

MEETING AGENDA

**MONTEBELLO PLANNING COMMISSION
CITY HALL COUNCIL CHAMBERS
1600 W. BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA
TUESDAY, MAY 1, 2018
6:30 P.M.**

MONTEBELLO PLANNING COMMISSION

**BRISSA SOTELO
CHAIR**

**SERGIO ZAZUETA
VICE CHAIR**

**DANIEL GONZALES
PLANNING COMMISSIONER**

**SHANNAN CALLAND
PLANNING COMMISSIONER**

**SONA MOORADIAN
PLANNING COMMISSIONER**

CITY STAFF

**MATTHEW FESKE
PLANNING MANAGER**

**CHRIS CARDINALE
PLANNING COMMISSION LEGAL
COUNSEL**

**CAMILA EASLAND
ADMINISTRATIVE ANALYST**

1. **MEETING CALLED TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **PLANNING COMMISSION SECRETARY – CORRECTION TO AGENDA**
5. **STATEMENT OF PUBLIC ORAL COMMUNICATIONS:**

Members of the public interested in addressing the Planning Commission on any agenda item or topic must fill out a form provided at the door, and turn it in to the Planning Commission Secretary prior to the beginning Oral Communications. A form does not need to be submitted for public hearing items.

Speakers wishing to address the Planning Commission on an item that is not on the agenda will be called upon in the order that their speaker card was received. Those persons not accommodated during this thirty (30) minute period will have an opportunity to speak under “Oral Communications – Continued” after all scheduled matters have been considered.

Please be aware that the maximum time allotted for individuals to speak shall not exceed three (3) minutes per speaker. Please be aware that in accordance with State Law, the Planning Commission may not take action or entertain extended discussion on a topic not listed on the agenda. Please show courtesy to others and direct all of your comments to the Planning Commission Chair.

6. MINUTES

- A. March 20, 2018
- B. April 3, 2018 – No Minutes – Meeting cancelled due to lack of quorum
- C. April 17, 2018 – No Minutes – Meeting cancelled due to lack of quorum

7. STAFF COMMUNICATIONS ON ITEMS OF COMMUNITY INTEREST

- A. None

8. PUBLIC HEARING(S)

For each of the following items, the public will be given an opportunity to speak, following Planning staff's presentation of its report and the Planning Commissioners' disclosures (if any) of site visits to the location at issue and any relevant information obtained during same. The applicant is allowed to speak and the public is allowed three (3) minutes per person to speak on issues relating to the case. After all persons have spoken, the applicant is allowed to rebut and/or summarize, and then the hearing is closed.

A. Code Zone Amendment (ZCA02-18)

Project Applicant: City of Montebello

Project Description:

The City has initiated a Zoning Code Amendment to the Montebello Municipal Code Title 17 ("Zoning") and Appendix A ("Index of Primary Uses") pertaining to commercial cannabis activities authorized by the Adult Use of Marijuana Act (Proposition 64), and specially consideration of adding cannabis distributors and/or delivery-only cannabis retailers as conditionally permitted uses in the M-1 (Light Manufacturing) and M-2 (Heavy Manufacturing) zones. The Zoning Code Amendment will also propose adding a "buffer" requirement between commercial cannabis activities and residentially zoned areas.

Recommended Action:

It is recommended that the Planning Commission conduct a public hearing, and thereafter adopt the following Resolution: A RESOLUTION OF THE PLANNING COMMISSION FOR THE CITY OF MONTEBELLO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A ZONE CODE AMENDMENT ADDING CANNABIS DISTRIBUTORS AND DELIVERY-ONLY RETAILERS AS CONDITIONALLY PERMITTED LAND USES, AND ESTABLISHING A SENSATIVE USE BUFFER FROM RESIDENTIAL ZONES

9. CONSENT ITEM(S)

A. None

10. STAFF COMMUNICATIONS TO THE PLANNING COMMISSION

A. None

11. ORAL COMMUNICATIONS – CONTINUED (IF NEEDED)

12. PLANNING COMMISSION ORALS

A. Chair Sotelo

B. Vice Chair Zazueta

C. Commissioner Calland

D. Commissioner Gonzales

E. Commissioner Mooradian

13. ADJOURNMENT

The next regularly scheduled meeting on May 15, 2018

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Building Official at 323/887-1497. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II 1203+)

Please note that the information contained in this agenda is a summary of the staff report prepared for each item. Complete copies of each staff report are available in the Office of the City Clerk.

**CITY OF MONTEBELLO
PLANNING COMMISSION
MINUTES
March 20, 2018**

Planning Commission meets at 6:30 p.m., on the day scheduled in City Hall Council Chambers

1. CALL MEETING TO ORDER

6:40 P.M. by Chair Sotelo

2. ROLL CALL

Commissioner Present: Commissioner Mooradian, Commissioner Calland, Commissioner Gonzales, and Vice Chair Zazueta, Chair Sotelo.

