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Title: Staff Report for an Ordinance to Amend the City of San Leandro Zoning Code Article 3, Definitions; Article 6, Commercial and Professional Districts; and Article 7, Industrial Districts; involving updates to definitions and regulations of land uses involving Cannabis
Sponsors: Cynthia Battenberg
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Staff Report for an Ordinance to Amend the City of San Leandro Zoning Code Article 3, Definitions; Article 6, Commercial and Professional Districts; and Article 7, Industrial Districts; involving updates to definitions and regulations of land uses involving Cannabis

SUMMARY AND RECOMMENDATIONS

Staff requests that the City Council consider the proposed ordinance to amend Zoning Code provisions updating definitions and regulations involving cannabis. The purpose of the proposed changes are to 1) bring existing provisions of the Zoning Code into alignment with the Municipal Code and 2) enable two new conditionally-permitted land uses specific to the manufacturing and testing of cannabis products. Staff and the Planning Commission recommend City Council approval of the proposed ordinance.

BACKGROUND

Three assembly bills that passed in 2015 (Assembly Bills 243 and 266, and Senate Bill 643) established a new licensing and regulatory framework for medical cannabis as well as the new California Bureau of Medical Cannabis Regulation. The Bureau will be responsible for developing regulations and issuing licenses at the State level for the cultivation, manufacture, distribution, transportation, laboratory testing, and sale of medical cannabis. These state-level licenses will be issued in conjunction with local permits. With the recent passage of Proposition 64, it is anticipated that many of these state-level regulatory functions for the non-medical/adult use of cannabis will be merged with this same agency.

In light of this legislation and local approval of ballot Measure NN, which enables the City of San Leandro to tax up to 10% of the gross receipts of cannabis businesses, the proposed amendments will add new land uses to the Zoning Code to accommodate the manufacturing and laboratory testing

of cannabis products as a conditionally-permitted use in certain zoning districts.

The proposed amendments will also bring the Zoning Code into alignment with the Municipal Code with consistent provisions and terminology by replacing the term “marijuana” with “cannabis” and eliminating the 1,000 foot distancing requirement between medical cannabis dispensaries, as currently codified in the Municipal Code. The use of the term “cannabis” has become standardized through state regulations.

Analysis

Two of the proposed changes are essentially code “clean-up” items, bringing the Zoning Code into consistency with the Municipal Code, while the third will enable two new conditionally-permitted land uses related to cannabis: “Industry, Cannabis Product Manufacturing,” and “Laboratories, Cannabis Testing Facilities.” The first new land use will enable land uses that manufacture cannabis products and the second will enable laboratories that provide analytical quality control and testing services of cannabis and cannabis products. Both of these new uses would require review and approval of a Conditional Use Permit by the Board of Zoning Adjustments prior to establishment.

“Laboratories, Cannabis Testing Facilities” and “Industry, Cannabis Product Manufacturing” will be defined and identified in Zoning Code Articles 3, 6, & 7 as follows:

“Laboratories, Cannabis Testing Facilities. Laboratories conducting safety, quality control, and analytical testing services of cannabis and products derived from cannabis as a service to cannabis dispensaries, medical facilities, government agencies, cannabis product manufacturers, or other entities as allowed by state law. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of cannabis and cannabis products to the public.”

“Laboratories, Cannabis Testing Facilities” would be allowed in the Community Commercial (CC), Industrial General (IG), Industrial General - Assembly Use (IG-AU), and Industrial Park (IP) zoning districts with an approved Conditional Use Permit. These are the same zoning districts where the City currently allows Medical Cannabis Dispensaries. Laboratories, Cannabis Testing Facilities are not proposed to be subject to the same buffer or distance requirements as a dispensary. Cannabis testing laboratories will be limited to performing analytical testing and quality control of cannabis and cannabis products as a service and will be prohibited from growing or selling cannabis.

“Industry, Cannabis Product Manufacturing. Manufacturing, processing, and packaging of products derived from or infused with cannabis, including edibles, concentrates and extracts for wholesale or retail trade to cannabis dispensaries or other cannabis product distributors and manufacturers as allowed by state law. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of manufactured cannabis products to the public.”

