



City of Santa Barbara
PLANNING COMMISSION
MINUTES
OCTOBER 26, 2017

2:00 P.M.
City Hall, Council Chambers
735 Anacapa Street
SantaBarbaraCA.gov

COMMISSION MEMBERS:

Jay D. Higgins, *Chair*
Lesley Wiscomb, *Vice Chair*
John P. Campanella
Mike Jordan
Sheila Lodge
Deborah L. Schwartz
Addison Thompson

STAFF:

N. Scott Vincent, Assistant City Attorney
Allison DeBusk, Project Planner
Kathleen Goo, Commission Secretary

CALL TO ORDER

Chair Higgins called the meeting to order at 2:03 p.m.

I. ROLL CALL

Chair Jay D. Higgins, Vice Chair Lesley Wiscomb, Commissioners John P. Campanella, Sheila Lodge, and Addison Thompson

Absent: Commissioners Mike Jordan and Deborah L. Schwartz

STAFF PRESENT

N. Scott Vincent, Assistant City Attorney
Tava Ostrenger, Assistant City Attorney
Anthony Wagner, Public Engagement Manager
Allison De Busk, Project Planner
Andrew Bermond, Project Planner
Kathleen Goo, Commission Secretary

II. PRELIMINARY MATTERS

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items:
No requests.
- B. Announcements and appeals:
No announcements.
- C. Review, consideration, and action on the following draft Planning Commission minutes and resolutions:

1. October 5, 2017 Minutes

MOTION: Wiscomb/Campanella

Approve the minutes as presented.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Absent/Recused: 0 Absent: 2

2. PC Resolution No. 016-17
726 N. La Cumbre Road

MOTION: Wiscomb/Campanella

Approve the resolution as presented.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Absent/Recused: 0 Absent: 2

3. PC Resolution No. 017-17
1631 Shoreline Drive

MOTION: Thompson/Wiscomb

Approve the resolution as presented.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Absent/Recused: 0 Absent: 2

4. PC Resolution No. 015-17
3617 State Street

MOTION: Thompson/Lodge

Approve the resolution as amended.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Absent/Recused: 0 Absent: 2

- D. Comments from members of the public pertaining to items not on this agenda:

No public comment.

III. DISCUSSION ITEM**ACTUAL TIME: 2:06 P.M.****CANNABIS ZONING ORDINANCE AMENDMENTS**

The Planning Commission will consider and make recommendations to the City Council on proposed amendments to the Zoning Ordinance to establish personal cannabis cultivation (SBMC §§28.87.300 and 30.185.110), modification to the Medical Cannabis Dispensaries ordinance (SBMC §30.185.250), and commercial cannabis land use regulations found in multiple sections of Title 30 of the Santa Barbara Municipal Code.

The proposed ordinance amendment to SBMC §§28.87.300 and 30.185.110 would allow the personal (i.e., non-commercial) cultivation of up to six cannabis plants per residence, with the potential for cultivation of one plant outdoors. Additionally, the amendment to SBMC §30.185.250 would make the approved collective or cooperative medical cannabis storefront dispensaries legal non-conforming uses. The amendments to multiple section of Title 30 would make commercial cannabis business activities an allowed use in the Light Manufacturing Zone (M-I), further permit cannabis retail-storefronts as an allowed use in the Commercial General Zone (C-G) and the Commercial Restricted Zone (C-R).

The proposed amendments will be subject to environmental review under the provisions of the California Environmental Quality Act.

Contact: Tava Ostrenger, Assistant City Attorney
Email: TOstrenger@SantaBarbaraCA.gov

Phone: (805) 564-5405

Anthony Wagner, Public Engagement Manager for the Police Department, gave the Staff presentation. Tava Ostrenger, Assistant City Attorney, and Andrew Bermond, Project Planner were available to answer questions.

Public comment opened at 2:35 p.m.