Absent: None

Also present: Planning Manager – Matthew Feske
Planning Commission Counsel – Alisha Winterswyk
Administrative Analyst – Camila Easland

3. PLEDGE OF ALLEGIANCE

Brooklyn Sotelo

4. STATEMENT OF PUBLIC ORAL COMMUNICATIONS

None

5. APPROVAL OF MINUTES:

A. February 6, 2018

MOTION: Commissioner Calland – Approve February 6, 2018 Minutes.

SECOND: Commissioner Zazueta.

ACTION: Motion passed, 3-0-2 (Commissioner Mooradian, Chair Sotelo).

B. February 20, 2018

MOTION: Commissioner Calland – Approve February 20, 2018 Minutes.

SECOND: Commissioner Mooradian.

ACTION: Motion passed, 5-0.

C. March 6, 2018

MOTION: Commissioner Calland – Approve March 6, 2018 Minutes.

SECOND: Commissioner Mooradian.

ACTION: Motion passed, 5-0.

6. STAFF COMMUNICATIONS ON ITEMS OF COMMUNITY INTEREST

None

7. PUBLIC HEARINGS

None

8. CONSENT ITEM (S)

A. General Plan Consistency

Project Address: 1.4 miles of Montebello Boulevard

Project Applicant: City of Montebello

Project Description:

General Plan Consistency for street dedication for approximately 1.4 miles of Montebello Boulevard.

Recommended Action:

That the Planning Commission adopt a Resolution recommending that the City Council of the City of Montebello, California, find that the street dedication of approximately 1.4 miles of Montebello Boulevard is consistent with the General Plan of the City of Montebello and a subsequent or supplemental environmental review is not required pursuant to Public Resources Code section 21166.

Discussion:

Mr. Feske made a brief presentation.

MOTION: Commissioner Mooradian – Adopt Resolution recommending that the City Council find that the street dedication of approximately 1.4 miles of Montebello Boulevard is consistent with the General Plan.

SECOND: Commissioner Calland.

ACTION: Motion passed, 5-0.

9. STAFF COMMUNICATIONS TO THE PLANNING COMMISSION

None

10. ORAL COMMUNICATIONS – CONTINUED

None

11. PLANNING COMMISSION ORALS

Commissioner Mooradian - None

Commissioner Gonzales – None

Commissioner Calland – None

Vice Chair Zazueta – None

Chair Sotelo – None

12. ADJOURNMENT

The meeting adjourned at 7:09 p.m.

Matthew Feske, Planning Manager

**CITY OF MONTEBELLO
PLANNING COMMISSION
MINUTES
April 3, 2018**

Planning Commission meets at 6:30 p.m., on the day scheduled in City Hall Council Chambers

1. CALL MEETING TO ORDER
6:40 P.M. by Chair Sotelo

2. ROLL CALL
Commissioner Present: Commissioner Mooradian, Commissioner Gonzales, and Vice Chair Zazueta

Absent: None: Commissioner Calland and Chair Sotelo

Also present: Planning Commission Counsel – Christopher Cardinale
Administrative Analyst – Camila Easland

Commissioner Gonzales had to leave the meeting

MEETING CANCELLED DUE TO LACK OF QUORUM

All Agenda Items are forwarded to the next Planning Commission meeting

Matthew Feske, Planning Manager

**CITY OF MONTEBELLO
PLANNING COMMISSION
MINUTES
April 17, 2018**

Planning Commission meets at 6:30 p.m., on the day scheduled in City Hall Council Chambers

MEETING CANCELLED DUE TO LACK OF QUORUM

All Agenda Items are forwarded to the next Planning Commission meeting

Matthew Feske, Planning Manager

CITY OF MONTEBELLO

PLANNING COMMISSION AGENDA STAFF REPORT

TO: Honorable Chair and Members of the Planning Commission

BY: Christopher G. Cardinale, Assistant City Attorney

SUBJECT: Public Hearing – Zoning Code Amendment Establishing a Sensitive Use Buffer Between Residential Zones and Commercial Cannabis Activities; Adding Distribution and Retail Delivery Cannabis Businesses as Conditionally Permitted Uses in M-1 (Light Manufacturing) and M-2 (Heaving Manufacturing) Zoning Districts

DATE: May 1, 2018

RECOMMENDATION

It is recommended that the Planning Commission conduct a public hearing, and thereafter adopt the following Resolution: A RESOLUTION OF THE PLANNING COMMISSION FOR THE CITY OF MONTEBELLO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A ZONE CODE AMENDMENT ADDING CANNABIS DISTRIBUTORS AND DELIVERY-ONLY RETAILERS AS CONDITIONALLY PERMITTED LAND USES, AND ESTABLISHING A SENSATIVE USE BUFFER FROM RESIDENTIAL ZONES

BACKGROUND

On September 5, 2017, the Planning Commission conducted a duly noticed public hearing, and adopted a Resolution recommending the City Council approve a zoning amendment to allow the cultivation, manufacture, and/or testing of cannabis and cannabis products in the M-1 (Light Manufacturing) and M-2 (Heaving Manufacturing) zoning districts. The proposed zoning amendment also included minimum development, operating, and security standards, made operation of a cannabis business contingent on a conditional use permit and development agreement approved by the City, and prohibited such facilities from being located within 600 feet of any school, day care, or youth center.

