



Agenda Item E.1
PUBLIC HEARING
Meeting Date: October 2, 2018

TO: Mayor and Councilmembers

FROM: Peter T. Imhof, Director of Planning and Environmental Review

CONTACT: Anne Wells, Advance Planning Manager

SUBJECT: Public Hearing to Consider Case No. 18-134-GPA: Initiation of a General Plan Amendment to consider cannabis uses as allowed in the Land Use Element and Case No. 18-135-ORD: Direction to staff to consider amendments to Cannabis Land Use Ordinance to reconsider uses, locations, buffers, and related issues

RECOMMENDATION:

- A. Adopt Resolution No. 18-____, entitled “A Resolution of the City Council of the City of Goleta, California, Initiating the Processing of a City-Requested General Plan Amendment to Consider Allowable Cannabis Uses in the Land Use Element Tables 2-1 Through 2-4” (Attachment 1).
- B. Adopt Resolution No. 18-____, entitled “A Resolution of the City Council of the City of Goleta, California, to Initiate the Processing of A City-Requested Cannabis Land Use Ordinance Amendment to Reconsider Uses, Locations, and Buffers” (Attachment 2).

BACKGROUND:

The City's first General Plan/Coastal Land Use Plan (General Plan) was adopted on October 2, 2006 and became effective on November 1, 2006. The General Plan governs land use and physical development within the City and establishes policy direction for the City's growth. The General Plan includes land use, open space, conservation, safety, visual and historic resources, transportation, public facilities, noise, and housing elements, all of which have implications for land use planning and zoning. Most pointedly, the Land Use Element establishes a set of land use designations and describes the intended land uses and development intensities for each designation. The General Plan also offers specific development standards, such as lot coverage, structure height, and residential density, for certain land use designations.

The Zoning Ordinance and the Zoning Map (collectively referred to as the Zoning Ordinance) are the key implementing documents of the General Plan, and under

California law, they must be consistent with the General Plan. Goleta's current Zoning Ordinance was inherited from Santa Barbara County upon incorporation. As such, the current Zoning Ordinance does not reflect zoning and planning practices that are appropriate for Goleta as this document was intended for countywide land uses. Because the current Zoning Ordinance predates the adoption of the City's General Plan, it is not effective in implementing the land use and design goals in the General Plan.

On January 15, 2013, City Council authorized staff to embark on an effort to prepare new zoning regulations and a zoning map (referred to as the New Zoning Ordinance Project) that will be consistent with the General Plan. Staff has since been working on new regulations and is not yet finished with the effort. Until such time that the New Zoning Ordinance project is completed, the City must rely on the General Plan combined with compatible sections of the antiquated existing zoning regulations when regulating land uses in the City.

General Plan Amendments

The General Plan amendment process is governed by Article 6 of State Planning and Zoning Law (Government Code Section 65350 et. seq.). Pursuant to State law, General Plan amendments require the Planning Commission's consideration and recommendation. The final decision is a legislative action and is reserved for the City Council to make.

City Council Resolution 12-13 established procedures for the initiation of processing requests for General Plan amendments. These procedures require that all requests for General Plan amendments be referred to the City Council for initiation at a public hearing prior to processing. Resolution 12-13 provides five factors the City Council must consider for the initiation of a General Plan amendment. These five factors are:

- The amendment proposed appears to be consistent with the Guiding Principles and Goals of the General Plan;
- The amendment proposed appears to have no material effect on the community or the General Plan;
- The amendment proposed provides additional public benefit to the community as compared to the existing land use designation or policy;
- Public facilities appear to be available to serve the affected site, or their provision will be addressed as a component of the amendment process; or
- The amendment proposed is required under other rules or regulations.

Once initiated, the General Plan amendment and related environmental document are prepared and considered by the Planning Commission and a recommendation is made to the City Council via resolution. The City Council takes final action at a public hearing. The most recent amendment occurred on October 17, 2017, re-designating the land use at the Hollister-Kellogg Park to a recreation-type use.

