



PLANNING COMMISSION HEARING DATE: JANUARY 19, 2023
AGENDA ITEM NO.: 4

SUMMARY

Table with 2 columns: Category (Case Numbers, Request, Applicant, Project Location, Ward, Staff Planner) and Description. The Request section contains a detailed proposal and a numbered list of 5 items.

RECOMMENDATIONS

That the Planning Commission:

1. **Recommend** that the City Council determine that Planning Case PR-2022-001453 is exempt from further California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) (General Rule), as it can be seen with certainty that approval of the project will not have an effect on the environment;
2. **Recommend Approval** of the Planning Case PR-2022-001453 (Zoning Text Amendment) as outlined in the staff report and summarized in the Findings section of this report.

BACKGROUND

In 2016, California voters passed Proposition 64 (The Adult Use of Marijuana Act) which allowed for adults 21 or older to legally grow, possess and use cannabis for recreational purposes and legalized the sale and distribution of cannabis statewide. Shortly thereafter, Governor Brown signed Senate Bill 94 (The Medicinal Adult-Use Cannabis Regulation and Safety Act or MAUCRSA) into law. While the MAUCRSA created minimum requirements for licensees statewide, Proposition 64 and Senate Bill 94 gave local governments the flexibility to implement local regulatory frameworks for land-use entitlements, building permits and business/operating licenses for cannabis related uses.

Following the passage of Proposition 64, the City Council acted to implement a moratorium on commercial cannabis activities in the City and subsequently adopted Ordinances permitting and regulating Cannabis Testing Laboratories and prohibiting:

- 1) the retail and commercial sale of cannabis;
- 2) commercial agricultural cultivation of marijuana;
- 3) the manufacturing and sale of marijuana extractable and consumable products;
- 4) distribution of all marijuana and cannabis associated products;
- 5) the establishment of microbusinesses such as boutique lounges; and
- 6) outdoor cultivation of all marijuana plants, including medical marijuana.

On September 28, 2021, the City of Riverside received a Notice of Intent to Circulate Petition for the Riverside Cannabis Taxation and Regulation Act, then amended on November 5, 2021 (Exhibit 1). The City Attorney prepared and provided a Ballot Title and Summary to the proponents on November 18, 2021.

If the proponents continue through the initiative process and gather enough signatures required within 180 days (May 17, 2022), then City Council could choose one of two options: Call an election to place the ballot measure on the ballot during an election (special or regular); or Adopt the proposed Ordinance without revision.

If passed by voters or accepted by the City Council, it would create a regulatory framework for all cannabis uses within the City, largely without City Council, staff, or community input. Unlike ordinances passed by City Council, regulations established through a voter-initiated ballot cannot be amended or modified by sole action of the City Council. Any future amendments must go through a ballot process during a general election for approval.

On November 18, 2021, the Economic Development, Placemaking and Branding/Marketing (EDPBM) Committee discussed the need to develop an ordinance with the legal and regulatory framework for the permitting, licensing, enforcement, taxation, and legal operations of commercial cannabis storefronts within the City limits and directed staff to return to the Committee with Ordinance options.

On March 24, 2022, the EDPBM Committee directed staff to prepare amendments for the Riverside Municipal Code (RMC): 1) Title 5 – Business Taxes, Licenses and Regulations amendments related to licensing of cannabis business uses; 2) Title 9 – Peace, Safety and Morals amendments to clean up and provide consistency in cannabis regulations and terminology; and 3) Title 19 - Zoning amendments related to land use regulations for cannabis related uses. Staff was also directed to conduct a financial analysis on potential revenue and move forward with a cannabis tax ballot measure in 2024 with the type of tax, language, and percentage to be determined at a later date.

On October 20, 2022, Staff presented an update to the EDPBM Committee on the draft Municipal Code Amendments and requested additional direction to finalize the draft amendments in order to move the program forward for consideration by the Planning Commission and City Council (Exhibit 2).

On December 8, 2022, Staff conducted a Workshop before the Planning Commission to introduce the components of the Cannabis Business Permit Program, with a focus on how it relates to Title 19 (Zoning). Staff also received input for City Council's consideration. Discussions on the topic included proximity to sensitive receptors, uses considered as sensitive receptors, concentration of cannabis retail businesses, whether the permit process would be cost-prohibitive for small businesses, and impacts on crime. Maps have been prepared illustrating the recommendations of Staff, the EDPBM Committee and suggestions from the Planning Commission Workshop and are attached for informational purposes only as Exhibit 3.

