

**MINUTES OF PLANNING COMMISSION MEETING
OF THE CITY OF LOS ALAMITOS**

REGULAR MEETING – November 18, 2015

1. CALL TO ORDER

The Planning Commission met in Regular Session at 7:00 p.m., Wednesday, November 18, 2015, in the Council Chambers, 3191 Katella Avenue; Chair Riley presiding.

2. ROLL CALL

Present: Commissioners: Chair John Riley
Vice-Chair Mary Anne Culty
Commissioner Larry Andrade
Commissioner Art DeBolt
Commissioner Wendy Grose
Commissioner Gary Loe
Commissioner Victor Sofelkanik

Absent: None

Staff: Development Services Director Steven Mendoza
Associate Planner Tom Oliver
Assistant City Attorney Lisa Kranitz
Police Captain Rick Moore
Department Secretary Dawn Sallade

3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Chair Riley.

4. ORAL COMMUNICATION

Chair Riley opened the meeting for Oral Communication for items not on the agenda.

There being no persons wishing to speak, Chair Riley closed Oral Communication.

5. APPROVAL OF MINUTES

None.

6. CONSENT CALENDAR

None.

7. STAFF REPORTS

None.

8. PUBLIC HEARINGS

A. Zoning Ordinance Amendment No. 15-07 Marijuana Regulation

Consideration of an ordinance to prohibit commercial cannabis activities, including the sales, cultivation, distribution, delivery, storage and manufacturing of cannabis medical marijuana, and marijuana in response to three State of California bills signed into law on October 9, 2015 (AB 266, AB 243, and "SB 643) which are known collectively as the Medical Marijuana Regulation and Safety Act. The ordinance will also prohibit cultivation for personal use by Qualified Patients and Caregivers.

Development Services Director Mendoza summarized the Staff report, referring to the information contained therein, and indicated he's prepared to answer questions from the Planning Commission.

Chair Riley opened the Public Hearing.

Wayne (no last name given) - Indicated his concerns are why Staff would put prohibitions on this whole thing. Money and revenue aside, the safety and security of the people of the City having to travel out of this community to get marijuana, having to depend on somebody if they can't travel out of the City to get it, making it illegal to deliver to a person's house who can't travel, or somebody like him who has to take somebody out of the City to get marijuana and he has a full time job and a family to take care and taking care of a person on the side that needs marijuana. He is unsure why the City would put the citizens of the community in such distress. The City is making it difficult for people to support people with cancer who need marijuana to deal with the illness. He said he's seen firsthand how marijuana gives people with cancer a will to live; it gives them an appetite; it gives them a reason to want to go on every day. Cancer's a hard thing to fight and if the City is depriving these people of their legal right under the Compassionate Care Act to obtain marijuana legally, he doesn't quite understand it.

There being no further speakers, Chair Riley closed the item for public comment and brought it back to the Commission for their comments and action.

Responding to a question from Commissioner Grose, Captain Rick Moore shared examples of a few robberies related to delivering marijuana to the City as Marijuana sales is typically a cash industry. In 2013 there were eleven robberies, six of which were marijuana related. That's his concern; the drivers carry cash and marijuana and there's no way for them to vet the potential clients that they're coming to meet.

Commissioner Andrade asked if the suspects were ever apprehended and Captain Moore indicated they were and explained that they were a part of a larger criminal network in Los Angeles.

Commissioner DeBolt inquired if it was illegal to use marijuana within the City if a person doesn't have a card.

Captain Moore explained that it's currently an infraction to do that.

Commissioner DeBolt then asked if a person has a card, does that person have to be inside his residence or can he be out in the public right of way when using marijuana.

Assistant City Attorney Kranitz indicated she doesn't believe there's anything in the current regulations that specify that you have to be in your own home if you're somebody authorized to use marijuana under the Compassionate Care Act.

Commissioner Grose asked for the definition of "infraction".

Captain Moore described it as the lowest level of crime in California; there are felonies, misdemeanors and infractions and infractions are typically citable offenses such as traffic citations.

Commissioner Andrade asked if that also has to do with the amount of marijuana on the person such as being over an ounce or something like that.

Ms. Kranitz explained that an ounce or under makes the offense an infraction if you're not somebody authorized with a card.

Captain Moore said it's important to note that to actually get a medical marijuana card is very easy.

Commissioner Andrade said another issue is that several states have already gone ahead of Federal regulations and made legal the recreational use which is different than just having a medical card. If at some point the Federal government decides to go ahead and make recreational marijuana legal for everyone, how does this affect this?