Zoning Ordinance Amendments to Re-consider Uses, Locations, and Buffers

Zoning ordinance amendments are governed by Section 35-180.3 of Article II of the Inland Zoning Ordinance and Section 35-325.3 of Article III of the Coastal Zoning Ordinance. In both sections, amendment initiations may be done by: one or more person(s) owning property representing at least fifty percent of the assessed valuation of the property which will be affected by such amendments, resolution of the City Council, resolution by the Planning Commission, or the Director of Planning and Environmental Review. No factors or findings are required to initiate a zoning ordinance amendment.

Due to requirements in State law, issue-specific, stand-alone, uncodified zoning regulations have been adopted by Council while the New Zoning Ordinance Project is underway. On July 17, 2018, the Council adopted an uncodified Cannabis Land Use Ordinance, as authorized under new State law. The ordinance went into effect on August 17, 2018 and the City has since been receiving and processing permit applications, consistent with the requirements of the ordinance.

DISCUSSION:

General Plan Amendment Initiation to Consider Allowable Cannabis Uses

The General Plan Land Use Element includes Tables 2-1 through 2-4, reflecting the permitted uses by land use designation. Each row of the tables includes an allowable use and each column represents a land use designation. Where a cell contains an "X", the use is allowed in that land use designation. Where a cell contains an "-", the use is not allowed in that land use designation. Accessory uses are not defined in the General Plan and are instead detailed and prescribed in the existing Zoning Ordinance.

The General Plan amendment initiation being requested would authorize staff to process and propose any necessary revisions to Tables 2-1 through 2-4, clarifying the issue of allowed cannabis uses. If initiated, staff would evaluate the need to add clarity to the General Plan regarding accessory cannabis uses to simplify the alignment between the General Plan and the Cannabis Land Use Ordinance.

As noted previously in this staff report, Council must consider a specific set of factors when determining whether to initiate a General Plan amendment. Pursuant to Resolution 12-13, staff presents the following discussion of the General Plan amendment initiation factors for Council consideration:

- It is anticipated that the proposed amendment will be consistent with the Guiding Principles and Goals of the General Plan. If initiated, staff would evaluate whether or not a clarifying amendment conforms to Land Use Element Guiding Principles and Goals 6 "Maintain a balanced community, with an appropriate mix of residences, workplaces, and services";

- It is anticipated that the proposed amendment will have no material effect on the community or the General Plan because adding clarity between the General Plan and the Cannabis Land Use Ordinance does not alter land use patterns, fundamental goals and principles of the General Plan;
- The proposed amendment would potentially provide public benefit to the community through adding clarity between the General Plan and the Cannabis Land Use Ordinance;
- The proposed amendment unlikely alters the need or provisions for public facilities because the purpose of the possible, future amendment is to add clarity between the General Plan and the Cannabis Land Use Ordinance; and
- The amendment proposed is not required under other rules or regulations.

The initiation of a General Plan Amendment is not a project under the California Environmental Quality Act (CEQA) because the initiation merely instructs staff to further consider the amendment and does not obligate the City to any further action in the future and does not result in any direct physical change in the environment or any reasonably foreseeable change in the environment.

Cannabis Land Use Ordinance Amendment

The adopted Cannabis Land Use Ordinance (Ordinance No. 18-03) regulates cannabis businesses within the City. Staff will evaluate the effectiveness of the implementation of the ordinance, specifically considering accessory uses, locations, and buffers. As previously stated, the Cannabis Land Use Ordinance defines accessory use as *“A use that is customarily associated with, and is incidental and subordinate to, a permitted use and located on the same premises as the permitted use.”* This definition will be evaluated and possible revisions may be proposed for Planning Commission and City Council consideration at future public hearings.

The initiation of an ordinance amendment is not a project under the CEQA because the initiation merely instructs staff to further consider the amendment and does not obligate the City to any further action in the future and does not result in any direct physical change in the environment or any reasonably foreseeable change in the environment.

FISCAL IMPACTS:

The fiscal impacts of Council's direction to initiate the processing of possible, future General Plan and Cannabis Land Use Ordinance amendments would be the staff time needed in preparation of said amendments.

