


MEETING DATE: November 1, 2017		ITEM # 15
SUBJECT: PUBLIC HEARING AND FIRST READING OF ORDINANCE 17-17 REGARDING PROPOSED MUNICIPAL CODE AMENDMENTS RELATED TO CANNABIS MANUFACTURING, WHOLESALE LOGISTICS/DISTRIBUTION/TRANSPORTATION, AND INDOOR COMMERCIAL CULTIVATION FACILITIES IN THE LIMITED AND LIGHT INDUSTRIAL ZONES		
INITIATED OR REQUESTED BY:	REPORT COORDINATED OR PREPARED BY: David W. Tilley, Principal Planner	
<input type="checkbox"/> Council <input checked="" type="checkbox"/> Staff		
<input checked="" type="checkbox"/> Other	 Charline Hamilton, Director Community Development Department	
ATTACHMENT <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Information	<input type="checkbox"/> Direction <input checked="" type="checkbox"/> Action

OBJECTIVE

This item seeks first reading of Ordinance 17-17, which would amend Title 17 (Zoning) of the Municipal Code for the following: 1) establish cannabis manufacturing facilities and cannabis indoor cultivation facilities as conditionally permitted uses in the Light Industrial zone; 2) establish wholesale cannabis logistics, distribution, and transportation facilities as conditionally permitted uses in the Limited Industrial zone.

RECOMMENDED ACTIONS

It is respectfully recommended that the City Council:

1. Conduct the public hearing.
2. Find that Ordinance 17-17, regarding proposed Municipal Code amendments related to cannabis manufacturing wholesale logistics/distribution/transportation, and indoor commercial cultivation facilities in the Limited and Light Industrial zones is exempt from further environmental review pursuant to Business & Professions Code §26055(H) and Class 5 and Class 8 Categorical Exemptions under the California Environmental Quality Act (CEQA) and find that the Exemptions reflect the independent judgment of the City as lead agency under CEQA;
3. Waive first reading and read by title only Ordinance 17-17 regarding amendments to Title 17 (Zoning) of the Municipal Code for cannabis uses in the Limited and Light Industrial zones; and
4. Inform the audience that second reading and adoption of Ordinance 17-17 is tentatively scheduled for November 15, 2017.

BACKGROUND

In 2015, the California State Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA) with subsequent modifications in the 2016 and 2017 budget trailer legislation. The 2015 and 2016 MCRSA created a new regulatory structure for the licensing and enforcement of the medical cannabis commercial uses, including cultivation, manufacturing, distribution, testing, and retailers. On November 8, 2016, California voters approved Proposition 64, known as the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). AUMA legalized non-medical cannabis use, possession and cultivation by persons 21 years of age or older and passed in Yolo County with 60.5% of the vote (statewide it passed with 57.1%). It was also favored by 15 of the 17 voting precincts in West Sacramento. AUMA also creates a regulatory framework for commercial nonmedical cannabis activities. With the majority vote passage, the provisions related to personal use, possession and cultivation of nonmedical cannabis went into effect on November 9, 2016. Commercial nonmedical cannabis activities also became legal on November 9, 2016, although commercial activities require state licenses and the State has until January 1, 2018 to begin issuing these licenses to businesses.

The City Council has previously addressed the public health, welfare, and safety concerns related to medical cannabis uses through the City's prohibition of medical cannabis dispensaries and the limitation of medical cannabis cultivation to indoors and for personal use only. After considerable monitoring of legal actions and public meetings between 2009 and 2011, the City Council adopted Ordinance 11-1 on January 19, 2011. The Ordinance prohibits medical cannabis dispensaries as a land use in the City. While the Ordinance prohibits cultivation associated with a dispensary for three or more persons, it did not regulate the cultivation of medical cannabis for personal use. On December 5, 2012, the City Council adopted an urgency interim Ordinance which imposed a 45 day moratorium on the outdoor cultivation of medical cannabis, and extended it on January 9,

2013. Based on nuisance experiences in the City, the City Council adopted Ordinance 14-1 on February 5, 2014, regulating the personal cultivation of medical cannabis and limiting it to indoors only.

In January of 2017, at the City Council Strategic Planning Session, and again in June of 2017, staff presented a summary to City Council of the Municipal Code amendments that would be needed to comply with the new State cannabis acts as well as additional amendments that would allow and regulate cannabis land uses should that be desired.

On June 27, 2017, Senate Bill 94 was signed into law, repealing MCRSA and amending AUMA, to create a single regulatory structure for both medical and nonmedical cannabis. The new law is now called Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). The legislation includes provisions related to structure, local permitting process, administrative flexibility, roles and responsibilities of various state agencies, and various other policy choices.