On February 28, 2018, the City Council approved second reading of the zoning amendment and it is currently effective. At the same meeting, the City Council approved second reading of an ordinance adding/amending Chapter 5.90 of the Municipal Code. Among other things, Chapter 5.90 details the application process, operating standards, and permit requirements for cannabis cultivation, manufacturing, and testing

establishments. All other types of commercial cannabis activities are currently prohibited.

However, since the Planning Commission last reviewed this issue, the California Legislature has enacted amendments to California's cannabis laws, and the Bureau of Cannabis Control enacted regulations pertaining to cannabis activities. These amendments and regulations further clarified the scope of local regulation, and prompted the City Council to request the Planning Commission consider a further amendment to the zoning code relating to cannabis businesses.

DISCUSSION

Specifically, the City Council directed the Planning Commission consider a zoning code amendment that: (1) allows cannabis "distribution" as a conditionally permitted land use; (2) allows cannabis "delivery only" retailers as a conditionally permitted land use; and (3) establishes a "parcel" buffer between residential zones and commercial cannabis facilities. The draft ordinance attached to this report would make these changes to the zoning code, as further detailed below.

A. Cannabis "Distribution" as a Permitted Use

A "distributor" under California's cannabis laws is a person that stores and transports or distributes cannabis or cannabis products among other holders of state-issued cannabis licenses. There are two categories of "distributor" licenses available from the State: a general "distributor" purchases, sells, and transports cannabis or cannabis products between licensees; and a "distributor-transport only" simply transports cannabis between licensees. Both categories of "distributors" must be contrasted with "retailers," which sell cannabis to the end user or customers.

Importantly, California law now prohibits cities from regulating licensed distributors from operating on public rights-of-way within their jurisdiction: "A local jurisdiction shall not prevent transportation of cannabis or cannabis products on public roads by a licensee transporting cannabis or cannabis products in compliance with this division. (Bus. & Prof. Code § 20680(b).)

This means that, even though "distributors" are not currently a permitted use in Montebello, distributors licensed in another jurisdiction will be able to operate within Montebello. Additionally, a cultivation, manufacturing, or testing facility that is licensed by Montebello will have to contract with "distributor" that is based in another jurisdiction. This increases operating costs, which is passed on to consumers in the form of increased retail prices, and to the City through lower revenues stemming from lower operating profits.

To avoid this result, the Planning Commission is being asked to consider a recommendation to add both categories of "distributors" as a permitted land use in M-1 and M-2 zoning districts, provided that any such distributor has also been approved by

the City for cultivation, manufacturing, or (as detailed below) delivery-only retailer activities (testing facilities are prohibited from holding any other license). Under this proposal, distributors-only facilities will continue to be prohibited, but those facilities otherwise licensed for commercial cannabis activities in Montebello will be able to conduct their own distribution activities.

B. Cannabis Delivery-Only Retailer as a Permitted Use

California law defines a cannabis “retailer” as a person engaging in the retail sale or delivery of cannabis or cannabis products to a customer. There are several categories of cannabis retailers: storefront establishments, storefront establishments that also offer delivery service; and delivery-only establishments. This last category of delivery-only establishments are prohibited from making on-site sales, and their facilities are closed to public access.

Cities may prohibit all categories of cannabis retailers from locating their “base of operations” within their jurisdiction, but cities – as was the case with distributors – cannot prohibit delivery services operating upon the public rights-of-way: “A local jurisdiction shall not prohibit delivery of cannabis or cannabis products on public roads by a licensee acting in compliance with this division and local law...” (Bus. & Prof. Code § 20680(b).)

This means that, while Montebello currently prohibits both storefront and delivery retailer establishments, deliveries may still be made within Montebello’s jurisdictional boundaries. Accordingly, the Planning Commission is being asked to consider a recommendation to add delivery-only cannabis retailers to be established in the City. Doing so would allow the City to directly regulate and generate revenue from delivery services established in the City, as opposed to having such regulations and revenues established by or following to neighboring jurisdictions.

C. Buffer From Residential Zones

When the cannabis zoning amendment was last before the City Council, the City Council adopted the minimum “sensitive use buffers” required by State law; namely, commercial cannabis facilities are prohibited from operating within 600 feet of any school, day care facility, or youth center. The City Council adopted the zoning amendment as recommended by the Planning Commission. However the Planning Commission is being asked to consider a recommendation to add a similar “buffer” from residentially zoned properties.

Specifically, the City Council requested that the Planning Commission consider requiring commercial cannabis facilities to be separated from residential zones by at least one (1) parcel. This would prevent commercial cannabis activities from being located immediately adjacent to residential zones, as is possible under the current zoning regulations.

PUBLIC NOTICE

Notice of this public hearing has been provided as required by law. As of the date of this report, no public comments were submitted.

CEQA

The proposed actions are all exempt from the California Environmental Quality Act ("CEQA"), pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of CEQA. The establishment or operation of commercial cannabis activities in the City will be subject to future discretionary action by the Planning Commission and City Council, and accordingly the environmental impacts of the proposed actions are too speculative at this time for meaningful analysis.