The following people spoke in opposition or with concerns:

1. Cynthia Price, a disabled resident who lives in the Mesa neighborhood, contacted City offices to relay her concerns regarding potential negative impacts to homes in close proximity to patients' homes who are using the product and from nearby dispensary locations, such as in the Shoreline Drive neighborhood.
2. Emailed correspondence from Erin Weber in opposition regarding the supply train and storefront dispensary tax rates was summarized and acknowledged. Commissioner Campanella requested staff respond to these emailed concerns.

Public comment closed at 2:37 p.m.

Commissioner comments:

Commissioner Wiscomb:

1. Found the recommended draft Ordinance to be very thorough, well written, and a thoughtfully balanced document.
2. Supported recommending the draft Ordinance to City Council for adoption.
3. Later concurred with Commissioner Thompson that the approval process proposed in Chapter 9.44 seems overly complicated and overly restrictive for such a short approval period. However, she also realizes that this is new for the City and there are advantages to being overly cautious to start. She commented that even a lottery system would be better than just having one person judge which few dispensaries get approved or not.
4. In favor of the more administrative procedural approach of Title 9 for determination of restrictions and proximity issues, but not in favor of amendments for land use planning that are still unknown and not within the purview of the Planning Commission.

Commissioner Thompson:

1. Found the draft Ordinance amendments were acceptable, well written, very thorough, with clear definitions, and mirrors the State Code.
2. Title 9 restrictions appear designed with the intent to discourage owners from opening a marijuana business, with a large list of requirements and restrictions that must be renewed every year. It seems a little extreme that a business could not even guarantee leasing business space from year to year, much less if they will still be in business from year to year.
3. It seems more reasonable that if an owner was approved for a permit and complies with regulations and restrictions, then they should be allowed to continue and renew their permit like any other business instead of constantly starting back at square one each year, especially with renewal of the permit being at the sole discretion of the City Administrator. He found it hard to believe anyone would want to do business under those conditions.
4. Under Item C, page 5, of Proposed Chapter 9.44, in the phrase "*the decision of the City Council or appointed hearing officer,*" the term "appointed hearing officer" is not defined, and the intent is not explained.
5. Understood that the proposed approval procedure mirrors state law, but the process seems overly cautious, complicated, and too restrictive, with a permit approval period that is too short.

Chair Higgins:

1. Stated that he was not comfortable with the structure of the Ordinance; finds it to be a strange way to handle land use conflicts.
2. Concurred with Commissioner Thompson that the proposed approval procedure of Title 9 seems to be a burdensome process for applicants for a limited number of possible dispensary parcel sites.
3. There is a general lack of substantiated data provided for SBMC Chapter 9.44, and given the limited understanding of the market dynamic and future true driving needs, Chair Higgins concurred with Commissioner Wiscomb that land use issues require the more procedural approach of Title 9 for the determination of restrictions and proximity issues.
4. Outside of designated M-1 and central business districts, there is not enough information to support the expansion of dispensary opportunities into outer neighborhoods, especially given proximity to residential areas, when there is a lack of solid market demand information, and numbers that do not seem to support of the need for dispensaries in the outer neighborhoods.

Even though an appropriate cap limit of outer neighborhood dispensaries has not been discussed, he preferred the necessary research be done on the land use factors and proximity studies within residential neighborhoods than a cap to limit the number of dispensaries.

Commissioner Campanella:

1. Regarding Title 9, under renewal application, Item G, page 23, the condition *“If the renewal application is denied, the applicant may not reapply sooner than one year from rejection”* should be modified for circumstances of correction within the 60-day application renewal period so that renewal could be approved or a reapplication submitted and not summarily rejected, thereby imposing a seemingly punitive year delay in renewal. To be fair, in his opinion it is punitive to go beyond the intent of trying to keep adequate control for public purposes just to make sure people are doing the right thing.
2. Would like a statement made as an addendum to the motion to consider an amendment to Title 9, Item G that the applicant could reapply without restrictions within one year of application rejection.