On June 28, 2017, the City Council reviewed and discussed the proposed Municipal Code amendments in response to the changes in State of California regulations for personal use of cannabis and implementation of licensing for medical and nonmedical cannabis commercial uses beginning January, 2018. The City Council directed staff to continue processing the entitlement applications and bring forth other relevant Ordinances to the Planning Commission before returning to the City Council.

Since the June 28, 2017 City Council meeting there have been several cannabis related items on City Council agendas. These have included Municipal Code amendments and Development Agreements (DAs). The City Council has approved cannabis uses in Industrial zones for distribution, manufacturing, testing labs, and indoor cultivation. The City Council has also approved DAs with cannabis applicants. Lastly, the Planning Commission has approved CUPs pending City Council consideration of implementing Municipal Code amendments. To date, three projects have received entitlements: River Wellness (April 2016), F.C.C.P. Organization (September 2017), and 3705 Seaport Blvd. LLC (October 2017).

The following provides a status overview of cannabis land uses and entitlement requests in process:

Cannabis Land Use	Zones Currently Allowed	Requests In Process
Indoor Personal Cultivation	Any personal residence regardless of zoning district	N/A
Outdoor Personal Cultivation	None, Under moratorium	None
Distribution/Transportation	M-1	ML, M-1, M-2
Manufacturing	ML	M-1, M-2
Indoor Commercial Cultivation	None	M-1, M-2
Outdoor Commercial Cultivation	None, Under moratorium	None
Testing	BP, ML, M-1, M-2	None
Dispensaries/Retailers	None, Medical prohibited in all zones; recreational under moratorium	None
Deliveries	Not specifically addressed	None
Bulk Storage	Not specifically addressed	None

Staff is currently processing four separate cannabis entitlement applications with at least two other projects expected to be submitted shortly. Much of the work to amend the Municipal Code has been completed via the various projects. All cannabis uses have been defined and the requirements for each have been established (DA, CUP, security plan, gross receipts, payments, etc.). Thus far, only River Wellness is operating and others will likely come online in 2018. Much of the timing is dependent on when the State will begin issuing licenses to cannabis businesses; this is supposed to start in January 2018. By virtue of the work done by applicants, staff, the Planning Commission, and the City Council, the City will be ready for the new cannabis industry to commence operations in the Proposition 64 era.

Two of the projects currently under review by staff are located in the Light Industrial zone and are both proposing the same uses. Each applicant requires Municipal Code amendments to proceed, principally to add previously defined cannabis uses to the Land Use Matrix in the Light Industrial zone. Given that both projects need the

same Municipal Code amendments, staff is taking this item forward so neither application has to rely on the other. These projects will still require CUPs and DAs, which will come before the Planning Commission and City Council in the near future. Consideration of tonight's proposed Municipal Code amendments does not predispose the City Council to any action on those projects when they come forward.

Eh Tech, Inc. dba Nature's Market submitted an application to the City for a CUP and DA to allow for a cannabis business involving manufacturing, cultivation, distribution, and research and development. The location of the proposed business is 2424 Del Monte Street and is zoned Light Industrial.

Sierra Gold was submitted on June 8, 2017 and is currently under review. The applicant is requesting the ability to operate a cannabis facility that includes cultivation, manufacturing, and distribution each with their separate DAs and CUPs. The project site is located at 3970 Commerce Drive on 3.59 acres in an existing 30,800 square foot industrial building and is zoned Light Industrial.

Another project, formerly known as High End Medical and now known as F.F.C.P. Organization, has received all of its necessary entitlements for cannabis manufacturing in the Limited Industrial zone. This applicant also wishes to do distribution and is seeking entitlements. There was some misunderstanding previously with the applicant's intended use and thus, distribution was not considered with the manufacturing entitlements. Staff is proposing to add distribution to the Limited Industrial zone. The applicant has received Use Permit approval from the Planning Commission and will be coming before the City Council for consideration of another DA.

ANALYSIS

Proposed Municipal Code Title 17 (Zoning) Amendments:

Staff is proposing to amend the Land Use Matrix (WSMC §17.23.10) to: 1) include cannabis indoor commercial cultivation and cannabis manufacturing to the Light Industrial (M-1) zone; 2) include wholesale cannabis distribution and transportation facility to the Limited Industrial zone (ML).

