other places of interest. Development of the project site is done in a manner consistent with the standards of PD-30 and the DT PlaceType designation of the General Plan. The proposed amendments and CUP are meant to further promote consistency of development patterns within Downtown by allowing a new active use classification under the Retail category of PD-30 while adhering to the high transparency standards necessary to promote this objective. Staff recommends that the Planning Commission recommend that the City Council approve Zoning Code Amendment 20-015 and approve the Conditional Use Permit (CUP20-016), subject to Conditions of Approval.

PUBLIC HEARING NOTICE

A public hearing notice was published in the Long Beach Press Telegram on February 18, 2021 and the public notice posted was online in accordance with the requirements of Chapter 21.21 of the Long Beach Municipal Code. Due to Covid-19 related facility closures, notices were not posted at libraries. No comments have been received as of the preparation of this report.

ENVIRONMENTAL REVIEW

The proposed Zone Code Amendment is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) and Section 15061(b)(s) (Commons Sense Exemption), as it can be seen with certainty that the subject modifications to the City’s Municipal Code noted above will not have the potential for having a significant effect upon the environment, and therefore the activity is not subject to CEQA. The proposed amendments modify the approval process for certain uses but do not modify the total amount of development nor the characteristics of that development beyond what was previously studied for Downtown Long Beach. Additionally, the proposed Conditional Use Permit is exempt pursuant to CEQA Section 15301 - Existing Facilities, as the project includes the establishment and operation of an adult-use cannabis dispensary within an existing commercial tenant space (CE20-147).