SUMMARY

The Planning Commission will consider adopting a Resolution recommending the City Council approve a zoning code amendment adding cannabis distributors and delivery-only retailers as a conditionally permitted use, and establishing a "parcel buffer" between commercial cannabis establishments and residential zone.

ATTACHMENTS

- 1 – Resolution
- 2 – Proposed Zoning Amendment

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**STATE OF CALIFORNIA
County of Los Angeles**

I am a citizen of the United States, and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of SAN GABRIEL VALLEY TRIBUNE, a newspaper of general circulation which has been adjudicated as a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, on the date of September 10, 1957, Case Number 684891. The notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

03/23/2018

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at West Covina, LA Co. California
On this 26th day of March, 2018.



Signature



(Space below for use of County Clerk Only)

Legal No. **0011095900**

**NOTICE OF PUBLIC HEARING
CITY OF MONTEBELLO
PLANNING COMMISSION**

**ZONING CODE AMENDMENT
(ZCA02-18)**

Project Description: The City has initiated a Zoning Code Amendment to the Montebello Municipal Code Title 17 ("Zoning") and Appendix A ("Index of Primary Uses") pertaining to commercial cannabis activities authorized by the Adult Use of Marijuana Act (Proposition 64), and specially consideration of adding cannabis distributors and/or delivery-only cannabis retailers as conditionally permitted uses in the M-1 (Light Manufacturing) and M-2 (Heavy Manufacturing) zones. The Zoning Code Amendment will also propose adding a "buffer" requirement between commercial cannabis activities and residentially zoned areas.

Environmental: The Zoning Code Amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines. Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. The operation and establishment of facilities that engage in cannabis cultivation activities will be subject to future discretionary approval(s) by the Planning Commission and/or City Council.

NOTICE IS HEREBY GIVEN that the City of Montebello Planning Commission will hold a public hearing on the said application. The meeting is scheduled on:

Date: Tuesday, April 3, 2018
Time: 6:30 p.m.
Place: City Hall Council Chambers
1600 W. Beverly Blvd.
Montebello, CA 90640

Any party interested in speaking may appear at the public hearing and comment on the project. Written comments may also be mailed or delivered to the City of Montebello Planning Commission via the Planning Commission Secretary, whose Office is located in the Planning Division of City Hall, or by email at mfeske@cityofmontebello.com. If you challenge the matter in court, you may be limited to raising those issues you or someone else raised at the public hearing, or in written correspondence delivered to the City of Montebello at, or prior to, the public hearing.

Communications to the Planning Commission are public records and will become part of the City's files and records.

Further information is available by contacting the Planning Manager Mathew Feske at mfeske@cityofmontebello.com.
3/23/18
CNS-3113364#
SAN GABRIEL VALLEY
TRIBUNE AD#1095900

RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION FOR THE CITY OF MONTEBELLO, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A ZONE CODE AMENDMENT ADDING CANNABIS DISTRIBUTORS AND DELIVERY-ONLY RETAILERS AS CONDITIONALLY PERMITTED LAND USES, AND ESTABLISHING A SENSITIVE USE BUFFER FROM RESIDENTIAL ZONES

WHEREAS, the City of Montebello (“City”) is a general law city, incorporated under the laws of the State of California, and has the power to make and enforce with its jurisdictional limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws of the state;

WHEREAS, the Montebello Zoning Code (Title 17 of the Montebello Municipal Code, hereinafter the “Zoning Code”) generally prohibits all land uses in the City that are not expressly listed as a permitted land use, with the list of permitted land uses in the City’s various zoning districts is set forth in Appendix A to the Zoning Code;

WHEREAS, in 1996, California voters approved the Compassionate Use Act (“CUA”), the purpose of which was to ensure that persons needing cannabis for medical purposes have the freedom to use it without fear of criminal prosecution;

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 to enact the “Medical Marijuana Program Act” (“MMP”) to clarify the scope of the CUA and provide qualifying patients and their primary caregivers criminal immunities for the collective or cooperative cultivation of cannabis for medical purposes;

WHEREAS, neither the CUA nor MMP impact cities’ rights to regulate or entirely prohibit the cultivation, manufacture, or distribution of cannabis within their jurisdictions, and accordingly in 2013 the City Council adopted an Ordinance enacting Chapter 9.30 which, among other things, prohibited the cultivation or distribution of medical cannabis within City limits, which was amended and updated by Ordinance No. 2365 adopted on January 28, 2015;

WHEREAS, in October 2015, a citizen-sponsored initiative petition was circulated proposing to legalize medical cannabis cultivation and distribution in the City, and the petition received approximately 3,000 signatures from City residents;

WHEREAS, in 2016, the Legislature approved the “Comprehensive Medical Cannabis Regulation and Safety Act,” enacting a licensing and regulatory scheme for medical cannabis, and thereby further refining and regulating medical cannabis activities;

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (the “AUMA”), which became effective immediately and enacted a statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacture,

distribution, testing, and sale of non-medical cannabis and cannabis products for use by adults aged twenty-one (21) and older;

