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TITLE:

CANNABIS RETAIL STOREFRONT AND NON-STOREFRONT REGULATIONS - INFORMATIONAL PRESENTATION

DEPARTMENT: ECONOMIC AND DEVELOPMENT SERVICES
DEPARTMENT/PLANNING DIVISION

PRESENTED BY: SCOTT DRAPKIN, ASSISTANT DIRECTOR

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RECOMMENDATION:

Staff recommends that the Planning Commission:

Receive an informational presentation from staff, take public comment, and continue the item to the March 14, 2022 Planning Commission meeting.

APPLICANT OR AUTHORIZED AGENT:

City of Costa Mesa.

BACKGROUND:

In 1996, California became the first state to allow medicinal cannabis use when voters passed the Compassionate Use Act. In November 2016, Costa Mesa voters approved Measure X, which allows for cannabis distribution businesses, manufacturing businesses, research and development laboratories, and testing laboratories in the City. The uses allowed by Measure X were intended to provide cannabis products, resources and services relating to the State's approved medicinal cannabis industry. Measure X uses are now permitted specifically in the City's Industrial Park (MP)

and Planned Development Industrial (PDI) zoning districts that are located north of South Coast Drive and west of Harbor Boulevard (excluding the South Coast Collection property located at 3303 Hyland Avenue). This area is also known as the City's "Green Zone." Measure X uses are regulated pursuant to Titles 9 and 13 of the Costa Mesa Municipal Code (CMMC) and various State laws.

In 2018, non-medical adult use cannabis became legal in California under the State's Medicinal and Adult-Use Cannabis Regulation and Safety Act (Proposition 64). On April 3, 2018, the City Council adopted Ordinance No. 18-04 that allowed adult use cannabis products to be manufactured, distributed, transported, tested, and developed in the same manner and within the same area as medical cannabis products pursuant to Measure X.

On November 3, 2020, Costa Mesa voters approved Measure Q, the *Costa Mesa Retail Cannabis Tax and Regulation Measure*. The final results of the votes cast for Measure Q reflected that 33,291 were in support of the measure and 17,793 were against the measure. This measure allows the City to adopt regulations to permit retail cannabis uses within the City, including storefront retail (dispensaries) and non-storefront retail (delivery) subject to a four to seven percent gross receipts tax and certain minimum requirements.

On June 15, 2021, the City Council adopted Ordinance No. 21-08 and No. 21-09 to amend Titles 9 and 13, respectively, of the CMMC to establish regulations for legal cannabis storefront and non-storefront retail uses consistent with Measure Q. Pursuant to the CMMC, applications for cannabis storefront uses and stand-alone delivery uses are subject to Planning Commission review and approval of a Conditional Use Permit. Applications for existing Measure X businesses requesting to add retail delivery operations are subject to Zoning Administrator review and approval of a Minor Conditional Use Permit. All retail cannabis uses are also subject to issuance of a Cannabis Business Permit and a City business license, as well as applicable State licenses and permits.

As of this date, the City of Costa Mesa has approved Cannabis Business Permits for 20 cannabis manufacturing and/or distribution businesses that are located within the City's "Green Zone." Fifteen of these businesses have received business licenses and are operational. Pursuant to Ordinance No. 21-08 and subject to approval of a Minor Conditional Use Permit (MCUP), these existing businesses are allowed to add retail cannabis delivery to their existing operations. Since City Council adoption of Ordinances No. 21-08 and No. 21-09 on June 15, 2021, the Zoning Administrator has approved seven MCUPs to add retail delivery to existing Measure X businesses.

Since the City's retail cannabis ordinance was adopted in 2021, 64 cannabis retail storefront applications have been submitted. These applications are in various stages of review. A five-member Planning staff team has established a comprehensive cannabis permitting review process and is diligently reviewing individual applications. Additionally, staff has also coordinated and contracted with an experienced cannabis consultant (HDL Companies) to assist City staff with technical cannabis retail application review in matters such as security, background and business operations.

In January of 2022, City staff and individual Planning Commissioners toured several cannabis dispensaries located in the nearby City of Santa Ana. The purpose of these tours was for the Commissioners to see cannabis dispensary operations first-hand, including "back-of-house" operations. The Planning Commissioners and staff were also able to view dispensary staff interaction with customers, customer turnover, site parking and circulation, and security operations.

DESCRIPTION:

The intent of this Planning Commission agenda item is to provide an informational presentation to the Planning Commission that will assist and prepare the Commission for its review of the upcoming retail cannabis Conditional Use Permit applications. The February 28th presentation is intended to be foundational and will focus on the following topics:

- A background, timeline and summary of the City's cannabis regulations;
- A description of the types of cannabis related businesses that are permitted in the City with specific emphasis on retail cannabis uses;
- A summary of the applicable Costa Mesa Municipal Code regulations relating to cannabis permitting (including location requirements, development standards, and operational requirements);
- A discussion of the City's cannabis permitting process (including pre-application review, ownership requirements/background checks, business plan review, security plan review, and building and safety review);
- A review of the City's applicable Conditional Use Permit process and findings; and
- A summary of the cannabis retail applications under review

Next Steps

After the staff presentation to the Planning Commission, the Planning Commission is encouraged to ask any questions of staff, and open the presentation for public comments. Staff members from various City Departments (including Development Services, Public Services, Police, Fire, Finance, and Transportation) will be available at the meeting to respond to Planning Commission questions. In addition, the City's aforementioned consultant expert will also provide a brief presentation and be available for questions.

Staff is recommending that the Planning Commission continue this item to the March 14, 2022 Planning Commission meeting. The March 14th agenda item and presentation will focus on providing additional information and responses to Planning Commission questions received during the first presentation. After the presentation(s), staff will begin to prepare for scheduling cannabis retail CUP applications for Planning Commission consideration.

ANALYSIS:

This agenda item is limited to providing an informational presentation to the Planning Commission. Additional detail will be provided in the staff presentation.

GENERAL PLAN CONFORMANCE:

This agenda report is limited to providing an informational presentation to the Planning Commission and therefore General Plan conformance is not applicable.

FINDINGS:

This agenda report is limited to providing an informational presentation to the Planning Commission and no decisions will be made by the Planning Commission.

ENVIRONMENTAL DETERMINATION:

In accordance with the California Environmental Quality Act (CEQA) Guidelines, the staff presentation is an exempt activity pursuant to Sections 15060(c)(1),(2)&(3) and 15061(b)(3). The presentation is not a “project” under CEQA.

ALTERNATIVES:

This agenda report is limited to providing an informational presentation to the Planning Commission with no associated decisions; therefore alternative actions is not applicable.

LEGAL REVIEW:

The City Attorney has approved this report as to form.

PUBLIC NOTICE:

Pursuant to the Brown Act, this item was posted on the Agenda 72 hours prior to the meeting. Staff has provided a courtesy notification by email to the cannabis industry and members of the public who have requested information via a cannabis subject matter interest list.

CONCLUSION:

Staff will be providing the Planning Commission with an informational presentation regarding the City’s adopted cannabis ordinances and upcoming review of Conditional Use Permits relating to retail cannabis applications. The Planning Commission will receive a presentation by staff, may ask staff any questions, and open the item for public comment. This agenda item is informational only and no project level decisions will be made.