



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

Wednesday, December 5, 2018
7:00 PM

North Berkeley Senior Center
1901 Hearst Ave / MLK Jr. Way

See “*MEETING PROCEDURES*” below.

All written materials identified on this agenda are available on the Planning Commission webpage: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=13072>

PRELIMINARY MATTERS

- 1. Roll Call:** Pinto, Prakash, appointed by Councilmember Maio, District 1
Martinot, Steve, appointed by Councilmember Davila, District 2
Schildt, Christine, Chair, appointed by Councilmember Bartlett, District 3
Lacey, Mary Kay, appointed by Councilmember Harrison, District 4
Beach, Benjamin, appointed by, Councilmember Hahn, District 5
Kapla, Robb William, for Councilmember Wengraf, District 6
Fong, Benjamin, appointed by Councilmember Worthington, District 7
Vincent, Jeff, appointed by Councilmember Droste, District 8
Wrenn, Rob, Vice Chair, appointed by Mayor Arreguin
- 2. Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
- 3. Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “*Public Testimony Guidelines*” below):
- 4. Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: January 16, 2018** (note: meeting will be held in the basement multipurpose room at 1947 Center Street).
- 5. Chairperson’s Report:** Report by Planning Commission Chair.
- 6. Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
- 7. Approval of Minutes:** Approval of Draft Minutes from the meeting on November 07, 2018.
- 8. Future Agenda Items and Other Planning-Related Events:** None.

AGENDA ITEMS: All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

- 9. Action:** **Public Hearing: Retail Nursery Microbusiness**
Recommendation: Hold public hearing and consider modifications to the Cannabis Use Chapter (23C.25) and the Definitions Chapter (23F.04).
Written Materials: Attached
Web Information: N/A.
Continued From: 5/16/2018

- Discussion:** **Bicycle Parking Standards**
10. Recommendation: Staff from Public Works (Transportation Planning) will introduce the 2017 Bicycle Master Plan, focusing on potential bicycle parking standards.
Written Materials: Attached
Web Information: N/A.
Continued From: N/A.

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items:

- City Council Report dated November 27, 2018 (*Referral Response: Modifications to the Zoning ordinance to Support Small Businesses*)
- Survey Results on Zoning Ordinance Amendments to Support Small Businesses
- Short Term Referral to Expedite Components of the More Student Housing Now Resolution, and budget referral to the annual appropriation ordinance adoption

Communications:

- 2018-11-16 – Supporting modifications to the zoning ordinance

Late Communications (Received after the Packet deadline):

None.

ADJOURNMENT

Meeting Procedures

Public Testimony Guidelines:

Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. **To speak during Public Comment or during a Public Hearing, please line up behind the microphone.** Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

Consent Calendar Guidelines:

The Consent Calendar allows the Commission to take action with no discussion on projects to which no one objects. The Commission may place items on the Consent Calendar if no one

present wishes to testify on an item. Anyone present who wishes to speak on an item should submit a speaker card prior to the start of the meeting, or raise his or her hand and advise the Chairperson, and the item will be pulled from the Consent Calendar for public comment and discussion prior to action.

Procedures for Correspondence to the Commissioners:

- To have materials included in the packet, the latest they can be submitted to the Commission Secretary is close of business (5:00 p.m.), on Tuesday, eight (8) days prior to the meeting date.
- To submit late materials for Staff to distribute at the Planning Commission meeting, those materials must be received by the Planning Commission Secretary, by 12:00 p.m. (noon), the day before the Planning Commission meeting.
- Members of the public may submit written comments at the Planning Commission meeting. To submit correspondence at the meeting, please provide 15 copies, and submit to the Planning Commission Secretary before the start time of the meeting.
- If correspondence is more than twenty (20) pages, requires printing of color pages, or includes pages larger than 8.5x11 inches, please provide 15 copies.
- Written comments/materials should be directed to the Planning Commission Secretary, at the Land Use Planning Division (Attn: Planning Commission Secretary).

Communications are Public Records: Communications to Berkeley boards, commissions, or committees are public records and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service, or in person, to the Secretary of the relevant board, commission, or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, commission, or committee for further information.

