



**DRAFT MINUTES**

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION**

**Council Chambers**

**Thursday, September 14, 2017, 7:00 p.m.**

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2. Proposed Zoning Text Amendment (Application No. 201705042) to Chapter 10 (Planning, Zoning, and Subdivisions) of the Hayward Municipal Code and Proposed Adoption of New Land Use Regulations pertaining to Medical and Adult Use Cannabis within the City of Hayward

Principal Planner Lochirco provided a synopsis and PowerPoint of the staff report.

In response to Commissioner Willis Jr. question regarding the restrictions and the buffer areas, Principal Planner Lochirco said there is a 600-foot buffer from recreation centers, youth centers, schools and daycare centers and it is recommended that parks be included which is consistent with other sensitive land use and confirmed that there would be 1000 feet separation between retail dispensary locations. Mr. Lochirco said included in the proposed draft ordinance is a requirement for background checks for operators and staff looked at the requirements to have a good balance without over regulating. Mr. Lochirco said background and safety protocols are licensed by the State and added there is a separate dual licensing criteria that operators must satisfy. Mr. Lochirco said the operators will have to meet all the health and safety components that is typically required per the building code. Senior Assistant City Attorney Vigilia said the State has not fully published all the regulations yet and it is anticipated that the State will issue emergency regulations towards the end of year and will likely include certification of employees in different categories. In response to Mr. Willis' comments about HOAs being able prohibit cannabis cultivation and distribution, Mr. Vigilia this issue probably has not been addressed yes, but noted that State law makes cannabis cultivation a legal use of one's property. Mr. Willis made the following recommendations: that HOAs should be allowed to make their own conditions on cannabis within their community, in addition to age enforcement, place restrictions on persons with criminal backgrounds, and require education training and certification for persons handling the cannabis cultivation and products.

In response to Commissioner Faria's questions about the limit on number of businesses allowed in the City, Mr. Lochirco said Council discussed this topic but did not come to an agreement and staff will continue to have this discussion with Council. Mr. Lochirco said if a permitting limitation is included in the draft ordinance would fall under the business component that the City Attorney's office is currently working on. Mr. Lochirco said City staff has concerns about oversaturation for a new industry and there are regulations for the medical use but the adult use, impact and potential demand is still unknown. He said having a cautious approach is good method but ultimately it is a policy decision, through the Request for Proposal (RFP) process the City will be able to see what kind of interest is out there.



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In response to Chair Enders' question about allowing cultivation on agriculturally zoned land, Principal Planner Lochirco indicated there was a public safety concern surrounding outdoor cultivation and the draft ordinance specifically requires indoor cultivation in the industrial area.

In response to Commissioner Goldstein's question about is it illegal to consume cannabis in public, Senior Assistant City Attorney Vigilia said as far as smoking this is still subject to the City's smoking ordinance and noted that State has not imposed a regulation. Principal Planner Lochirco responded to Mr. Goldstein that it is difficult to determine impaired judgment when it comes to edibles and the City's approach is to come to an equitable balance in the regulations and noted there is the medical component of persons who have prescriptions. Mr. Lochirco responded to Mr. Goldstein that signage is included in the retail regulations that the cannabis products cannot be consumed on site.

Senior Assistant City Attorney Vigilia responded to Commissioner McDermott that the State and local licensing can be done concurrently as the State will confirm with the cities if the applicant is in compliance with the City's regulations. Principal Planner Lochirco responded to Ms. McDermott that he conducted his research for other jurisdictions and listened to seminars about the pros and cons for cities of Portland and Denver, which has been an informative process to help the City craft a draft ordinance that would be the right size for Hayward. Ms. McDermott's expressed concern and prefers not to have commercial cultivation and that there should be a limit on the number of businesses as the City has had problems with massage parlors and vapor stores. Mr. Vigilia said that staff will propose to the City Council that they have the authority to place limits on the permit types and based on discussions with Council, they are reluctant to place limits without seeing what type of proposals will be received from applicants as Council wants to see the whole picture prior to placing limits and determine what those limits will be. He added that Council was not receptive to having staff place limitations on permits. Mr. Vigilia responded to Ms. McDermott that the applications will be reviewed on a case by case basis.

Chair Enders opened the public hearing at 9:35 p.m.

Mr. Chad Hagle, retail developer from Sherman Oaks, said his company is working with top operators in the cannabis retail industry to help them set up first rate establishments in municipalities. Mr. Hagle supports the merit based process, highlighting the need for a community benefits component, supports limits and the 1000-foot separation of dispensaries. Mr. Hagle will be working the Hayward Area Recreation and Park District (HARD) to define the word parks and open spaces as they are not all the same. Mr. Hagle said there would be areas now included in the park buffer that should not be but at the same time through his



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work with HARD to ensure that areas where children and youth activities would be protected.

Mr. Dan Georgatos, Pleasanton land use and cannabis attorney, represents Julio Romero of Hayward, spoke about the commercial cannabis dispensaries and that the City needs to define how they will process the applications.

Ms. Elba Villasenor, Hayward resident, spoke about how they are planning to open a dispensary and are requesting that not all parks be part of the limitation buffer. Ms. Villasenor said their goal is to have a dispensary that will dignify the use of medical cannabis use.

Chair Enders closed the public hearing at 9:45 p.m.

Commissioner Willis Jr. reiterated his recommendations: that HOAs should be allowed to make their own conditions on cannabis within their community, in addition to age enforcement place restrictions on persons with criminal backgrounds, and require education training and certification for persons handling the cannabis cultivation and products.

Commissioner Goldstein supported giving the City Council and HARD the flexibility to define the child and youth recreation areas in order to not group all parks and open spaces together.

Chair Ender made the motion to approve the staff recommendation with further definition of the term "parks" in the ordinance, so that there is separation for open space uses utilized by children and families as opposed to other uses.

Commissioner McDermott seconded the motion.



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The motion passed with the following vote:

AYES: Commissioners Willis Jr., Goldstein, Schott, McDermott, Faria  
Chair Enders  
NOES: None  
ABSENT: None  
ABSTAIN: None  
VACANCY: One

**APPROVED:**

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Julius Willis, Jr. Secretary  
Planning Commission

**ATTEST:**

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Denise Chan, Senior Secretary  
Office of the City Clerk