“Industry, Cannabis Product Manufacturing” would be allowed in the Industrial General (IG), Industrial General - Assembly Use (IG-AU), and Industrial Park (IP) zoning districts with a Conditional Use Permit. With the exception of Community Commercial (CC) which is not an industrial zone, the IG, IG-AU, and IP industrial zoning districts are the same the zones that accommodate Medical Cannabis Dispensaries. Approved businesses that manufacture cannabis products under this

proposed ordinance will be prohibited from growing cannabis or selling or distributing their products directly to the public. As Cannabis Product Manufacturing facilities will be limited to industrial zones with a Conditional Use Permit and will not be accessible to the public, they are not proposed to be subject to the same buffer or distance requirements as a dispensary.

Both of these new land uses are not anticipated to have a noticeable impact different from other types of laboratories or manufacturing facilities. The City will have the ability to evaluate and condition each proposed business on a case-by-case basis through the Conditional Use Permit process, which requires review and approval by the Board of Zoning Adjustments at a public hearing. Should problems arise in the future, the City has the authority to issue citations, revisit or revoke a Conditional Use Permit.

By enabling these two new land uses, the City will be positioned to accommodate the anticipated growth in the manufacturing of cannabis products as well as the anticipated tax revenue and employment stemming from those new uses. Over the past year, staff has received a number of inquiries from manufacturers who have been seeking potential locations to legally manufacture products containing cannabis to supply to existing dispensaries. There are few cities in California that currently enable the manufacturing of cannabis products. These provisions will enable manufacturers to consider locating their operations in San Leandro. With the recent establishment of the California Bureau of Medical Cannabis Regulation, cannabis laboratories and manufacturing businesses will be required to comply with both local and state regulations, while providing a source of revenue and employment to the City.

Previous Actions

The City Council adopted Ordinance 2013-020 in December 2013, which allowed for the establishment of one medical cannabis dispensary subject to performance standards.

The City Council adopted Ordinance 2014-003 in April 2014, implementing performance standards for medical cannabis dispensaries, by amending the Zoning Code to enable the use of medical cannabis dispensaries.

The City Council adopted Ordinance 2016-007 in February 2016, allowing the establishment of a second medical cannabis dispensary.

The City Council adopted Ordinance 2016-013 in September 2016, allowing the establishment of a third medical cannabis dispensary.

Applicable General Plan Policies

The proposed recommendations are consistent with the recently adopted 2035 General Plan, which identifies policies and actions to ensure the City remains flexible and responsive to industrial trends:

- **Policy LU-7.3 - Zoning Flexibility.** “Ensure that industrial zoning regulations are flexible enough to achieve the vision of San Leandro’s industrial area as an “innovation ecosystem”, where new methods of production, operations, and design are supported.”
- **Action LU-7.3.A - Zoning Review.** “Regularly review the Zoning Code to respond to real estate market and development trends, as well as changes in technology. The City shall routinely

review the lists of permitted and conditionally permitted uses in industrial areas to ensure that desired and potentially compatible uses are not excluded.”

- Policy LU-7.4 - Tax Base Enhancement. “Encourage business development that improves the City’s ability to provide the public with high-quality services and which minimizes increases in the tax burden for existing businesses and residents.”

Environmental Review

The proposed Zoning Code amendments are exempt from environmental review under Section 15061(b)(3) of the CEQA Guidelines, as they constitute minor amendments to the Zoning Code necessary for consistency with the Municipal Code and state law, and that any potential project enabled under the amendments will be further subject to review under CEQA. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment and thus are not subject to CEQA.

Planning Commission Review and Actions

The Planning Commission considered the proposed amendments at its November 17, 2016 meeting and unanimously recommended City Council approval of the proposed Ordinance. The Planning Commission posed a number of questions to staff and noted support for additional revenue generation. There were no public comments presented at the Planning Commission or received prior to the preparation of this report.

Fiscal Impacts

With the approval of Measure NN, which enables the City of San Leandro to tax up to 10% of the gross receipts of cannabis businesses, approval of the proposed ordinance could expand potential revenue sources for the City.

ATTACHMENTS

- Draft Ordinance (16-674)
- Exhibit A, Article 3, Definitions, Proposed Changes
- Exhibit B, Article 6, Commercial and Professional, Proposed Changes
- Exhibit C, Article 7, Industrial, Proposed Changes

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