Written material may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3rd Floor**, during regular business hours, or at the Reference Desk, of the Main Branch Library, 2090 Kittredge St., or the West Berkeley Branch Library, 1125 University Ave., during regular library hours.

Note: If you object to a project or to any City action or procedure relating to the project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the public hearing on the project, or in written communication delivered at or prior to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

Meeting Access: This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability

***Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.
Please refrain from wearing scented products to public meetings.***



Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **November 7, 2018**

3 The meeting was called to order at 7:03 p.m.

4 **Location:** North Berkeley Senior Center, Berkeley, CA

5 **1. ROLL CALL:**

6 **Commissioners Present:** Steve Martinot, Robb William Kapla, Christine Schildt, Jeff
7 Vincent, Benjamin Fong, Prakash Pinto, Benjamin Beach, Mary Kay Lacey.

8 **Commissioners Absent:** Rob Wrenn (unexcused)

9 **Staff Present:** Secretary Alene Pearson and Sydney Stephenson.

10 **2. ORDER OF AGENDA:** No changes.

11 **3. PUBLIC COMMENT PERIOD:** No speakers.

12 **4. PLANNING STAFF REPORT:** At the October City Council meeting a new referral was
13 approved to review and revise Chapter 22.16 in regards to community benefits. The City
14 Manager also gave staff new directions on Cannabis regulations from Council, including
15 developing regulations for cannabis nurseries. Staff will bring new cannabis nurseries
16 regulations to the next Planning Commission meeting. Three communications were passed
17 out tonight. This will be Sydney Stephenson's last Planning Commission meeting.

18 **Communication in the Packet:**

- 19 • 2018-11-07 – 2018 Housing Trust Fund RFP: Applications Received – Jenny Wyant,
20 Community Development Project Coordinator

21 **Late Communications (Received after the Packet deadline):**

- 22 • 2018-11-07 – New Zero Waste Transfer Station Workshop
23 • 2018-11-07 – Corrected Commercial Recreation Centers Staff Report – Staff, Item 13

24 **Late Communications (Received and distributed at the meeting):** None.

25 **5. CHAIR REPORT:** None.

26 **6. COMMITTEE REPORT:** The ZORP project will be put on hold for six months and the next
27 ZORP subcommittee meeting will be in April 2019. The JSISHL November 15 meeting was
28 cancelled because it will not have a quorum.
29

30 **7. APPROVAL OF MINUTES:**

31 Motion/Second/Carried (Vincent/Pinto) to approve the Planning Commission Meeting Minutes
32 from October 3, 2018 with amendment to motion from Item 9. Ayes: Martinot, Schildt, Fong,
33 Kapla, Vincent, Lacey, Pinto. Noes: None. Abstain: Beach. Absent: Wrenn. (7-0-1-1)
34

35 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** At the next
36 meeting, December 5, bike parking regulations and cannabis nursery regulations will be
37 presented.

38 **AGENDA ITEMS**

39 **9. Discussion: Local Hazard Mitigation Plan (LHMP) Presentation**

40 Staff from the Office of Emergency Services introduced the Local Hazard Mitigation Plan and
41 the role the Planning Commission will play in the adoption of the Plan. The Planning
42 Commission will be reviewing the first draft of the plan around January or February 2019.
43 And then in October 2019, the Planning Commission will review and recommend the final
44 draft to the City Council. The Planning Commission asked questions about the Plan and the
45 process.

46 Public Comments: No speakers.

47 **10. Action: Public Hearing: Referral Response to Amending Home**
48 **Occupations Chapter 23C.16**

49 Staff presented the amendments to the Home Occupations Chapter (23C.16) for the public
50 hearing. The Commission asked clarifying questions and then opened the public hearing.
51 The Commission closed the public hearing and discussed the proposed amendments. The
52 Commission agreed on all the proposed amendments, however, discussed modifications for
53 the hours of client/customer visits, and allowing non-resident employees. The Planning
54 Commission agreed upon changing the language regarding hours of client/customer visits.
55 The Commission also agreed to add a language for Moderate Impact Home Occupations, to
56 allow one non-resident employee on-site. The Commission made the following motion.

