



**CITY OF PACIFICA
COUNCIL AGENDA SUMMARY REPORT**

5/26/2020

SUBJECT:

Closure of the Initial Application Phase for Cannabis Activity Permits

RECOMMENDED ACTION:

Move to adopt the attached Resolution accepting the Planning Director's determination of closure of the initial application phase for Cannabis Activity Permit applications pursuant to Pacifica Municipal Code Section 9-4.4804(a)(4)(i).

STAFF CONTACT:

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BACKGROUND:

The City Council adopted Ordinance No. 819-C.S. ("Ordinance") in July 2017, which established the City's cannabis regulations and cannabis operation overlay districts. The Ordinance created five cannabis operation overlay districts throughout the City which allowed cannabis retail operations as a conditional use and authorized a maximum of two cannabis retail operations in each district, with a citywide maximum of six cannabis retail operations. Ordinance No. 818-C.S. was also adopted in 2017 and established Chapter 16 (Cannabis Public Safety Licenses) within Title 4 of the Pacifica Municipal Code (PMC). In 2019, the City Council adopted Ordinance No. 844-C.S. to amend the cannabis regulations to, among other things, increase the maximum number to three allowable cannabis retail operations within both the Rockaway (CO-RB) and Sharp Park (CO-SP) overlay districts, but maintaining the maximum number of six cannabis retail operations.

The Ordinance also included what is known as the "initial application phase," which is discussed in PMC Section 9-4.4804(a). This phase involved the creation of a qualified cannabis registration list (QCRL) made up of applicants who had completed Phase 1 (background check) and Phase 2 (security plan review) of the application process with the Police Department for a Cannabis Public Safety License. The QCRL was comprised of 22 applicants and was used to inform the Planning Department of which applicants were eligible to submit Phase 3 applications for a Cannabis Activity Permit, or CAP (formerly Marijuana Use Permit, or MUP). Twelve applicants from the QCRL advanced to Phase 3 of the application process with the Planning Department. Those 12 applicants who filed valid Phase 3 applications were then randomly ordered in a lottery conducted by City staff, and Phase 3 applications were processed in lottery order where required due to numerical limits within the cannabis overlay districts.

In order for any cannabis business to operate in the City the business must obtain both a Cannabis Public Safety License and a CAP. The City has approved CAPs and Cannabis Public

Safety Licenses for three cannabis retail operations within the Rockaway Beach (CO-RB) overlay district and three cannabis retail operations within the Sharp Park (CO-SP) overlay district, for a total of six cannabis retail operations citywide (no other CAPs have been approved). Of these six CAPs approved for cannabis retail operations, two are currently open for operation, both within the Sharp Park (CO-SP) overlay district. The remaining four are working through the state licensing process, undertaking tenant improvements to alter their premises before commencing operations, and/or pending due to appeal to the Superior Court.

DISCUSSION:

1. Closure of the Initial Application Phase.

PMC Section 9-4.4804(a)(4)(i) states “the closure of the initial application phase shall occur when all applications on the qualified cannabis registration list have been reviewed or when the Planning Commission can issue no further cannabis activity permits based on the criteria of this article and Article 17.5, and the Council has accepted a determination of closure of the initial application phase which shall be submitted by the Planning Director.” To date, the City has approved six CAPs for cannabis retail operations, no applications are pending on the QCRL, and no further cannabis activity permits can be issued for cannabis retail operations due to the numerical limits of Article 17.5 of Chapter 4 of Title 9 of the PMC (“Article 17.5”). Therefore, the Planning Director has submitted this report determining that the initial application phase is closed.

The Planning Director’s determination was informed by a review of the statuses of the 12 CAP applications received during Phase 3 of the initial application phase (Attachment A). All 12 applications have either been reviewed and approved, or else withdrawn. Accordingly, it is appropriate to close the initial application phase.

2. Procedures for Submission of New Applications After the Close of the Initial Application Phase.

The initial application phase and the closure thereof affects cannabis retail operations only. PMC Section 9-4.4804(a)(5) allows for cannabis manufacturing and testing operation applications, the other two types of cannabis operations allowed within the City of Pacifica, to be filed with the Planning Department at any time (after passing the required Cannabis Public Safety License background check). The maximum number of cannabis manufacturing and testing operations allowed in the City is not limited and such cannabis businesses are not subject to the same numerical limits of Article 17.5.

The six retail operation limit in Article 17.5 will prevent the Planning Department from accepting new applications for cannabis retail operations even after closure of the initial application phase because all six CAPs permitted for cannabis retail operations have been issued and the CAPs remain in full force and effect. The Planning Department would only be able to accept an application for a CAP to operate a cannabis retail operation if one of the existing issued CAPs becomes null and void. City staff will maintain the status of the six CAPs for cannabis retail operations on the City’s Cannabis Business Program webpage. Prospective applicants should regularly monitor this page for changes in the status of any of the currently-issued CAPs. Prospective applicants may also consider making a Phase 1 application (background check) to the Police Department as described in PMC Section 9-4.4804(b)(2). Such Phase 1 applications will remain valid for one year and will entitle applicants to notification by the Police Chief if an

existing cannabis retail operation's public safety license and/or CAP is revoked, ceases, or otherwise becomes null and void pursuant to PMC Section 9-4.4804(b)(2)(i)(aa).