PROPOSAL

The proposed amendments to Title 19 (Zoning) of the Riverside Municipal Code are included as Exhibit 4 and comprise of the following:

1. Eliminates the prohibition of commercial cannabis uses in the City;
2. Establishes Cannabis Storefront Retail, Cannabis Warehousing/Distribution and Cannabis Testing Laboratories as permitted/conditionally permitted uses in specified Zones;
3. Establishes Cannabis Cultivation and Cannabis Microbusinesses as prohibited uses in all Zones;
4. Amends various Chapters of the Zoning Code for consistency with proposed amendments to Titles 5 and 9 of the Municipal Code; and
5. Establishes Definitions related to the proposed changes to commercial cannabis uses.

Eliminates prohibition of commercial cannabis uses

Title 19 contains several sections that prohibit commercial cannabis uses (19.146.025, 19.150.020, 19.220, 19.342.020). The proposed amendment eliminates language indicating that commercial cannabis uses are prohibited.

Establishes permitted or conditionally permitted uses related to commercial cannabis
The proposed amendment revises the Permitted Uses Table (19.150.020.A) to include commercial cannabis uses and the respective zone in which they are permitted. Cannabis storefront retail, cannabis testing laboratories, and cannabis warehouse & distribution will all be referred to existing uses as they operate in the same manner. No new uses are introduced.

Prohibited cannabis uses

The proposed amendment revises the Permitted Uses Table (19.150.020) to add Cannabis Microbusiness as a prohibited use. Cannabis Cultivation remains a prohibited use in the Permitted Uses Table (19.150.020.A) and in the Incidental Uses Table (19.150.020.B).

Amendments for consistency

The proposed amendment makes revisions to Title 19 for consistency in language. Throughout Title 19, the term “marijuana” is changed to “cannabis”.

Definitions

Definitions for cannabis uses are included in Chapter 19.910 with references to Title 5. All previous definitions for “Marijuana” and marijuana uses are proposed to be deleted with a reference to see the definitions under “Cannabis”.

PUBLIC OUTREACH AND COMMENT

Public input has been conducted as part of the discussions before the EDPBM Committee. Meetings were held in November 2021, March 2022, and October 2022. A workshop was also held before the Planning Commission on December 8, 2022. Additionally, EDPBM Committee members have conducted presentations, upon request, from several community groups. A Notice of Hearing for the proposed Title 19 Amendment was published in the *Riverside Press-Enterprise* pursuant to the requirements of Section 19.670.040 of the Zoning Code. As of the writing of this report, one comment has been received (Exhibit 5).

A public outreach program will be developed for the prospective 2024 sales tax measure moving forward.

ENVIRONMENTAL REVIEW

The proposed amendments are exempt from additional California Environmental Quality Act (CEQA) review pursuant to Section 15061(b)(3) of the CEQA guidelines, as it can be seen with certainty that the proposed amendments will have no effect on the environment.

FINDINGS

Zoning Code Amendment Findings pursuant to Chapter 19.810.040:

- 1) The proposed Zoning Code Amendments are generally consistent with the goals, policies, and objectives of the General Plan;
- 2) The proposed Zoning Code Text Amendments will not adversely affect surrounding properties; and

- 3) The proposed Zoning Code Text Amendments will promote public health, safety, and general welfare and serves the goals and purposes of the Zoning Code.

ENVISION RIVERSIDE 2025 STRATEGIC PLAN ALIGNMENT

This item contributes to the Envision Riverside 2025 City Council Strategic Plan, specifically Priority 3 (Economic Opportunity), Goal 3.3, to cultivate a business climate that welcomes innovation, entrepreneurship, and investment; and Priority 5 (High-Performing Government), Goal 5.4, to achieve and maintain financial health by addressing gaps between revenues and expenditures.

In addition, the project aligns with the five Cross-Cutting Threads as follows:

1. **Community Trust** – The City continues to be transparent in studying the potential Commercial Cannabis Program. A community outreach program will be developed as part of the process and ultimately, residents will decide on the ballot measure on any potential business tax.
2. **Equity** – The Commercial Cannabis Program will provide opportunities for those impacted in the past because cannabis was illegal. The review process, open to all, would include criteria to choose those businesses that would best fit and operate in the City of Riverside.
3. **Fiscal Responsibility** – With the collection of a business tax, voted on by the residents of the City, the City would realize additional revenue that is lost because these businesses are not permitted in Riverside.
4. **Innovation** – The Commercial Cannabis Program would be prepared using an expert consultant that fully understands the State laws ensuring that the best and a creative approach will be used to regulate cannabis businesses.
5. **Sustainability & Resiliency** – The proposed Commercial Cannabis Program will help the City to realize additional business tax that will ensure its sustainability and resiliency.

APPEAL INFORMATION

Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3rd Floor, City Hall.

EXHIBITS LIST

1. Notice of Intent to Circulate Petition
2. Economic Development, Placemaking, Marketing/Branding Committee Report – October 20, 2022
3. Sensitive Receptor Maps
4. Proposed Title 19 Amendments
5. Comment Letter
6. Presentation

Prepared by: Judy Egüez, Senior Planner
Approved by: Matthew Taylor, Principal Planner