57 Motion/Second/Carried (Schildt/Pinto) to open the public hearing for Item 10. Ayes: Martinot,
58 Kapla, Schildt, Vincent, Fong, Pinto, Beach, Lacey. Noes: None. Abstain: None. Absent:
59 Wrenn. (8-0-0-1)

60 No public comment.
61

62
63 Motion/Second/Carried (Schildt/Pinto) to close the public hearing for Item 10. Ayes: Martinot,
64 Kapla, Schildt, Vincent, Fong, Pinto, Beach, Lacey. Noes: None. Abstain: None. Absent:
65 Wrenn. (8-0-0-1)
66

67 Motion/Second/Carried (Schildt/Vincent) to recommend to Council to approve all eight of
68 staff's amendments to the Home Occupations Chapter, with the following modifications: 1)

69 change the language for visiting hours (23C.16.010.B.6) to read “A Home Occupation shall
70 establish client or customer visiting hours between 10am to 8pm.” 2) Allow one non-resident
71 employee for moderate impact home occupation by adding the following language to
72 23C.16.020.B, “A Moderate Impact Home Occupation shall allow for one non-resident
73 employee or individual to engage in business-related activities on-site.” Ayes: Martinot,
74 Kapla, Schildt, Vincent, Fong, Pinto, Beach, Lacey. Noes: None. Abstain: None. Absent:
75 Wrenn. (8-0-0-1)
76

77 Public Comments: No speakers.

78 **11. Action: 2018-2019 Planning Commission Work Plan**

79 Commissioner Vincent presented the 2018-2019 Planning Commission Work Plan that the
80 subcommittee worked on. The Commission discussed the organization of the table and
81 possibly collapsing the Density Bonus Package in the table. The Commission made the
82 following motion.

83 Motion/Second/Carried (Kapla/Schildt) to approve the 2018-2019 Work Plan with edits that
84 Commissioner Vincent will make before sending it to staff to send it to the City Council.
85 Ayes: Martinot, Kapla, Schildt, Vincent, Fong, Pinto, Beach, Lacey. Noes: None. Abstain:
86 None. Absent: Wrenn. (8-0-0-1)
87

88 Public Comments: No speakers.

89 **12. Action: 2019 Planning Commission Calendar**

90 Staff presented the proposed 2019 Calendar and stated that there will only be one
91 Commission meeting a month. The Commission discussed the pros and cons for having one
92 meeting scheduled a month versus having two meetings scheduled a month and cancelling
93 the 2nd when needed. The Planning Commission made the following motion.

94 Motion/Second/Carried (Lacey/Kapla) to approve the 2019 Planning Commission Calendar
95 after changing the July 3rd meeting to July 17th. Ayes: Kapla, Schildt, Vincent, Fong, Pinto,
96 Beach, Lacey. Noes: None. Abstain: Martinot. Absent: Wrenn. (7-0-1-1)
97

98 Public Comments: No speakers.

99 **13. Action: Commercial Recreation Center Permit Threshold Clarification**

100 Staff presented the clarification for the permit threshold of Commercial Recreation Centers
101 (CRCs) in Neighborhood Commercial districts. The technical amendment presented in the
102 City Council report would allow CRCs in Neighborhood Commercial districts with an AUP for
103 under 3,000 sq. ft. uses and UP(PH) for uses over 3,000 sq. ft. The Commission made the
104 following motion.

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Motion/Second/Carried (Pinto/Kapla) to endorse the technical amendment presented in the City Council report. Ayes: Martinot, Kapla, Schildt, Vincent, Fong, Pinto, Beach, Lacey. Noes: None. Abstain: None. Absent: Wrenn. (8-0-0-1)

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The meeting was adjourned at 9:26 pm
Commissioners in attendance: 8 of 9
Members in the public in attendance: 1
Public Speakers: 0 speakers
Length of the meeting: 2 hours and 23 minutes

DRAFT



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: December 5, 2018
TO: Members of the Planning Commission
FROM: Elizabeth Greene, Senior Planner
SUBJECT: Public Hearing: Cannabis Retail Nursery Microbusiness Ordinance

INTRODUCTION

On July 25, 2017, the Council asked the Planning Commission and Cannabis Commission to clarify the city policy on cannabis businesses at existing conventional (non-cannabis) retail nurseries (see Attachment 1). The underlying question is whether existing conventional nurseries should be allowed to grow and/or sell immature cannabis plants and seeds on a retail basis. The term used for this kind of use is “Retail Nursery”.