17.23.10 Land Use Matrix

Cannabis Manufacturing Facility (17.42.010 L)

Wholesale Cannabis Logistics, Distribution, and Transportation Facility (17.42.010 J)

Cannabis Indoor Commercial Cultivation Facility

A-1	RA	RE	R1A	R1B	R2	R2.5	R3	C	MU-C

MU-NC	CBD	WF	MU	CH	CW	BP	ML	M1	M2
							C*	C*	

M3	PQP	RP	POS

Definitions for cannabis manufacturing facilities, cannabis indoor commercial cultivation facilities, and wholesale logistics/distribution/transportation facilities have been previously considered by the Planning Commission and were approved by the City Council August 16, 2017 and September 20, 2017. The City Council did not make any changes to the definitions that were proposed by staff and considered by the Planning Commission.

Environmental Determination

The proposed Ordinance is not subject to review under CEQA pursuant to the following CEQA Guidelines: Section 15060 subdivision (c)(2) – the Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment; Section 15061, subdivision (b)(3) – there is no possibility that the Ordinance will have a significant effect on the environment; and Business and Professions Code Section 26055(h) - Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an Ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity whereby the discretionary review in any such law, Ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13. In addition, the Ordinance is categorically exempt from review under CEQA under the Class 8 Categorical

Exemption – the Ordinance constitutes a regulatory activity to assure the protection of the environment. The draft Notice of Exemption is contained in Attachment 4.

Municipal Code Amendments

Pursuant to Sections 65855 of the Government Code and 17.62 of the Municipal Code, the City Council at a public hearing, must make the following findings:

1. The public health, safety and general welfare warrant the change of zones or regulations.

Analysis: The proposed Municipal Code amendments clarify the City's zoning for the proposed land uses, which is allowed under state law. Regardless of the product that would be manufactured from an extraction process from the proposed facility, its operations would be similar to other manufacturing businesses in the City. The public health, safety, and general welfare would benefit from the proposed amendments in that the City's zoning regulations would be clear and unambiguous when it comes to cannabis manufacturing, indoor commercial cultivation, and wholesale distribution. The amendments would also establish a limited area where such businesses could locate and implements the Use Permit, DA, and security plan requirements, giving the City additional discretion over them.

Finding 1 appears met by this request.

2. The change in zones or regulations is in conformity with the General Plan.

Analysis: The following General Plan Land Use Element policies apply to this proposal.

Policy LU-6.1. The City shall promote and assist with the maintenance and expansion of West Sacramento's industrial sector in areas where services are readily available.

Policy LU-5.29. The City shall ensure that the approval of development projects at the west end of West Capitol Corridor do not hinder the efforts to maintain a positive fiscal balance for the City.

Policy LU-6.6. The City shall promote the development of clean industries that do not create problems or pose health risks associated with water and air pollution or potential leaks or spills.

The proposed Municipal Code amendments clarify the City's zoning regulations to provide a framework by which a new commercial/industrial business could be established while maintaining and enhancing the City's discretionary oversight. The proposed cannabis indoor commercial cultivation facility land use type would also be a clean business not involving excessive amounts of hazardous chemicals, noise, energy use, water use, or significant traffic beyond what is expected in heavy industrial areas.

Finding 2 appears met by this request.

Commission Recommendation

The Planning Commission held a public hearing on Resolution 17-15PC (see Attachment 1) on October 5, 2017 and voted unanimously to recommend approval of the proposed Municipal Code amendments. Given that multiple projects are pending needing the same amendments, the Planning Commission was supportive of staff preparing one Ordinance. The Planning Commission was also supportive of making the cannabis uses conditional so they can continue to evaluate them with full discretion.

Strategic Plan Integration

The proposed Municipal Code amendments and Development Agreement support Principle C: Strong, Diverse Local Economy by clarifying the City's land use controls for a burgeoning industry not currently located in the City.

Alternatives

Staff recommends that the City Council determine that the Class 5 and Class 8 Categorical Exemptions are the appropriate level of environmental review and waive first reading and read by title only Ordinance 17-17. Alternatively, the City Council may decide not to conduct first reading at this time and direct staff to bring the matter back for additional consideration at a future meeting.

Coordination and Review

The preparation of this report has been coordinated with the Police and Fire Departments, the City Manager's office, and the City Attorney's office.

Budget/Cost Impact

The cannabis project applicants are paying for all costs related to this matter via existing Reimbursement Agreements.