WHEREAS, the AUMA immediately legalized the personal cultivation of up to six (6) cannabis plants upon the grounds of a private residence, and allowed cities to regulate but not prohibit indoor personal cultivation activities, but authorized cities to regulate or prohibit outdoor personal cultivation activities;

WHEREAS, the AUMA's legalization of commercial cannabis activities was stayed pending the State's development of regulations and a permitting scheme which are required to be in place by January 1, 2018, at which point such commercial cannabis activities will be legal in the State of California;

WHEREAS, in anticipation of voters approving the AUMA, and to provide staff time to review regulatory options, on October 26, 2016, the City Council adopted Urgency Ordinance declaring and establishing a temporary moratorium on all commercial cannabis-related activities proposed to be legalized under the AUMA ("Moratorium"), which was extended by the City Council in November 2016;

WHEREAS, following enactment of the AUMA, on January 25, 2017, the City Council adopted Ordinance No. 2393 to regulate and establish a permitting scheme for the indoor personal cultivation of cannabis, and to prohibit the outdoor personal cultivation of cannabis, both as authorized by the AUMA;

WHEREAS, in December 2017, the California Bureau of Cannabis Control published regulations governing commercial cannabis activities, and as of January 1, 2018 commenced issuing licenses to commercial cannabis operators, and cities throughout California have been reviewing and amending their regulatory schemes and policies addressing various commercial cannabis activities authorized by the AUMA;

WHEREAS, the City of Montebello is dedicated to regulating the operation of businesses and uses of land in the community in a manner that satisfies the needs and desires of the community, is flexible to changes in State laws and policies, and which identifies and takes advantage of new sources of revenue so that vital public services may be adequately funded;

WHEREAS, over the past decade the State's regulation of medical and commercial cannabis activities has changed significantly, local governments' treatment of medical and commercial cannabis activities has responded in kind, and the City has continually evaluated its regulation of such activities in light of local planning and fiscal goals and objectives, and particularly the desires of the community;

WHEREAS, several cities in Los Angeles County, including those neighboring Montebello, have adopted or are in the process of adopting local ordinances that permit and regulate medical and commercial cannabis activities, and the City's Economic Development Subcommittee has recommended that the City Council revise the City's existing regulations to

address regulatory changes at the State and local levels of government, and to take advantage of potential new local revenue opportunities;

WHEREAS, in light of voter’s overwhelming approval of the AUMA, the initiative petitions that have been circulated in Montebello proposing to permit various cannabis-related activities, the State laws and regulations that will impose stringent operating and licensing requirements on cannabis businesses, and the ever-increasing revenue needs of the City, the Planning Commission and the City Council of the City of Montebello have heretofore adopted and approved a zoning code amendment adding cannabis cultivation, manufacturing, and testing facilities as permissible uses in M-1 (Light Manufacturing) and M-2 (Heavy Manufacturing) zoning districts, subject to a conditional use permit and a development agreement, and provided that such establishments are located at least 600 feet from any school, day care facility, or youth center;

WHEREAS, subsequent to the City Council’s consideration of commercial cannabis activities, the State has enacted its regulations governing such activities, and the Legislature has further amended California’s cannabis laws, such that the City Council has requested the Planning Commission consider a zone code amendment adding “distributors” and “delivery-only retailers” as permissible uses in the City, subject to a development agreement and a conditional use permit, and further that the Planning Commission consider imposing a “parcel buffer” between commercial cannabis establishments and residentially zoned areas;

WHEREAS, the Planning Commission has duly considered the Zoning Code Amendment attached hereto this Resolution, and a duly noticed public hearing has been held thereon.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MONTEBELLO HEREBY DOES RESOLVE, DECLARE, AND DETERMINE AS FOLLOWS:

SECTION 1. That based on the entire record before it, the Planning Commission finds and declares that the foregoing recitals are true and correct, and incorporates said recitals fully into this Resolution as substantive findings.

SECTION 2. That the Planning Commission finds and declares that the Zoning Code Amendment is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (“CEQA”). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. The operation and establishment of a distribution or delivery only retailer in the City will be subject to future discretionary approval(s) by the Planning Commission and/or City Council, and the addition of a parcel buffer between commercial cannabis establishments and residential areas will, if anything, reduce environmental impacts associated with the same.

SECTION 3. That the Planning Commission hereby finds that the attached Ordinance is consistent with and furthers the objectives and policies of the City's General Plan, by, among other things, providing residents access to a variety of land uses that serve the desires and needs of the community, while creating local job opportunities and revenue generation for the City and residents, and further finds that said Ordinance furthers the general health, safety, and well-being of the public, and therefore recommends that the City Council adopt and approve said Ordinance.

PASSED, APPROVED AND ADOPTED this 17th day of April, 2018.