Ms. Kranitz explained that it would depend how the Federal law was to be written that if it retained the land use authority like the State law does, which very clearly says, "To engage in any of these commercial activities, you need a local permit in addition to a State permit". So what types of activities would depend on how the Federal law was written. If they said smoking it is legal and California said it still wasn't legal, again it would depend how it was written because right now recreational marijuana isn't allowed in California. Commissioner Loe said he stopped by the hospital earlier in the week and while there he asked a few of the nurses what their thoughts were on the subject. They indicated that they were kind of in favor of having some sort of

facility in the City and he was just wondering from the Medical Center's standpoint, have they commented at all on this subject?

Associate Planner Oliver indicated Staff put an ad in the newspaper and no one commented based on it.

Commissioner Grose interjected that from a provider's standpoint, there is no true benefit for the majority of these people from marijuana. She indicated they see some negative long term problems coming from neurologic disorders and onset of early Alzheimer's especially in the younger group using this for what they consider general anxiety disorder, insomnia, etc. She indicated that if a person who is in a terminal stage, some of the oncologists will write a prescription for the terminal patient for a euphoric feeling that's briefly lived for them along with some other pain medications. But there are a lot of these physicians as well as a lot of their providers that will not and want nothing to do with it. She said does she see a reason for a dispensary? Her answer is no.

Commissioner Loe asked Commissioner Grose that isn't it a fact that the most abused drugs are prescription drugs by far?

Commissioner Grose responded absolutely; therefore, we really need to look at what is going on right now with the DEA as there's a major push and the clamping down on the use of prescription scheduled drugs.

Commissioner Loe continued by saying the abuse of prescription drugs would be just as bad or far outweigh the abuse of medical marijuana.

Commissioner Andrade said an issue he has is the delivery portion because there are people that truly do need this and there are many that don't and it become's in many instances not only a major inconvenience but to some degree not possible for them to actually travel outside of their area to get it.

Commissioner Andrade said the people that don't have cards are going to continue to get it by any means they can.

Commissioner Grose argued that we're not worried about cards; what we're worried about is what we can set as a standard in this community that we're saying that we don't want to have shops, we're not growing it, and we're not doing deliveries. We're not looking at who has cards, who does what with it or how they obtain it. Most of the oncologists that she knows actually have a preferred dispensary that they have their clients go to that are end stage.

Commissioner DeBolt indicated that "delivery" is the one that he has a concern about in trying to reconcile a prohibition against delivery with the Compassionate Care Act enacted in the State. He felt that the City needs to get the framework in place so that we have the ability to do that. If we can

wade through everything and he is under the opinion that this is pretty much something that we need to do to get us in the position to really get into a lengthy discussion if we want to change it.

Ms. Kranitz explained that the law doesn't say that if we allow it now, that on March 1, 2016 then we get to ban it but it is clear the other way; that if you ban it now, you can later come back and make it looser and provide an explanation such as delivery should be allowed at this point."

The Commission discussed the benefits of home delivery and a few of the Commissioners thought there were benefits of home delivery still being legal. Although the discussion centered about the positives and negatives of this topic, the Commission thought it best to be more restrictive out the gate and, if necessary, consider loosening it up at a later time.

Following a long discussion, the Commission decided to change the title of the Resolution as follows:

"A Resolution...all commercial medical CANNABIS ACTIVITIES in..."

The Commission also changed #1 in the Resolution to read:

1. *The proposed...City is consistent with the General Plan.*

Motion/Second: Grose/DeBolt

Unanimously Carried: The Planning Commission approved (with the above changes) the adoption of Resolution No. 15-19 entitled, "A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 15-07 TO ADD CHAPTER 17.39 TO THE LOS ALAMITOS MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MEDICAL MARIJUANA USES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER AND AMENDING TABLES 2-02, 2-04, AND 2-06 TO REFLECT THE SAME, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY INITIATED).

B. Zoning Ordinance Amendment No. 15-04

Administrative Permitting of Restaurants with Outside Seating Areas

A continued hearing to consider zoning code changes that will allow restaurant outside seating on private sidewalks as an administratively permitted use. The draft ordinance is brought back to the Planning Commission for recommendation to the City Council (Citywide) (City initiated.)

Associate Planner Tom Oliver summarized the Staff report, referring to the information contained therein, and indicated he's prepared to answer questions from the Planning Commission.

Chair Riley opened the Public Hearing.

There being no speakers, Chair Riley closed the item for public comment and brought it back to the Commission for their comments and action.

Commissioner Sofelkanik pointed out that currently we have 300 square feet as a bench mark for small outside seating areas being able to have the administrative approval to operate but wondered if we need to have some language that states that it should be a TOTAL OF 300 square feet.