MOTION: Wiscomb/Lodge

Assigned Resolution No. 018-17

Recommend for adoption by City Council with Planning Commission comments the Revised Draft of the Personal Cultivation Ordinances SBMC §§ 28.87.300 & 30.185.110, pertaining to personal cultivation of cannabis at and within private residences, and recommending the limitation of personal cultivation to six (6) cannabis plants per lawful dwelling unit, as stated in Exhibit B of the staff reported dated October 23, 2017.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2

MOTION: Lodge/Wiscomb

Recommend for adoption by City Council SBMC §30.185.250, pertaining to medical cannabis storefront dispensaries, and recommending removal of the collective and cooperative cultivation requirement, and subsequently repealing SBMC Chapter 28.80 and §30.185.250, as stated in Exhibit C of the staff reported dated October 23, 2017.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2

MOTION: Lodge/Wiscomb

Recommend for adoption by City Council Draft Revisions to SBMC §§ 30.20.020, 30.25.020, 30.30.20, 30.35.020, 30.175.040, 30.295.040, and 30.295.050 (Title 30), Santa Barbara Zoning Ordinance, recommending additions to the land use tables for the M-I, C-G, and C-R Zones to regulate and restrict commercial cannabis businesses, and an update of the parking table and use classifications accordingly, as stated in Exhibit D of the staff reported dated October 23, 2017.

This motion carried by the following vote:

Ayes: 4 Noes: 1 (Higgins) Abstain: 0 Absent: 2

Chair Higgins and the rest of the Commission declined to comment on recommendation of a cap in the number of dispensaries, either retail or wholesale, due to lack of direction and information provided from staff on the topic.

MOTION: Campanella/

Recommend for adoption by City Council SBMC Chapter 9.44.120 with a modification to Item G that the applicant could reapply without a restriction of one year from application rejection.

This motion failed due to lack of second.

MOTION: Wiscomb/Thompson

Forward Planning Commission's detailed comments regarding SBMC Chapter 9.44 to City Council, as follows:

1. Land use issues require more study and research regarding what other issues might be involved, such as those based on other cities or even those out of state, and if based on land use issues, then Title 9 procedures should be moved under Title 22, and a Performance Standard Permit is needed.
2. Recommend that City Council consider a modification of SBMC Title 9 under Item G, page 23, the condition "*If the renewal application is denied, the applicant may not reapply sooner than one year from rejection*" should be modified for circumstances of correction within the 60-day application renewal period, and under SBMC Chapter 9.44, under renewal applications, Item G, the applicant should be allowed to correct the denial of the reapplication at any time.

This motion carried by the following vote:

Ayes: 5 Noes: 0 Abstain: 0 Absent: 2

Commissioner Lodge noted for the record that even though the staff report states "Planning Commission discussion and public input from the October 26th meeting will be incorporated into a presentation for the November 21, 2017 meeting of the City Council", and there are six members of the public in attendance at today's Planning Commission meeting, there was in fact no public input or comments submitted at the hearing regarding SBMC Chapter 9.44. Mr. Bermond confirmed for the Commission that there were seven speakers at the last Ordinance Committee meeting regarding SBMC Title 9.

IV. ADMINISTRATIVE AGENDA**ACTUAL TIME: 3:47 P.M.****A. Committee and Liaison Reports:**

1. Staff Hearing Officer Liaison Report

No report.

2. Other Committee and Liaison Reports

- a. Commissioner Wiscomb reported on the Local Coastal Plan Subcommittee on October 25, 2017, a new live website for the Local Coastal Program Update, and a scheduled public open house to introduce the Draft Local Coastal Program on Saturday, November 11, 2017, from 11 a.m. to 3 p.m., at the Chase Palm Park Center.
- b. Chair Higgins reported on the Joint City Council/Planning Commission meeting from earlier in the day.
- c. Commissioner Campanella reported on the Architectural Board of Review meeting of October 23, 2017.

V. **ADJOURNMENT**

Chair Higgins adjourned the meeting at 3:51 p.m.

Submitted by,

Kathleen Goo, Commission Secretary

