

RESOLUTION PC25-01

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN PABLO RECOMMENDING TO THE CITY COUNCIL APPROVAL OF PLAN2411-0003, AMENDMENTS TO THE SAN PABLO ZONING CODE CHAPTER 17.32, SECTION 17.32.030; CHAPTER 17.34, SECTION 17.34.030; CHAPTER 17.36, SECTION 17.36.030; CHAPTER 17.62, SECTION 17.62.130, AND CHAPTER 17.70, SECTION 17.70.040, REVISING EXISTING REGULATIONS PERTAINING TO THE PERSONAL CULTIVATION OF CANNABIS AND TO ESTABLISH LAND USE STANDARDS APPLICABLE TO CERTAIN PERMITTED COMMERCIAL CANNABIS BUSINESSES IN THE CITY OF SAN PABLO.

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, California voters enacted the Compassionate Use Act ("CUA") in 1996, legalizing medical cannabis; and

WHEREAS, in 2003, the California Legislature ("Legislature") adopted the Medical Marijuana Program Act ("MMPA") allowing for collective, cooperative cultivation projects, commonly known as "dispensaries"; and

WHEREAS, in 2015, the Legislature enacted the Medical Cannabis Regulation and Safety Act ("MCRSA"), creating a comprehensive licensing and regulatory scheme for the cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis; and

WHEREAS, in November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions; and

WHEREAS, AUMA created a comprehensive regulatory and licensing structure for commercial nonmedical cannabis businesses, including cultivation, manufacturing and retail; and

WHEREAS, in June 2017, the Legislature adopted SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which effectively merged the recreational statutory framework under AUMA with the medical statutory framework under MCRSA, creating a single uniform licensing and regulatory framework for all commercial cannabis uses (i.e., both medical and recreational uses); and

WHEREAS, in January 2018, the State of California began issuing licenses for both medical and recreational commercial cannabis businesses, unless a local jurisdiction expressly prohibited the establishment of any such business; and

WHEREAS, the CUA, MMPA, AUMA, MCRSA, and MAUCRSA all continue to authorize the City to adopt and enforce local ordinances regulating, or completely prohibiting, the establishment or operation of commercial cannabis activities within the City of San Pablo, even those activities that are otherwise able to be licensed under state law; and

WHEREAS, as permitted by state law, Section 17.62.130 of the San Pablo Municipal Code currently prohibits all commercial cannabis activities while allowing for limited personal cultivation as required under state law; and

WHEREAS, the California Planning and Zoning Law (California Government Code Section 65000 et seq.) and section 7 of Article XI of the California Constitution authorizes the City to adopt and administer zoning laws, ordinances, rules, and regulations; and

WHEREAS, the City Council now desires to permit and regulate certain commercial cannabis activities within the City, all in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan, the 23rd Street Specific Plan, and the San Pablo Avenue Specific Plan; and

WHEREAS, an applicant for a state commercial cannabis license must first obtain local approval prior to receiving state approval and cannot submit an application for a state license if the proposed cannabis business violates a local ordinance; and

WHEREAS, no personal cultivation of cannabis or any commercial cannabis business shall be permitted within the City of San Pablo unless it complies with the provisions of Section 17.62.130.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of San Pablo has reviewed the proposed Ordinance (Exhibit 1) and recommends approval of PLAN2411-0003, relating to the amendments of the Municipal Code, to the City Council, based on the following findings:

- A. The Ordinance is consistent with the City of San Pablo General Plan.

The proposed ordinance meets the intent of the following policies:

ED-G-1 Review, assess, and respond to the changing economic conditions.

ED-G-5 Preserve and enhance the qualities that make San Pablo an ideal place to do business.

ED-I-3 Attract new businesses, focusing on business that:

- Possess a high growth potential;
- Generate net fiscal benefits to the City through high tax revenues;
- Complement or augment existing goods and services in San Pablo;
- Require minimal public investment

ED-I-26 Undertake strategic initiatives to attract new retail and commercial development.

LU-G-2 Ensure planned land uses are compatible with existing uses and provide for appropriate transitions or buffers for new uses, as needed.

LU-G-7 Retain and enhance existing commercial, industrial, educational, and entertainment land use areas to strengthen San Pablo's economic base.

LU-I-10 Continue to involve the Police Department in the development review process to ensure new buildings are designed with security and safety in mind.

B. The Ordinance is consistent with the purposes of the Zoning Ordinance.

Pursuant to Zoning Ordinance Section 17.01.020, Purpose, the purpose of the ordinance is to promote growth of the city in an orderly manner and to promote and protect the public health, safety, peace, comfort, and general welfare in conformance with the general plan. In addition, pursuant to Zoning Ordinance Section 17.32.010, Purpose, the ordinance helps to produce healthy, safe, and attractive neighborhoods in San Pablo, consistent with the policy direction in the San Pablo general plan.

The proposed ordinance sets forth a clear and transparent process for regulating retail cannabis businesses, allowing this type of use to operate in San Pablo while mitigating potential negative impacts on the community through a rigorous review process, including an Operator Permit and Conditional Use Permit. Specific development and performance standards have been included to ensure that the City maintains healthy, safe, and attractive neighborhoods.

C. The proposed amendments are exempt from the California Environmental Quality Act (CEQA).

The proposed amendment is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no potential for causing a significant effect on the environment because the Project solely involves text changes to the municipal code, does not authorize any construction activities, and specifically requires a

discretionary conditional use permit process and accompanying environmental review in the event that any facility is actually proposed.

D. Public notice of the hearing has been published in the West County Times, in accordance with the requirements of Government Code Section 65905.

A public hearing notice was published in the West County Times newspaper on Wednesday, January 8, 2025.

BE IT FURTHER RESOLVED that the Planning Commission recommends the following modifications to the proposed Ordinance: (1) that the Council consider having larger buffer zones than what is currently proposed, especially the buffer zones around elementary and middle schools; and (2) that the prohibition on on-site consumption of cannabis be eliminated.

BE IT FURTHER RESOLVED that the foregoing recitations are true and correct, and are included herein by reference as findings.

Adopted this 28th day of January 2025, by the following vote, to wit:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:

ATTEST:

Elizabeth H. Tyler, Secretary

APPROVED:

_____, Chair

Exhibit 1: Proposed Text Amendment