Mr. Mendoza thought perhaps it would be useful to have the word "total" added if the Commission agrees.

Commissioner DeBolt indicated he felt that there were quite a few burdens under the Submittal Requirements (Ordinance, Section 4. B.2.a (Page 4). He felt that instead of a formal plan being submitted by the applicant, a diagram would work just as well and wouldn't cost the applicant as much. He felt that a list of requirements for submittal would be helpful for an applicant. To this end, we should replace the word "PLAN" with "DIAGRAM".

Then under "Furniture and Fixtures", Page 4, Commissioner DeBolt felt that identifying the style, color and materials of furniture and fixtures is acceptable; delete the word "EXACT" style.

After Commissioner DeBolt voiced his concerns regarding dining barriers (Page 5), the wording was changed as follows:

D. Dining Barriers. Barriers are only required if alcohol will be served in the outdoor seating area, otherwise they are optional.

Following a lengthy discussion, there were changes to the following pages/items in addition to the above changes:

Page 8, #4 – Prohibited Sidewalk coverings... Changed to:

- *4. Ground Coverings. The floor of outdoor seating areas shall be uncovered sidewalk material as to provide continuity with the adjacent public sidewalk or private walkway."*

Page 9, #1741.020. B. – Application - Add the words:

- B. "Content – Unless specified elsewhere in this City..."
- Change the title of the Development Services Director wherever his title is mentioned.

- A. An administrative use permit...prior to expiration. *The City shall give notice of the expiration at least 30 days before the expiration of the permit. The renewal shall be accompanied by a fee established by resolution of the City Council.*

Motion/Second: Grose/Andrade

Unanimously Carried: The Planning Commission approved (with the above changes) the adoption of Resolution No. PC 15-17, entitled, "A RESOLUTION OF INTENTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 15-04 TO AMEND SECTIONS 17.76.020 AND 17.10.020 - TABLE 2-04, AND ADDING SECTION 17.38.190 OF THE LOS ALAMITOS MUNICIPAL CODE RELATING TO OUTSIDE SEATING AREAS FOR RESTAURANTS (CITY INITIATED)."

C. Continued Discussion of Nonconforming Use Provisions

Continue discussion with Staff of desired provisions relating to Nonconforming Use Provisions, Zoning Ordinance Amendment (ZOA) 15-05 (Citywide) (City initiated).

Assistant City Attorney Kranitz summarized the Staff report explaining the process in detail and a long discussion with the Commission ensued.

Chair Riley asked how it actually works if that amortization period comes up and the deadline comes up and the business is still there.

Ms. Kranitz said technically under Code, somewhere the City was supposed to have given those two years notice. Once it gets to the point when the City has to remove a tenant, that is a lot of money. She said whether the City would like to undertake this process, she doesn't know.

The Commission talked at length about the difference between non-conforming parcels/lots, uses and structures discussing particular examples of properties within the City and how the properties and property owners could be impacted by the existing code and any proposed changes to the code.

The Commission said they are in favor of having a no amortization schedule and the City stays with the standard provisions of not being able to increase the size of a building or the intensity of use.

Responding to comments made by the Commission, Ms. Kranitz explained that currently the Code provides that a non-conforming structure that's destroyed to the extent that more than 50% of fair market value may be restored and used only if a CUP is first secured. Any destruction of up to 50% can just be repaired but if it's more than 50%, then a CUP will need to be obtained. The Code does not have anything regarding remodeling or bettering a building be it inside or outside with dollar limits.

A break was called at 9:25 PM and reconvened at 9:32 PM with all Commissioners present.

Following more discussion, it was determined that this item will be continued to the next regularly scheduled meeting in December.

9. ITEMS FROM THE DEVELOPMENT SERVICES DIRECTOR

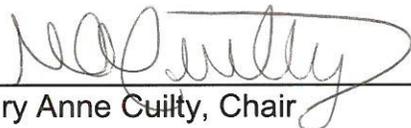
- Reminded the Commission about the Holiday Commission Dinner on December 8.
- Spoke about the Winter Wonderland event scheduled for December 5th.
- Invited everybody to shop on Small Business Saturday on December 5th.

10. COMMISSIONER REPORTS

- Commissioner Grose invited everybody to Precious Life Open House on December 6th from 3:30-6:30 PM.
- Commissioner Grose also reported that she has already signed up for the Race at the Base for 2016.

11. ADJOURNMENT

The Planning Commission adjourned at 9:49 PM.



Mary Anne Cully, Chair

ATTEST:



Steven Mendoza, Secretary