



ADMINISTRATIVE REPORT

File #: 24-808

Meeting Date: 8/21/2024

Planning Commission Staff Report

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SUBJECT: Zoning Ordinance Amendment #24-01, initiated by the City of Merced. This application involves changes to the Merced Zoning Ordinance (Title 20 of the Merced Municipal Code) which would amend Merced Municipal Code Section 20.44.170 (Regulation of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required). This amendment would clarify the process to amend or provide supplemental application materials, clarify the responsibility of the applicant relative to meeting the requirements of the Selection Criteria, clarify the process to correct potential scoring errors, clarify the Qualified Commercial Cannabis Business Application List timelines and clarify the process if there is a failure for a business to meet the clarified timeline and various other amendments. *PUBLIC HEARING*.

ACTION: PLANNING COMMISSION:

Recommendation to City Council

- 1) Environmental Review #24-21 (*Categorical Exemption*)
- 2) Zoning Ordinance Amendment #24-01

CITY COUNCIL:

Approve/Disapprove/Modify

- 1) Environmental Review #24-21 (*Categorical Exemption*)
- 2) Zoning Ordinance Amendment #24-01

SUMMARY

The City is proposing modifications to the City's current cannabis ordinance found under Merced Municipal Code Section 20.44.170 - Regulations of Commercial Cannabis Activities - Commercial Cannabis Business Permit Required. This ordinance amendment would clarify the process to amend or provide supplemental application materials, clarify the responsibility of the applicant relative to meeting the requirements of the Selection Criteria, clarify the process to correct potential scoring errors, clarify the Qualified Commercial Cannabis Business Application List timelines and clarify the process if there is a failure for a business to meet the clarified timeline and various other amendments.

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend approval to the City Council of Environmental Review #24-21 (Categorical Exemption) and Zoning Ordinance Amendment #24-01

as outlined in Exhibit B of the Draft Resolution #4139, subject to the findings/considerations in Exhibit A of the Draft Resolution at Attachment A.

DISCUSSION

Project Description

Zoning Ordinance Amendment #24-01 would modify the City's regulations regarding cannabis sales (MMC 20.44.170) as described below.

The ordinance changes are contained in the Draft Ordinance at Exhibit B of Planning Commission Resolution #4139 (Attachment A) and presented in redline form at Attachment B. In general, the modifications can be summarized as follows:

- 1) Section 20.44.170(L)(1)(e) would add new text in the section allowing the applicant, after notification of a discrepancy, to amend or supplement the Merit-Based Selection Criteria information as well as other information currently outlined in the Ordinance within 10 days of notification.
- 2) Section 20.44.170(L)(1)(f)(vii) would add a section clarifying the applicant's responsibility to include and clearly label the Selection Criteria in the application and any information that addresses the most recently adopted Merit-Based Scoring system Selection Criteria.
- 3) Section 20.44.170(L)(1)(g)(iv) would add text allowing the Director of Development Services, within 10 days of the rankings being released, the option to correct any errors in the calculation of the average score.
- 4) Section 20.44.170(L)(1)(g)(iv)(a) would add text clarifying that the qualified Commercial Cannabis Business Application List-Dispensaries/Retail established on August 19, 2022, shall be subject to the timelines established in this code.
- 5) Section 20.44.170(L)(1)(g)(iv)(c) would add text allowing the List mentioned above to be active until the last available Commercial Cannabis Business Retail Permit becomes operational and opens for business.
- 6) Section 20.44.170(L)(1)(g)(iv)(d) would add a section clarifying the process should a Commercial Cannabis Business Retail Permit fail to become operational and open for business.

Background

The City adopted a cannabis sales land use ordinance in 2017 with a supplemental resolution in 2018, establishing the Merit Selection Criteria for retail/dispensaries. These adoptions established the land use policy and permitting procedures for retail dispensaries and non-dispensary uses, such

as cultivation, distribution, manufacturing, and laboratory testing. All cannabis uses are required to obtain a Commercial Cannabis Business Permit reviewed and approved by the Planning Commission. Cannabis dispensaries are the only cannabis use that has a merit-based approval system with a limited number of City-wide permits (4 at the time). Non-dispensary cannabis uses are processed on an individual basis and do not have a maximum number of permits that can be issued.

In August 2021, the City amended this ordinance to increase the number of retail permits from 4 to 5 and to also clarify various parts of the permitting process.

In August 2022, the City established the most recent list to support the 5th retail permit. During that review and selection process, areas of the process that could be clarified were brought to the attention of City staff. There are a number of amendments that are being considered at this time.

Cannabis permits have been issued since about 2018. Amendments to this ordinance have been made over time as the City has received feedback from the community, business owners, and cannabis business professionals. The City also looks at other communities and compares processes and outcomes.

Findings/Considerations

Please refer to Exhibit B of the Draft Planning Commission Resolution at Attachment A.

ATTACHMENTS

- A) Draft Planning Commission Resolution #4139 (includes Draft Ordinance at Exhibit B)
- B) Categorical Exemption (Environmental Review #24-21)
- C) Presentation