This memo provides draft ordinance language for Planning Commission consideration related to the potential use of existing non-cannabis (conventional) nurseries for cultivation and/or sales of cannabis seeds and immature plants (“clones”) (see Attachment 2). The Commission should review the draft language developed for Retail Nursery Microbusinesses (RNM) and make a recommendation to Council. The Council will consider this language, along with other previously considered ordinance language and recommendations from the Cannabis and Community Health Commissions, at a meeting in early 2019.

BACKGROUND

Since the passage of Proposition 64 in 2016, the State has been developing a regulatory framework to oversee the cannabis industry in California. One key element of this framework is the concept that cannabis businesses must have both a State license and local approval in order to operate in the State. The six types of businesses authorized by the State are:

1. Cultivators (produce seeds, immature plants (clones)) and mature plants which are harvested;
2. Manufacturers (take raw product and create other products, including edibles);
3. Testing Laboratories (test product for potency, pesticides and impurities);
4. Retailers (sell product to the public);
5. Distributors (transport product between businesses and collect State taxes); and

6. Microbusinesses (combination of at least three of the other businesses except testing labs).

In response to a July 25, 2017 Council referral, the Planning Commission considered the issues surrounding cannabis cultivation and sales at existing conventional nurseries, at its May 16, 2018 meeting. These issues included the location of existing nurseries, conformity with State regulations and conformity with local regulations. At this meeting, the Commission voted to hold off on a decision until the Council provided more direction related to retailer quotas and locations for additional retailers; see Attachments 3 and 4 for the staff report and minutes.

Since the May meeting, staff has determined that state law does not permit a cannabis retailer that sells cannabis plants to sell other types of plants¹. This prohibits existing conventional nurseries from adding cannabis to their existing businesses. The only way a current conventional nursery would be able to grow and sell cannabis clones and seeds is to convert the entire business into a cannabis microbusiness.

DISCUSSION

The Council held a work session on October 9, 2018 to review options for key issues in the cannabis ordinances. These issues included retail quotas, retail buffers, levels of discretion, equity, residential collectives and retail nurseries. At this work session, the Council expressed support for permitting retail nurseries through the conversion of existing conventional nurseries.

Based on this direction, staff has developed draft ordinance language to implement this use (see Attachment 2). The staff used the term “Retail Nursery Microbusiness” (RNM) to describe this use because the State would require this kind of use to have Retailer, Cultivator and Distributor licenses in order to operate. The proposed ordinance includes the following details:

- Only two existing conventional nurseries will be allowed to convert to an RNM;
- No cannabis may be sold from the site except clones and seeds;
- No cannabis consumption will be permitted on site; and
- Microbusinesses will be subject to the operating standards of the activities conducted on the site, except:
 - RNM will have a quota separate from cannabis Retailers and Cultivators;
 - Conversions of conventional nurseries located in residential districts to RNMs will be subject to requirements for non-conforming uses (Use Permit);
 - The buffer from Retailers will not apply to RNMs; and
 - Signage for RNMs will be subject to Storefront Retailer regulations.

Considerations and Analysis

A brief consideration of the issues considered by staff follows:

¹ State Emergency Cannabis Regulations, Section 5408(b) states that a retailer shall only sell live, immature cannabis plants and seeds if it does not sell any other live plants.