ATTACHMENTS

1. Resolution 17-15PC
2. Draft Ordinance 17-17
3. ML/M-1 zoning map
4. Draft Notice of Exemption

ATTACHMENT 1

RESOLUTION 17-15PC

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF WEST SACRAMENTO
RECOMMENDING ADOPTION BY THE CITY COUNCIL OF THE MUNICIPAL CODE
(TITLE 17-ZONING) AMENDMENTS PERTAINING TO CANNABIS
MANUFACTURING, INDOOR CULTIVATION, AND DISTRIBUTION IN THE LIMITED
AND LIGHT INDUSTRIAL ZONING DISTRICTS**

WHEREAS, on October 5, 2017 the West Sacramento Planning Commission conducted a public hearing on proposed Municipal Code amendments, conditional use permits, and development agreements; and

WHEREAS, the Planning Commission has duly considered all information before them; and

WHEREAS, the Planning Commission has found that the proposed Municipal Code amendments are consistent with the goals, policies and implementation programs of the City of West Sacramento General Plan, and

WHEREAS, the proposed Municipal Code amendments are exempt from CEQA review pursuant to Business & Professions Code §26055(H) and §15305 and §15308 of the CEQA Guidelines, as the project would be serve to clarify the City's Municipal Code as it pertains to cannabis uses; and

WHEREAS, the Planning Commission has found that the proposed Municipal Code amendments further the public health, safety and general welfare of the City, and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission recommends that the City Council take the following actions:

1. The Planning Commission recommends that the City Council approve the proposed Municipal Code amendments via Ordinance 17-17 as recommended by the Planning Commission.


PASSED AND ADOPTED by the Planning Commission of the City of West Sacramento this 5th day of October 2017, by the following vote:

AYES: Sturmfels, Castillo, Lepore, Liebig, Austin

NOES: None

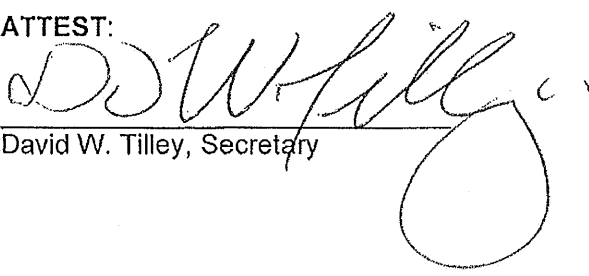
ABSTAIN: None

ABSENT: Vu



Bernadette Austin, Planning Commission
Chairperson

ATTEST:



David W. Tilley, Secretary

ATTACHMENT 2

DRAFT ORDINANCE 17-17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST SACRAMENTO AMENDING TITLE 17 (ZONING) OF THE MUNICIPAL CODE RELATED TO CANNABIS MANUFACTURING, INDOOR COMMERCIAL CULTIVATION, AND WHOLESALE LOGISTICS/DISTRIBUTION/TRANSPORTATION FACILITIES

The City Council of the City of West Sacramento does ordain as follows:

Section 1. Purpose and Authority. The purpose of the Ordinance is to make amendments to the Municipal Code Title 17 (Zoning) pertaining to cannabis manufacturing, indoor commercial cultivation, and wholesale logistics/distribution/transportation facilities.

Section 2. Amendments. The following sections of the West Sacramento Municipal Code are hereby amended to read as follows:

17.23.10 Land Use Matrix – Cannabis Manufacturing Facility
Cannabis Indoor Commercial Cultivation Facility
Cannabis Wholesale Logistics, Distribution, and Transportation Facility

A-1	RA	RE	R1A	R1B	R2	R2.5	R3	C	MU-NC

MU-C	CBD	WF	MU	CH	CW	BP	ML	M1	M2
							C*	C*	

M3	PQP	RP	POS

*Development agreement and public safety and security plan required. See 17.42.010.J

Section 3. Severability. If any provision of this chapter, or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this chapter, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this chapter are severable.

Section 4. Effective Date and Publication. This Ordinance shall take effect 30 days after its adoption, and pursuant to Resolution 99-46 was published in summary format prior to adoption, and a summary will be published within 15 days after adoption in a paper of general circulation published and circulated within the City of West Sacramento.

PASSED AND ADOPTED by the City Council of the City of West Sacramento this _____ day of November, 2017, by the following votes:

AYES:
NOES:
ABSENT:
ABSTAIN

Christopher L. Cabaldon, Mayor

ATTEST:

APPROVED AS TO FORM:

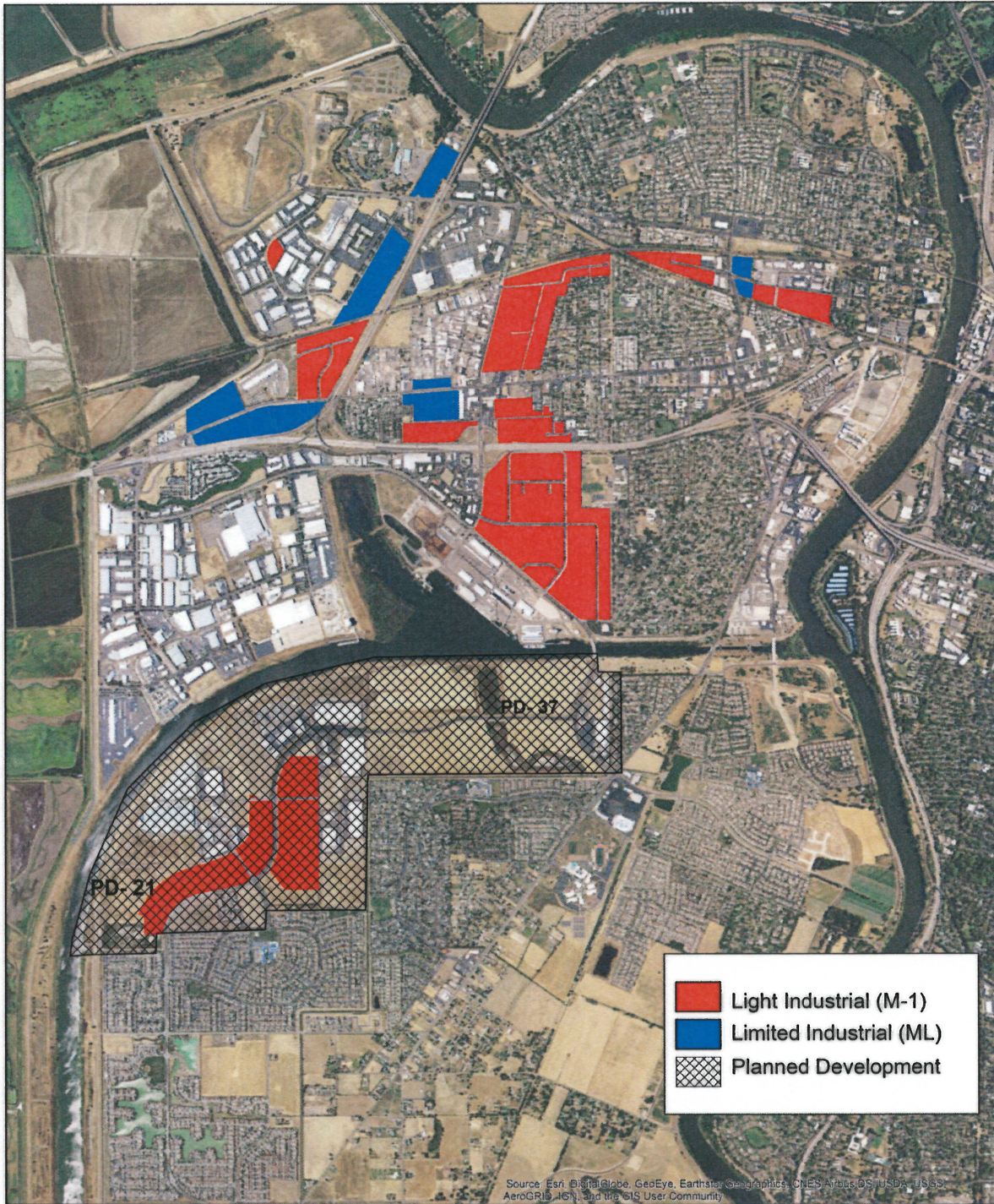
Kryss Rankin, City Clerk

Jeffrey Mitchell, City Attorney

CODIFY X UNCODIFY

ATTACHMENT 3

Limited Industrial and Light Industrial Zoning Map



Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Yolo

From: (Public Agency): City of West Sacramento

1110 West Capitol Ave

West Sacramento, CA 95691

(Address)

Project Title: Ordinances 17-17

Project Applicant: City of West Sacramento

Project Location - Specific:

Limited Industrial and Light Industrial zoning district

Project Location - City: West Sacramento

Project Location - County: Yolo

Description of Nature, Purpose and Beneficiaries of Project:

This ordinance implements the City's regulations for cannabis uses in the Limited Industrial and Light Industrial zoning districts.

Name of Public Agency Approving Project: City of West Sacramento

Name of Person or Agency Carrying Out Project: City of West Sacramento

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: 15060 (c)(2), 15061 (b)(3), Class 8
- Statutory Exemptions. State code number: B&P Code Section 26055(H)

Reasons why project is exempt:

The project involves municipal code changes to conditionally permit cannabis uses in limited and light industrial areas.

Lead Agency

Contact Person: David Tilley

Area Code/Telephone/Extension: 9166174645

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: 11-1-17 Title: Principal Planner

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____