AYES: Commissioner(s):

NOES: Commissioner(s):

ABSENT: Commissioner(s):

ABSTAIN: Commissioner(s):

Brissa Sotelo, Chair

ATTEST:

Matthew Feske
Planning Commission Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, APPROVING ZONING CODE AMENDMENT NO. ZC XX-17 PERTAINING TO CANNABIS DISTRIBUTORS AND DELIVERY-ONLY RETAILERS, AND ADDING A PARCEL BUFFER FROM RESIDENTIAL ZONES

WHEREAS, the City of Montebello (“City”) is a general law city, incorporated under the laws of the State of California, and has the power to make and enforce with its jurisdictional limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws of the state;

WHEREAS, the Montebello Zoning Code (Title 17 of the Montebello Municipal Code, hereinafter the “Zoning Code”) generally prohibits all land uses in the City that are not expressly listed as a permitted land use, with the list of permitted land uses in the City’s various zoning districts is set forth in Appendix A to the Zoning Code;

WHEREAS, in 1996, California voters approved the Compassionate Use Act (“CUA”), the purpose of which was to ensure that persons needing cannabis for medical purposes have the freedom to use it without fear of criminal prosecution;

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 to enact the “Medical Marijuana Program Act” (“MMP”) to clarify the scope of the CUA and provide qualifying patients and their primary caregivers criminal immunities for the collective or cooperative cultivation of cannabis for medical purposes;

WHEREAS, neither the CUA nor MMP impact cities’ rights to regulate or entirely prohibit the cultivation, manufacture, or distribution of cannabis within their jurisdictions, and accordingly in 2013 the City Council adopted an Ordinance enacting Chapter 9.30 which, among other things, prohibited the cultivation or distribution of medical cannabis within City limits, which was amended and updated by Ordinance No. 2365 adopted on January 28, 2015;

WHEREAS, in October 2015, a citizen-sponsored initiative petition was circulated proposing to legalize medical cannabis cultivation and distribution in the City, and the petition received approximately 3,000 signatures from City residents;

WHEREAS, in 2016, the Legislature approved the “Comprehensive Medical Cannabis Regulation and Safety Act,” enacting a licensing and regulatory scheme for medical cannabis, and thereby further refining and regulating medical cannabis activities;

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (the “AUMA”), which became effective immediately and enacted a statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacture,

distribution, testing, and sale of non-medical cannabis and cannabis products for use by adults aged twenty-one (21) and older;

WHEREAS, the AUMA immediately legalized the personal cultivation of up to six (6) cannabis plants upon the grounds of a private residence, and allowed cities to regulate but not prohibit indoor personal cultivation activities, but authorized cities to regulate or prohibit outdoor personal cultivation activities;

WHEREAS, the AUMA's legalization of commercial cannabis activities, including but not limited to the cultivation, manufacture, testing, or sale of cannabis and cannabis products, was stayed pending the State's development of regulations and a permitting scheme which are required to be in place by January 1, 2018, at which point such commercial cannabis activities will be legal in the State of California;

WHEREAS, in anticipation of voters approving the AUMA, and to provide staff time to review regulatory options, on October 26, 2016, the City Council adopted Urgency Ordinance declaring and establishing a temporary moratorium on all commercial cannabis-related activities proposed to be legalized under the AUMA ("Moratorium"), which was extended by the City Council in November 2016;

WHEREAS, following enactment of the AUMA, on January 25, 2017, the City Council adopted Ordinance No. 2393 to regulate and establish a permitting scheme for the indoor personal cultivation of cannabis, and to prohibit the outdoor personal cultivation of cannabis, both as authorized by the AUMA;

WHEREAS, in preparation for implementation of the AUMA, the State has prepared regulations governing commercial cannabis activities and will begin issuing licenses for such activities on or before January 1, 2018, and cities throughout California have been reviewing their existing regulatory schemes and policies to prepare for the prohibition, regulation, or permitting of various commercial cannabis activities authorized by the AUMA;

WHEREAS, the City Council of the City of Montebello is dedicated to regulating the operation of businesses and uses of land in the community in a manner that satisfies the needs and desires of the community, is flexible to changes in State laws and policies, and which identifies and takes advantage of new sources of revenue so that vital public services may be adequately funded;

WHEREAS, over the past decade the State's regulation of medical and commercial cannabis activities has changed significantly, local governments' treatment of medical and commercial cannabis activities has responded in kind, and the City has continually evaluated its regulation of such activities in light of local planning and fiscal goals and objectives, and particularly the desires of the community;

WHEREAS, several cities in Los Angeles County, including those neighboring Montebello, have adopted or are in the process of adopting local ordinances that permit and regulate medical and commercial cannabis activities, and the City's Economic Development

Subcommittee has recommended that the City Council revise the City's existing regulations to address regulatory changes at the State and local levels of government, and to take advantage of potential new local revenue opportunities;

WHEREAS, in light of voter's overwhelming approval of the AUMA, the initiative petitions that have been circulated in Montebello proposing to permit various cannabis-related activities, the State laws and regulations that will impose stringent operating and licensing requirements on cannabis businesses, and the ever-increasing revenue needs of the City, the City Council has heretofore adopted and approved a zoning code amendment adding cannabis cultivation, manufacturing, and testing facilities as permissible uses in M-1 (Light Manufacturing) and M-2 (Heavy Manufacturing) zoning districts, subject to a conditional use permit and a development agreement, and provided that such establishments are located at least 600 feet from any school, day care facility, or youth center;