1. Appropriate Location. Currently, Berkeley permits cannabis retail sales in commercial districts and cultivation in the M district. These regulations would allow limited cultivation and retail sales at sites already used for plant cultivation and sales. The existing nurseries identified by staff are located either in manufacturing, commercial and residential districts (see Attachment 5 for map). Conversion of sites either partially or entirely located in residential districts to an RNM use would be considered at a public hearing as part of a Use Permit for a change to a non-conforming use.
2. Impacts of cannabis uses. These uses would be subject to the general operating standards required for all cannabis businesses (BMC Chapter 12.21) and the specific operating standards for Retailers, Cultivators and Distributors (BMC Chapter 12.22). These standards address issues such as security, odor, and use of pesticides. These businesses would also be subject to other performance standards that apply to all businesses, such as hours of operation and protecting residential properties from glare.
3. Uses on site. Uses at a RNM would be limited to cultivation of seeds and immature plants, distribution of these products to other cannabis businesses, and retail sales of these products. No manufacturing or sales of other cannabis products would be permitted at the site.
4. Expansion of a non-conforming use. Based on the Zoning Ordinance, the addition of cannabis production or sales would be considered a change in use to a conventional nursery. If the nursery is non-conforming due to its location in a Residential district, this change would require a Use Permit in order to be approved.
5. Conformity with State regulations. Microbusinesses are permitted and regulated by the State. Any RNM will need to meet State regulations as well as city regulations.
6. Timing with local cannabis regulations. The RNM regulations will be considered along with other cannabis regulations which will establish operating standards for all cannabis businesses.
7. Exposure to cannabis. RNMs would only be open to persons 21 and older. Signage for these businesses will be considered by the Council along with the RNM and operating standards regulations.

General Plan Review:

Staff has determined that no changes are necessary to the General Plan as a result of the draft zoning amendment. The proposed changes would apply development standards for other cannabis businesses to RNMs. These businesses will also be subject to annual city operating permits and State licenses.

The General Plan has specific policies that support these zoning ordinance changes:

Policy LU-1 Community Character: Maintain the character of Berkeley as a special, diverse, unique place to live and work.

Action LU-7.B: Carefully evaluate and monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses.

CEQA Review:

Nursery uses and other cannabis retailers are already permitted in Berkeley. The cultivation portion of the business would be indoors and would be restricted to the production of clones and seeds. Operation standards, particularly for odors, will prevent these businesses from having environmental impacts greater than those of other commercial uses. Buffers from schools and requirements for neighborhood compatibility will help protect neighborhoods from negative effects of these commercial uses. Annual State and local reviews of each business will ensure they are meeting State and local regulations. This means that no additional impacts are expected from the uses and no additional environmental evaluation is necessary.

CONCLUSION

Staff recommends that the Planning Commission hold a Public Hearing, take public comments, and forward the proposed Zoning Ordinance amendments to the Council for consideration, with any changes identified through a vote of the Commission.

ATTACHMENTS

1. Council referral (July 25, 2017)
2. Proposed Ordinance language, Chapter 23C.25 (Cannabis Uses) and Chapter 23F.04 (Definitions)
3. May 16, 2018 Planning Commission staff report
4. Partial minutes from May 16, 2018 Planning Commission meeting
5. Map of Existing Conventional Nurseries identified by staff
6. Public Hearing Notice



Kriss Worthington

Councilmember, City of Berkeley, District 7
2180 Milvia Street, 5th Floor, Berkeley, CA 94704
PHONE 510-981-7170, FAX 510-981-7177,
EMAIL kworthington@ci.berkeley.ca.us

CONSENT CALENDAR
July 25, 2017

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington

Subject: Ordinance to Clarify City Policy on Cannabis Nurseries

RECOMMENDATION:

That the Planning Commission and Medical Cannabis Commission create an ordinance to clarify city policy on cannabis and existing nurseries.

BACKGROUND:

Taking into consideration state policies on cannabis regulation, it is imperative that Berkeley follow such trends and clarify city policy on cannabis and existing nurseries. The State of California passed proposition 64 on November 8, 2016, which legalized cannabis for use by adults 21 years or older. Chapter 1 of the Proposition defines a cannabis nursery as “a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana,” and a *Type 4—Cultivation; Nursery* license is designed specifically for cannabis nurseries.

Proposition 64 adopted a zoning requirement for cannabis business. “No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius.”