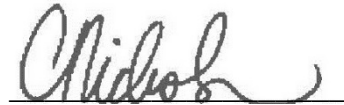
ALTERNATIVES:

The City Council has the prerogative to initiate or not to initiate processing of the General Plan amendment and/or Cannabis Zoning Ordinance amendment. If not initiated, the General Plan and/or Cannabis Zoning Ordinance will remain unchanged and the City will continue processing Cannabis application consistent with current practices. If initiated, City staff will proceed with analysis and evaluation, including environmental review, and return with possible amendments for Planning Commission's consideration and recommendation to the City Council for final action.

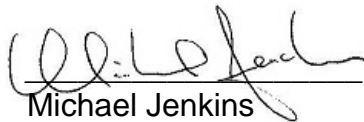
Reviewed By:

Legal Review By:

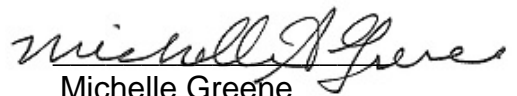
Approved By:



Carmen Nichols
Deputy City Manager



Michael Jenkins
City Attorney



Michelle Greene
City Manager

ATTACHMENTS:

1. Resolution No. 18-____, entitled "A Resolution of the City Council of the City of Goleta, California, Initiating the Processing of a City-Requested General Plan Amendment to Consider Accessory Cannabis Uses in the Land Use Element Tables 2-1 Through 2-4."
2. Resolution No. 18-____, entitled "A Resolution of the City Council of the City of Goleta, California, to Initiate the Processing of A City-Requested Cannabis Land Use Ordinance Amendment to Reconsider Uses, Locations, and Buffers"

Attachment 1

Resolution No. 18-____, entitled “A Resolution of the City Council of the City of Goleta, California, Initiating the Processing of a City-Requested General Plan Amendment to Consider Accessory Cannabis Uses in the Land Use Element Tables 2-1 Through 2-4”

RESOLUTION NO. 18- _

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, INITIATING THE PROCESSING OF A CITY-REQUESTED GENERAL PLAN AMENDMENT TO CONSIDER ALLOWABLE CANNABIS USES IN THE LAND USE ELEMENT TABLES 2-1 THROUGH 2-4

WHEREAS, the Goleta General Plan / Coastal Land Use Plan (“General Plan”) is the City’s official policy that guides land use and physical development of the geographic area of the incorporated City limits; and

WHEREAS, California Government Code, Section 65350 et. seq., authorizes cities and counties to prepare, adopt and amend General Plans and their elements; and

WHEREAS, California Government Code, Section 65358 (a) reads, “If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan. An amendment to the general plan shall be initiated in the manner specified by the legislative body. Notwithstanding Section 66016, a legislative body that permits persons to request an amendment of the general plan may require that an amount equal to the estimated cost of preparing the amendment be deposited with the planning agency prior to the preparation of the amendment.”; and

WHEREAS, City Council Resolution No. 12-13 establishes a procedure for the initiation of processing of requests for a General Plan Amendment; and

WHEREAS, City Council Resolution No. 12-13 requires the City Council to consider certain factors for the initiation of General Plan amendments including consistency with the Guiding Principles and Goals of the General Plan, consistency with the surrounding community or General Plan, possible public benefits, availability of or the future study of the availability of public services, or rules or regulations that may drive the need to amend the General Plan; and

WHEREAS, the General Plan Land Use Element Tables 2-1 through 2-4 currently list allowable uses and standards for different use categories throughout the City; and

WHEREAS, the City Council conducted a duly noticed public hearing on October 2, 2018, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council considered the entire administrative record, including staff reports, the General Plan, and oral and written testimony from interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA, AS FOLLOWS:

SECTION 1.