WHEREAS, subsequent to the Planning Commission's consideration of commercial cannabis activities, the State has enacted its regulations governing such activities, and the Legislature has further amended California's cannabis laws, such that the City Council requested the Planning Commission consider a zoning code amendment adding "distributors" and "delivery-only retailers" as permissible uses in the City, subject to a development agreement and a conditional use permit, and further that the Planning Commission consider imposing a "parcel buffer" between commercial cannabis establishments and residentially zoned areas;

WHEREAS, the Planning Commission has duly considered this Ordinance and has held a duly noticed public hearing thereon, and recommended that the City Council approve the same;

WHEREAS, the City Council has held a duly noticed public hearing concerning this Ordinance, and has considered staff reports, presentations, oral and written testimony, the Planning Commission's recommendation, and such other matters presented during the City Council's consideration of this ordinance, and all other prerequisites to the adoption of this Ordinance have occurred;

WHEREAS, the City Council finds and determines that this ordinance furthers the public health, safety, and general welfare of the community, and the public interest, convenience, and necessity, by identifying permissible zoning districts for the establishment and operation of cannabis facilities, and enacting minimum regulations governing such uses to ensure the consistency of land uses throughout the City; and

WHEREAS, the City Council further finds and declares that this ordinance is necessary and appropriate to ensure commercial cannabis activities are operated in a manner that is compatible with and not detrimental to other land uses in the vicinity, and further that this ordinance is consistent with purposes and goals of the Montebello General Plan, including but not limited to making allowance for a variety of land uses that serve the needs and desires of the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO DOES ORDAIN AS FOLLOWS:

Cannabis Distributor ^{63, 64}										C	C
Cannabis Delivery-Only Retailer ⁶³										C	C

Footnotes for Appendix A:

63. Establishment of a cannabis cultivation site, cannabis manufacturing site, ~~or~~ cannabis testing laboratory, cannabis distributor, or cannabis delivery-only retailer, or any combination of the foregoing, is subject to the approval of a development agreement by the city, a conditional use permit, and the provisions of Chapter 5.90 and Title 17.

64. Cannabis distributors shall only be allowed by operators of a cultivation site, cannabis manufacturing site, cannabis testing laboratory (unless prohibited by state law), or delivery-only retailer that has been approved by the City pursuant to this Title and Chapter 5.90. No establishments engaging exclusively in distribution activities shall be permitted.

SECTION 5. CEQA. The City Council, on the basis of the whole record and exercising independent judgment, finds that this the Ordinance is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (“CEQA”). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. The operation and establishment of a commercial cannabis establishment in the City will be subject to future discretionary approval(s) by the Planning Commission and/or City Council.

SECTION 6. SEVERABILITY. If any section, subsection, line, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied, by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Montebello hereby declares that it would have passed this Ordinance, and each and every individual section, subsection, line, sentence, clause, phrase, or word without regard to any such decision.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after approval by the City Council.

SECTION 8. PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance causing it to be posted as required by law.

PASSED, APPROVED AND ADOPTED this ___that day of _____, 2018.

Vanessa Delgado, Mayor

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman
City Attorney

ATTEST:

Irma Bernal-Barajas
City Clerk



**PLANNING COMMISSION
STAFF REPORT**

Consent Item 9A

TO: Honorable Chair and Planning Commissioners
DATE: May 1, 2018
FROM: Matt Feske, Planning and Community Development
BY: Christopher G. Cardinale, Assistant City Attorney
SUBJECT: City Purchase of Certain Successor Agency Properties; General Plan Consistency

RECOMMENDATION:

Adopt a Resolution pursuant to Government Code section 65402(a), finding that the City's acquisition of the following Successor Agency-owned properties is consistent with the General Plan of the City of Montebello: 701-705 West Whittier Blvd. (Jimmies Restaurant) and 121 South 6th Street (the "Properties")

BACKGROUND

The Properties were originally acquired by the former Community Redevelopment Agency ("RDA") of the City of Montebello ("City") in furtherance of remediating blight and facilitating economic development in the "Downtown" area.

The property at 701-705 West Whittier is well-known in the community as "Jimmies Restaurant." It is improved with a "restaurant shell" that has been vacant for a number of years. The property is comprised of 9,750 square feet, fronts the south-side of Whittier Blvd, and is in the "General Commercial" zoning district.

The property at 121 S. 6th Street is a vacant parcel comprised of 6,050 square feet, and is zoned "General Commercial." The property is located mid-block on South 6th Street, just south of Whittier Blvd.

When the RDA was dissolved by the California Legislature, title to the Properties, and all others, was transferred to the Montebello "Successor Agency." The Successor Agency is required by law to sell or otherwise dispose of all real property assets of the former RDA "expeditiously" and in "a manner aimed to maximize their value."