Sonoma County and Humboldt County adopted the exact definition of a cannabis nursery from state law. Humboldt County sets separate zoning requirements for retail cannabis nursery and wholesale cannabis nurseries. Retail cannabis nurseries are defined as cannabis nurseries that sell their products to the public, while wholesale cannabis nurseries are defined as nurseries that distribute cannabis products to other businesses. Both counties have set square footage limitations for cannabis nurseries. Sonoma County limits cannabis nurseries to be under one acre for outdoor or under 22,000 square feet for indoor. Humboldt County limits the size of retail cannabis nurseries to under 5,000 or under 10,000, as square footage depends on use permits, and under 5 acres or no parcel size limitation for wholesale cannabis nurseries depends on the use permit. Our city should include zoning requirements and square footage limitations on cannabis nurseries.

According to Chapter 20 of the Proposition, any city within the State of California has the right to adopt and enforce local ordinances to regulate adult use cannabis businesses. It is urgent for the Planning Commission to work in conjunction with the Medical Cannabis Commission to adopt ordinances and regulations for adult use cannabis in order to emulate state progress on cannabis policy.

FINANCIAL IMPLICATIONS: Minimal.

ENVIROMENTAL SUSTAINABILITY

Consistent with Berkeley's Environmental Sustainability Goals and no negative impact.

CONTACT PERSON: Councilmember Kriss Worthington 510-981-7170

Attachment:

Tentative List of Current Plant Nursery

1. Lee's Florist & Nursery

Address: 1420 University Ave, Berkeley CA 94702

District: 4

2. Berkeley Horticultural Nursery

Address: 1310 McGee Ave, Berkeley, CA 94703

District: 5

3. East Bay Nursery

Address: 2332 San Pablo Ave, Berkeley, CA 94702

District: 2

4. Oaktown Native Plant Nursery

Address: 702 Channing Way, Berkeley, CA 94710

District: 2 (~~Note: within 300 ft of Dreamland For Kids Playground, but legal~~)

5. Cactus Jungle Nursery and Garden

Address: 1509 Fourth St, Berkeley, CA 94710

District: 1 (Note: within 300 ft of Golden Gate Kids Preschool)

6. Westbrae Nursery

Address: 1272 Gilman St, Berkeley, CA 94706

District: 1 (Note: within 700 ft of Redwood Garden Preschool)

7. Spiral Gardens

Address: 2850 Sacramento St, Berkeley, CA 94702

District: 2 (~~Note: within 900 ft of San Pablo Park~~)

8. FLORA ARTE

Address: 2070 M.L.K. Jr Way, Berkeley, CA 94704

District: 4 (Note: within 900 ft of Berkeley High)

9. Native Here Nursery

Address: 101 Golf Course Dr Tilden Regional Park, Berkeley, CA 94708,
Berkeley, CA 94708

District: 6?

10. Oaktown Native Plant Nursery

Address: 2410 Roosevelt Ave, Berkeley, CA 94703

District: 4 (Note: within 900 ft of Walden Center and School)

11. Succulent & Cactus

Address: 1735 Delaware St, Berkeley, CA 94703

District: 1 (~~Note: Within 500ft of Ohlone Doggy Park~~)

12. The Gardener

Address: 1836 Fourth St, Berkeley, CA 94710

District: 1 (~~Note: Within 300 ft of Golestan Center For Language Immersion and Cultural Education~~)

Modifications to Chapter 23C.25 Cannabis Uses

Sections:

23C.25.010 Reserved

23C.25.020 Cannabis Cultivation

23C.25.030 Cannabis Manufacturing, Testing Labs and Distribution

23C.25.040 Microbusiness

Section 23C.25.010 Reserved

(Ord. 7625-NS § 1 (part), 2018)