In the event a CAP for a cannabis retail operation becomes invalid for any reason, an applicant who has successfully completed Phase 1 may file a Phase 2 application with the Police Department and a Phase 3 application with the Planning Department, either sequentially or concurrently pursuant to PMC Section 9-4.4804(b)(3)(i). The Planning Commission would then review CAP applications (i.e., Phase 3 applications) for all cannabis operations (retail, manufacturing, and testing) in chronological order by filing date pursuant to PMC Section 9-4.4804(b)(3)(ii). The filing date of the CAP application shall be the later of a) the date when the Planning Director receives the last submission of information or materials required by PMC Sections 9-4.4804(c) and (d) which enables the Planning Director to determine the application to be complete, or, b) the date of notification by the Police Chief of satisfactory completion of Phase 2 (i.e., security plan review) requirements according to PMC Section 9-4.4804(b)(3)(ii).

Where the Planning Commission denies a CAP application or an application is withdrawn before consideration by the Planning Commission, the next application in chronological order by filing date shall be considered by the Planning Commission at a future public hearing. The Planning Commission would continue to review applications until all CAP applications have been reviewed or until the Planning Commission can issue no further CAPs based on the criteria of Article 17.5 and other applicable cannabis zoning regulations. An applicant whose CAP application is denied by the Planning Commission shall not submit another CAP application for a period of one year from the date of action by the Planning Commission. If unprocessed CAP applications remain after the Planning Commission has issued all allowable CAPs based on the criteria of Article 17.5 and other applicable cannabis zoning regulations, those CAP applications shall be deemed withdrawn and any unused portion of any deposit submitted for processing shall be refunded to the applicant pursuant to PMC Section 9-4.4804(b)(3)(iv).

Staff is preparing a public handout summarizing guidelines for the submission of new retail Cannabis Activity Permits pursuant to the Municipal Code requirements outlined above.

RELATION TO CITY COUNCIL GOALS AND WORK PLAN:

Closure of the cannabis initial application phase is related to the following items in the City Council's adopted goals and work plan:

Goals

- **"Fiscal Sustainability"** includes investing in economic development to increase revenues, funding a reserve/emergency fund, and being well prepared for grant opportunities.
- **"A Healthy and Compassionate Community"** includes addressing affordable housing and mental health services, investigating strategies related to homelessness, and supporting youth services.

Work Plan

- Implements **Council Priority No. 5 of Fiscal Year 2017-2018 Work Plan**: Develop and implement [cannabis] policy and appropriate regulations.

FISCAL IMPACT:

No direct fiscal impact.

ORIGINATED BY:

Planning Department

ATTACHMENT LIST:

Attachment A - Qualified Cannabis Registration List Results (DOCX)



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA ACCEPTING THE PLANNING DIRECTOR'S DETERMINATION OF CLOSURE OF THE INITIAL APPLICATION PHASE FOR CANNABIS ACTIVITY PERMIT APPLICATIONS PURSUANT TO PACIFICA MUNICIPAL CODE SECTION 9-4.4804(a)(4)(i).

WHEREAS, the City of Pacifica's Zoning Regulations for Cannabis Operations are codified in Article 48 (Cannabis Regulations) of Chapter 4 of Title 9 of the Pacifica Municipal Code (PMC); and

WHEREAS, Article 17.5 of Chapter 4 of Title 9 of the PMC establishes certain numerical limits on the issuance of a cannabis activity permit (CAP) to cannabis retail operations, notably a citywide limit of six CAPs and a limit of two or three CAPs depending upon the applicable Cannabis Operation Overlay District (CO); and

WHEREAS, the Planning Department received 12 CAP applications for cannabis retail operations by the application deadline of April 20, 2018; and

WHEREAS, the City of Pacifica has approved and issued six CAPs for cannabis retail operations within the City, including three within the Rockaway Beach (CO-RB) overlay district and three within the Sharp Park (CO-SP) overlay district; and

WHEREAS, after review of the status of all CAP applications received during the initial application phase, the Planning Director has determined that all CAP applications on the qualified cannabis registration list have been reviewed and approved, or else the applications withdrawn, and that no further CAPs can be issued under the numerical limits of Article 17.5 of Chapter 4 of Title 9 of the PMC; and

WHEREAS, the City Council of the City of Pacifica, at its regular meeting on May 26, 2020, considered the Planning Director's determination that the initial application phase is closed pursuant to Section 9-4.4804(a)(4)(i) of the PMC.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Pacifica hereby accepts the determination of the Planning Director that the initial application phase is closed pursuant to Section 9-4.4804(a)(4)(i) of the PMC.

BE IT FURTHER RESOLVED that acceptance of the Planning Director's determination that the initial application phase is closed pursuant to Section 9-4.4804(a)(4)(i) of the PMC hereby closes the initial application phase, and all CAP applications must henceforth be submitted and processed pursuant to Section 9-4.4804(b) of the PMC and other related provisions of Chapter 16 ("Cannabis Public Safety Licenses") of Title 4 of the PMC.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 26th day of May 2020.

AYES, Councilmember:

NOES, Councilmember:

ABSENT, Councilmember:

ABSTAIN, Councilmember:

ATTEST:

Sarah Coffey, City Clerk

Deirdre Martin, Mayor

APPROVED AS TO FORM:

Michelle Marchetta Kenyon, City Attorney