



CALIFORNIA STRATEGIES, LLC

September 7, 2017

City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

Re: Agenda Item A.2, Initiation of Municipal Ordinance to Regulate Marijuana
Businesses

Honorable Mayor Perotte and Councilmembers,

Thank you for the opportunity to comment on agenda item A.2 Initiation of Municipal Ordinance to Regulate Marijuana Businesses. We represent clients who are highly interested to obtain a permit in the City of Goleta for commercial cannabis activities. As follows is our recommendation for a pilot program and a go-slow approach, based on the three key policy areas in which staff are seeking your direction, as outlined in your staff report.

1. Should the City ban, allow with new regulations, or not pass any local laws to address new marijuana regulations?

We recommend the City direct staff to develop new cannabis regulations for a limited number and scope of commercial cannabis activities through development agreements and wait to adopt a temporary prohibition until staff returns with a recommendation at a later date. We strongly recommend that the City not adopt a medical or adult use prohibition, even temporarily, at your hearing today.

Adoption of regulations are the most effective tool to maintain local control, avoid and mitigate neighborhood and environmental impacts and protect public health and safety. The City will incur costs of addressing this new industry regardless. We suggest it is preferable to set high standards and implement a permitting pathway – as opposed to a ban/prohibition – as a mechanism to collect revenue via fees and taxes.

2. Whether the City wants to have regulations in place by January 1, 2018, when the state begins to process state license applications, or institute a temporary prohibition on marijuana operations so that regulations can be developed over a longer period of time?

We recommend that the City develop and implement regulations for the allowance of a limited number of commercial cannabis activities in a specific overlay zone through a development agreement before January 1, 2018. Allowable commercial cannabis activities could include manufacturing, testing labs, distribution, and delivery fulfillment centers. All other commercial cannabis activities could be temporary banned until the City develops a comprehensive ordinance to be adopted in parallel with a tax initiative in November 2018.

Waiting to develop any regulations is problematic. The cannabis industry is currently “jurisdiction shopping” and searching for local governments that provide an immediate permitting pathway and reasonable tax rates. 2017 is a critical year for the industry to decide where to base their operations, secure buildings and permits, make capital and real estate investments, hire employees and prepare for the new state regulations to roll out on January 1, 2018. Most high-level, strategic cannabis businesses are not willing to wait until 2018 for a permitting pathway, as their goal is to be locally permitted and operational in 2017 so they can submit a State application on January 1, 2018.

Since the soonest the City could place a tax on the ballot is November of 2018, we understand the hesitancy to issue permits without a mechanism to collective revenue. Therefore, we recommend that your council direct staff to develop regulations for limited number of commercial cannabis activities via development agreements in a specific overlay zone (page 6 staff report), in which the City would negotiate terms and fees with applicants. Many other jurisdictions are taking this approach including West Sacramento and Lynwood City.

The benefits of developing regulations for a limited number of development agreements are as follows:

- Allows the City a go-slow approach
- Permit a few high-level commercial businesses as a pilot program
- Provides the community and staff time to develop a more comprehensive program (could include environmental review) to be adopted at the same time as the tax (Nov 2018)
- Mechanism to collect revenue in the interim to offset the costs of developing regulations and tax scheme, processing permits, and enforcement
- Demonstrates the City’s interest in supporting this new industry
- Opportunity for new high-tech jobs
- Development agreement negotiation process provides the City with ample authority to condition projects to protect the character of the community, ensure compatibility with zoning, mitigate impacts, and require high standards, best practices and available technology.

Most local jurisdictions are not conducting an EIR. However, the City could conduct environmental review as part of a longer-term ordinance development process to be adopted in parallel with a tax initiative in the fall of 2018.

3. If the Council decides to regulate the new operations currently not covered by City regulations, does the Council want to develop an ordinance to address only those areas not covered by City Laws or develop a new ordinance that addresses the new areas and already regulated areas?

We strongly urge your council NOT to differentiate between medical and adult use. Consumption of both are currently legal under California law – as approved by the voters. Adopting different policies for medical and adult use is problematic for consumer access and logistically challenging for both regulators and businesses.

At a minimum, we recommend that the City permit the following commercial cannabis activities – both medical and adult use – via a limited number of development agreements in an allowable zoning overlay before January 1, 2018:

- **Manufacturing** (both volatile and nonvolatile): Includes packaging and extraction. The market is moving away from consumption of flower to consumption of extracted product including vape pens, tinctures and lotions. For example, some retail locations are carrying as much as 70% manufactured cannabis product. Manufacturing facilities have extremely high standards, including compliance with local and national fire code, and clean room standards, similar to processing any other consumable product. The footprint is low for this license type (approximately 5,000 square feet), and community impacts will be minimal, as the facilities are not open to the public. The process for extraction of cannabis is no different than extraction of essential oils, as an example.
- **Testing labs:** All product is now required to be third party tested for contaminants, such as mold and pesticides, before it can be sold to consumers. This will ensure that all product going to the market is safe for consumption. We anticipate there will not be enough third party compliance testing labs to process the volume of product entering the market in 2018. There are great opportunities for the City to permit testing labs and facilitate research partnerships with UCSB.
- **Distribution:** Distribution is essentially transportation under the new regulatory framework. Product cannot be moved from the grow operation/cultivation to manufacturing, testing, or retail facilities without a distribution license. Only small sprinter vans are necessary to transport cannabis goods, due to the small nature of this product. Similar to manufacturing, the impact of a distribution facility is minimal, but the opportunities to capture revenue from the number of transactions is substantial.
- **Non-storefront facing retail/Delivery fulfillment centers:** Under the new regulations, all delivery must be associated with a licensed retailer. The state recently clarified that local governments can license non-storefront facing retail facilities that essentially serve a delivery fulfillment centers and are not open to the public. The Santa Barbara and Goleta area is currently primarily served by delivery. The City may want to consider licensing a delivery fulfillment center and collect monies from delivery volume.

These four license types are newly required, critical components of the supply chain, that were not previously required. They offer an opportunity to capture revenue, while keeping a low community and environmental footprint. Furthermore, they are niche businesses that can greatly contribute to the economic vitality of the City of Goleta.

Conclusion:

In conclusion, we recommend your Council direct staff to return no later than October 13, 2017 with:

1. Recommendations for a zoning overlay and regulations for the allowance of a limited number of commercial cannabis activities through development agreements before January 1, 2018. The overlay would be compatible with the current and future zoning ordinance;
2. General timeline for development of a longer term comprehensive ordinance to be adopted in parallel with a tax initiative in November 2018; and
3. Temporary prohibition of all other commercial activities.

Thank you for your consideration.

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