The City Council makes the following findings regarding the initiation factors outlined in City Council Resolution No. 12-13:

- (a) It is anticipated that the proposed amendment will be consistent with the Guiding Principles and Goals of the General Plan. If initiated, staff would evaluate whether or not a clarifying amendment conforms to Land Use Element Guiding Principles and Goals 6 “Maintain a balanced community, with an appropriate mix of residences, workplaces, and services”;
- (b) It is anticipated that the proposed amendment will have no material effect on the community or the General Plan because adding clarity between the General Plan and the Cannabis Land Use Ordinance does not alter land use patterns, fundamental goals and principles of the General Plan;
- (c) The proposed amendment would potentially provide public benefit to the community through adding clarity between the General Plan and the Cannabis Land Use Ordinance;
- (d) The proposed amendment unlikely alters the need or provisions for public facilities because the purpose of the possible, future amendment is to add clarity between the General Plan and the Cannabis Land Use Ordinance; and
- (e) The amendment proposed is not required under other rules or regulations.

The foregoing recitals, which are incorporated herein by reference, are true and correct.

SECTION 2.

The City Council hereby initiates processing of the proposed General Plan Amendment. The initiation of the General Plan Amendment does not suggest how the City may ultimately act on the General Plan Amendment when it is brought forward for City Council consideration. The initiation of the General Plan Amendment shall not influence the City Council’s consideration of the General Plan Amendment.

SECTION 3.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 2nd day of October, 2018.

PAULA PEROTTE, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 18-__ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 2nd day of October, 2018 by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK

Attachment 2

Resolution No. 18-____, entitled “A Resolution of the City Council of the City of Goleta, California, to Initiate the Processing of A City-Requested Cannabis Land Use Ordinance Amendment to Reconsider Uses, Locations, and Buffers”

RESOLUTION NO. 18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, TO INITIATE THE PROCESSING OF A CITY-REQUESTED CANNABIS LAND USE ORDINANCE AMENDMENT TO RECONSIDER USES, LOCATIONS, AND BUFFERS

WHEREAS the voters of California passed Proposition 64 entitled The Control, Regulate and Tax Adult Use of Marijuana Act (commonly known as the Adult Use of Marijuana Act or AUMA) in November 2016; and

WHEREAS AUMA legalized recreational marijuana use and personal cultivation; and

WHEREAS AUMA also allowed for the operation of recreational marijuana businesses, if a state license is obtained; and

WHEREAS AUMA allows local governments to regulate commercial cannabis activities, consistent with the state licensing scheme, or completely prohibit commercial cannabis-related businesses; and

WHEREAS, after the approval of AUMA, the state legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) in June 2017; and

WHEREAS MAUCRSA established a regulatory and licensing scheme at the state level for all recreational and medicinal cannabis uses; and

WHEREAS, on June 19, 2018, the City Council adopted Resolution No. 18-30 by a majority vote, approving the Cannabis Land Use Ordinance California Environmental Quality Act (CEQA) Addendum to the Goleta General Plan/Coastal Land Use Plan Final Environmental Impact Report (SCH#2005031151); and

WHEREAS, upon processing cannabis applications, staff has identified complexities relating to allowable uses, locations, and buffers, the City Council requests the initiation of a Cannabis Land Use Ordinance Amendment for further analysis and possible amendments relating to accessory uses, locations, and buffers; and

WHEREAS, consistent with Section 35-180.3 of Article II of the Goleta Inland Zoning Ordinance and Section 35-325.3 of Article III of the Coastal Zoning Ordinance, an ordinance amendment may be initiated by City Council via resolution.

WHEREAS, the City Council conducted a duly noticed public hearing on October 2, 2018, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council considered the entire administrative record, including staff reports, the Cannabis Land Use Ordinance No. 18-03, and oral and written testimony from interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA AS FOLLOWS:

SECTION 1. Recitals

The City Council hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

SECTION 2. Initiation

The City Council hereby initiates the processing of the proposed zoning amendment.

SECTION 3. Documents

The documents and other materials which constitute the record of proceedings upon which this decision is based, are in the custody of the City Clerk, City of Goleta, 130 Cremona Drive, Suite B, Goleta, California, 93117.

SECTION 3. Certification

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

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

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 18-__ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 2nd day of October 2018, by the following vote of the Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK