

January 16, 2020

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach
California

RECOMMENDATION:

Recommend that the City Council find the project exempt from the California Environmental Quality Act in accordance with Article 5, Section 15061, and approve a Zoning Code Amendment (ZCA19-009) to amend the Long Beach Municipal Code Chapter 21.15 and Sections 5.92 and 21.33 related to adult-use cannabis businesses. (Citywide)

APPLICANT: City of Long Beach
411 West Ocean Boulevard
Long Beach, CA 90802
(Application No. 1909-12)

DISCUSSION

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, 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 changes to portions of Long Beach Municipal Code (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 to Chapter 21.15 (Definitions), and 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.

In July 2019 the City Manager's Office presented the City Council a report related to cannabis business activity in the City since legalization in 2018. The City Council then directed staff to review zoning requirements and design regulations applicable to the cannabis businesses and requested



that the Planning Commission provide a complete and independent recommendation to the City Council on updating the City's cannabis regulations for non-retail businesses.

Proposed Title 21 Amendments

Definitions

Currently, LBMC Chapter 21.15 contains a definition for Cannabis Cultivation and Cannabis Distribution. These definitions, while providing a basis for which to classify adult-use cannabis businesses, do not include the full scope of activities allowed by each business type. The proposed amendments to LBMC Chapter 21.15 are intended to further specify the range of activities common to Cannabis Cultivation and Cannabis Distribution uses. The proposed amendments will introduce and define a new land use category known as "Cannabis Distribution-Self" (Exhibit A - Proposed Title 21 Amendments).

The intent of the new definition (Cannabis Distribution-Self) is to clearly distinguish the more intense nature of stand-alone distribution uses (ones in which third-party cannabis goods are transported between cannabis facilities), from accessory distribution uses where products cultivated/manufactured on-site are transported out for distribution. Creating a clear delineation between distribution types, streamlines the processing of applications.

Land Use

Current LBMC Chapter 21.33 requires that new adult-use cannabis **cultivation** businesses obtain a Conditional Use Permit (CUP) within the General Industrial (IG) zoning district. Furthermore, it requires that adult-use cannabis **distribution** businesses obtain a CUP within the Light Industrial (IL), Medium Industrial (IM), and IG zoning districts. Generally, CUPs require approval from the City of Long Beach's Planning Commission. Proposed amendments to the Chapter 21.33 use table (Table 33-2) would change the entitlement requirements for establishing new adult-use cannabis cultivation and distribution businesses.

New adult-use cannabis **cultivation** businesses would now be subject to an Administrative Use Permit (AUP) within the IG zoning districts. New adult-use and **distribution** businesses would now be subject to an AUP within the IL, IM, and IG zoning districts. While CUPs require approval of the Planning Commission, AUPs require approval of the City of Long Beach's Zoning Administrator. While Zoning Administrator approval also requires a public hearing process, it is generally more expedient than a Planning Commission hearing and has a lower fee. With the incorporation of "Cannabis Distribution-Self" as a new land use category and definition (distinct from "Cannabis Distribution"), Table 33-2 would also be amended to introduce the new category as an allowable use within the IL, IM, and IG zoning districts.

Proposed Title 5 Amendments

Although Title 5 is not typically under the purview of the Planning Commission, the Commission is asked to make a recommendation related to the design requirements. Current LBMC Section 5.92.765 sets forth building design standards for adult-use cannabis businesses within new or

existing buildings. These standards were implemented to minimize the impacts associated with remodeled or new adult-use cannabis facilities, including minimal glazing, lack of transparency, lack of architectural interest, uninviting entrances, and blank building walls, all of which contributed to unattractive building facades.

Buildings without windows and other architectural features contribute to a perception of blight and an indication of decline in the area. The current regulations include the prohibition of blank walls in excess of 25 feet for elevations that front a street or parking lot and the requirement for windows to comprise 40 percent of ground-floor elevations. In the table below, staff has provided three (3) options for consideration.

Table 1: Alternative

	WINDOW REQUIREMENT FOR NEWLY CONSTRUCTED BUILDINGS	WINDOW REQUIREMENT FOR EXISTING, REMODELED BUILDINGS.	ALTERNATIVE MATERIALS OR DESIGN METHODS
Alt. 1	40% of the ground floor building elevation facing the street. All other elevations visible from the public r-o-w 25% of the building elevation		None noted.
Alt. 2	30% on elevations facing public right of way. 25% on elevations visible from the public right of way when done in conjunction with enhanced architectural features	25% on elevations visible from the public right of way when done in conjunction with enhanced architectural features	Building plane breaks, three-dimensional elements, transparent windows, doors, and changes in colors and materials, and landscaping
Alt. 3	30% on all elevations visible from the public right of way.	None	N/A

Staff recommends alternative 2, because this alternative does reduce the percentage of window requirements along elevations visible from the public right of way, but allows the use of alternative design materials or architectural treatments, in conjunction with the reduced window requirement. The purpose of the changes is to provide a variety of design options and flexibility while ensuring minimal design quality of the buildings.

The proposed changes came about from not only the request by City Council to review the existing requirements, but also from complaints by cannabis businesses that have encountered significant challenges balancing their business needs and meeting the current design requirements. The amendments staff is proposing to the current LBMC Title 5 building standards would provide for flexibility in building design for remodeled and newly constructed buildings alike, and differentiate the window requirements for remodeled buildings and those built from ground-up. Newly constructed buildings would now be subject to the requirement of thirty percent (30%) window coverage for facades that are visible from the street (currently 40 percent). Existing buildings would now be subject to the requirement of only 25 percent window coverage for facades that are visible from the street, so long as this is done in conjunction with enhanced architectural features and

treatments such as high-quality accent materials. Other changes include window display depth and percentage requirements, as specified in Exhibit B (Exhibit B – Proposed Title 5 Amendments).

Proposed Title 8 Amendments

Proposed amendments to LBMC Chapter 8 pertain to the cultivation of cannabis for personal use, implemented to establish parameters that are consistent with State Law. In accordance with California Health and Safety Code Section 11362.1, LBMC Chapter 8 will provide definitions for “Public Place” and “Private Residence”, as well as mandate the maximum number of living cannabis plants at six (Exhibit C – Proposed Title 8 Amendments). This is being provided for informational purposes only. The codification of State Law will enable the Code Enforcement staff to issue citations if violation(s) are found.

Findings and Recommendation

Currently the LBMC does not include findings for amendments to the zoning code. Staff proposes adding findings that relate to the consideration of the potential for negative impacts associated with poor design and its impact upon a surrounding area. The proposed amendments are consistent with the General Plan, specifically upholding the Land Use Element’s emphasis on maintaining and improving the quality of life and the Public Safety Element’s emphasis on creating safer physical environments. The recommended alternative Alternative 2 is consistent with the newly adopted Urban Design Element which promotes the enhancement of the built environment through façade improvements, context sensitive infill development and landscaping (Exhibit D – Findings). Staff recommends that the Planning Commission recommend that the City Council approve Zoning Code Amendment No. ZCA19-009, Alternative 2 modifying the regulations for adult-use cannabis establishments.

PUBLIC HEARING NOTICE

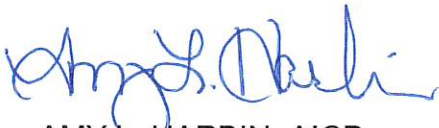
The required public hearing notice was provided in accordance with the Long Beach Municipal Code. A public hearing notice was published in the Long Beach Press Telegram, public hearing notices were mailed to the California Coastal Commission and all City libraries, and three public hearing notices were posted in public places within the City. No comments have been received as of the preparation of this report.

Staff held outreach events in the community to obtain stakeholder input on the proposed changes from not only the cannabis community, business operators, consultants, and contractors on July 31, 2019, but also the community at-large (November 6, 2019). From these two events, staff received a considerable amount of verbal feedback regarding issues which are not under the purview of the Planning Bureau such as the tax rates imposed on cannabis businesses and illegally operating cannabis businesses (black market). Written comments (9 responses) from these events and an on-line survey (5 responses) provided feedback (reduction in scope or elimination) to staff relating to design regulations for existing buildings and the requirement for a conditional use permit for cannabis distribution businesses.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), Article 5, Section 15061 and the State CEQA Guidelines, 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.

Respectfully submitted,



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LFT:CK:AO:AH:CJ

Attachments: Exhibit A – Proposed Title 21 Amendments
 Exhibit B – Proposed Title 5 Amendments
 Exhibit C – Proposed Title 8 Amendments
 Exhibit D – Findings