DISCUSSION

Since the RDA was dissolved, the Successor Agency has marketed the Properties to various third-parties in efforts to facilitate their development consistent with the City Council / RDA's

vision for Downtown. Though there has been interest from private developers in the Properties, to date no sale or project has materialized. As the process for “winding down” the affairs of the RDA continue, the City now desires to preserve “local control” of these Properties to ensure their productive use; even though no specific project or development proposal is contemplated at this point.

To that end, in the coming weeks the City Council will consider acquiring the Properties from the Successor Agency. The purchase price for the Properties is still under negotiation, but preliminary action by the Planning Commission is necessary before the transaction may move forward.

Specifically, Government Code section 65402 provides that, before the City acquires any interest in real property, the Planning Commission must make a finding that the acquisition and any proposed use is consistent with the City’s General Plan. Here, the proposed transactions furthers and is consistent with, among others, the following aspects of the General Plan:

- To formulate a plan which is responsive to the needs of the community which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development- Sale of the properties would assist and serve the residential and commercial uses in the vicinity, and remediate nuisance-like conditions experienced in the area.
- To provide for development of residential units and commercial development within the community in a manner compatible with other land uses. Sale of the properties will provide on-site parking for tenants and residents of the Property, while remediating traffic and safety issues associated with off-site parking, and nuisance-like conditions experienced in the area.

The City’s purchase of the Properties will ensure their orderly development for a productive use.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached Resolution finding that the proposed acquisition of the Properties is consistent with the General Plan of the City of Montebello.

FISCAL IMPACT

None, via adoption of the attached Resolution.

ATTACHMENT(S)

1 – Proposed Resolution

RESOLUTION NO. ____

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MONTEBELLO, CALIFORNIA, FINDING THAT THE CITY'S ACQUISITION OF CERTAIN SUCCESSOR AGENCY PROPERTIES IS CONSISTENT WITH THE GENERAL PLAN, PURSUANT TO GOVERNMENT CODE SECTION 65402

WHEREAS, the former Community Redevelopment Agency ("RDA") of the City of Montebello acquired the properties located at 701-705 West Whittier Blvd., and 121 South 6th Street, (jointly the "Properties") pursuant to its powers under the California Redevelopment Law;

WHEREAS, the property at 701-705 West Whittier is well-known in the community as "Jimmies Restaurant," and is comprised of 9,750 square feet, is improved with a "restaurant shell" that has been vacant for a number of years, and is located in the "General Commercial" zoning district;

WHEREAS, the property at 121 S. 6th Street is a vacant parcel comprised of 6,050 square feet, and is zoned "General Commercial";

WHEREAS, the RDA was dissolved by legislation as of February 1, 2018, and title and ownership of all real property assets of the RDA, including the Properties, was passed to the Montebello "Successor Agency";

WHEREAS, the Successor Agency is required by law to sell or otherwise dispose of all real property assets of the former RDA "expeditiously" and in "a manner aimed to maximize their value";

WHEREAS, though there has been interest from private developers in the Properties, to date no sale or project has materialized, and as the process for "winding down" the affairs of the RDA continue, the City now desires to preserve "local control" of these Properties to ensure their productive use, even though no specific project or development proposal is contemplated at this time;

WHEREAS, the City Council is therefore considering acquiring the Properties from the Successor Agency, with the specific terms and conditions of acquisition unknown at this time;

WHEREAS, California law allows the City to purchase property if doing so furthers the common benefit, health, safety, and general welfare of its citizens, and provided the acquisition is consistent with the City's General Plan; and

WHEREAS, pursuant to Government Code Section 65402, the Planning Commission has hereby considered whether the City's acquisition of the Properties is consistent with the City's General Plan, and based on staff presentations and reports, and other evidence presented to and considered by the Planning Commission during the meeting on this matter, the Planning Commission finds as follows:

- a. The proposed acquisition would conform with and further the General Plan Land Use Element Goal "To formulate a plan which is responsive to the needs of the community which permits the orderly arrangement of land uses, permitting sufficient areas for reasonable development," and
- b. The proposed acquisition would conform with the City of Montebello General Plan Land Use Element Goal "To provide for development and

location of commercial shopping areas within the community in a manner compatible with other land uses,” because:

- c. Among other things, the City’s purchase of the Properties will ensure their orderly use and development for a productive use that is consistent with the needs, wants, desires of the community, as well as applicable land use regulations.

NOW, THEREFORE, the Planning Commission of the City of Montebello resolves that:

SECTION 1. The foregoing recitals are true and correct and incorporated fully herein this resolution.

SECTION 2. That pursuant to Government Code Section 65402(a), the Planning Commission finds that the City’s acquisition of the Properties conforms to the City of Montebello General Plan.

SECTION 3. That this Planning Commission Resolution be submitted to the City Council as evidence of the Planning Commission’s determination in this regard in connection with the City Council’s consideration of thereof.

PASSED AND ADOPTED this 1st day of May, 2018 by the following vote of the Planning Commission.

AYES: Commissioner(s):

NOES: Commissioner(s):

ABSENT: Commissioner(s):

ABSTAIN: Commissioner(s):

Chair Sotelo

ATTEST:

Matthew Feske
Secretary to the Planning Commission