Section 23C.25.020 Cannabis Cultivation

- A. Notwithstanding anything to the contrary in this Chapter, cultivation of cannabis as defined in Chapters 12.23 and 12.25 and MAUCRSA, shall be permitted as a matter of right with a Zoning Certificate in the M District, subject to the following limitations:
1. Such locations shall be limited to licensed Cannabis Businesses.
 2. Cannabis may not be dispensed, and client, patient or member services or retail sales are prohibited, at such locations.
 3. No single location used for cultivation and associated uses by a licensee may exceed 22,000 square feet of total canopy area, except that separate spaces used by different licensees may be aggregated on the same location.
 4. There is no numeric limit for Cannabis Cultivation Facilities under 10,000 sf in total canopy area, up to 48,000 sf.
 5. Outdoor commercial cultivation is prohibited.
 6. The total canopy area used for cannabis cultivation shall not exceed 180,000 square feet.
- B. Cannabis nurseries, as defined in Chapter 12.23 are considered Cannabis Cultivation uses and are subject to the same regulations as Cultivators.
- C. Such locations shall comply with all regulations in Chapter 12.25, security regulations promulgated by the Chief of Police, and the requirements of this Chapter, and shall not be located within 300 feet of a private or public elementary, middle or high school. Such locations may include testing, processing, manufacturing and food preparation only to the extent expressly permitted by MAUCRSA.

- D. No Cannabis uses may be approved under this Section until the City Council adopts a licensing process and standards for such uses. Such standards shall include a requirement that indoor cultivation uses provide for an energy offset through a program specified by the City to offset the net increased energy that is used by the Facility as compared to a regular industrial facility, and may include, but shall not be limited to, whether proposed Facilities will provide a percentage of all usable product cultivated at no cost to very low income patients and will use organic methods in cultivation and processing to the maximum extent reasonable; and whether their form of organization, ownership and practices ensure equity and accountability, low prices and an adequate supply of high quality cannabis to Customers.
- E. Notwithstanding Subsection 23C.25.020.D, Cannabis Cultivators with Cannabis Cultivation Facilities (as defined in Section 12.23.020) that do not exceed 10,000 square feet in total canopy area are permitted as a matter of right with a Zoning Certificate in the M District, subject to a limitation on total canopy area used for Cannabis Cultivation of 180,000 square feet. (Ord. 7625-NS § 1 (part), 2018)

Section 23C.25.030 Cannabis Manufacturing, Testing Labs and Distribution

- A. Uses such as, but not limited to, testing, processing, and food preparation, that involve cannabis as defined in Chapter 12.23 but do not involve dispensing, client, patient or member services, or cultivation (other than for testing), shall be evaluated and regulated under this Title without regard to the fact that they involve cannabis.
- B. Manufacturers, Testing Labs, and Research and Development and Distribution businesses which are licensed as Cannabis Businesses by the State may not be located within 300 feet of a public or private elementary, middle or high school.
- C. For the purposes of this Chapter, the following Cannabis uses shall be evaluated and regulated for Zoning purposes in the same way as the existing non-Cannabis uses, with the exception of distance buffers from schools:

Cannabis Use	Non-Cannabis Use
Manufacturing, processing, food preparation	Light Manufacturing
Testing labs	Testing labs
Research and Development	Research and Development
Distribution	Wholesale Uses

Section 23C.25.040 Microbusiness

- A. Microbusinesses are defined in Section 12.21.020
- B. Microbusinesses are subject to the development standards set forth in this Chapter for each activity conducted on the premises, with the following exceptions:

1. In cases where the development standards for two activities are different, the more restrictive standards shall apply.
2. Retail Nursery Microbusinesses
 - a. Two existing nurseries are permitted to convert to a Retail Nursery Microbusiness, regardless of the number of Retailers and Cultivators in the City.
 - b. These businesses are permitted by right with a Zoning Certificate in C- and M- prefixed zones, if they comply with the development standards set forth in this Chapter for each activity conducted on the premises.
 - c. If the existing nursery is located entirely or partially in an R-prefixed district, conversion to a Retail Nursery Microbusiness will be subject to requirements for non-conforming uses (Section 23C.04.060).
 - d. The 600-foot retail buffer shall not apply between Storefront Retailers and Retail Nursery Microbusinesses.

Modifications to Definitions (Chapter 23F.04)

Microbusiness: Cannabis use involving at least three State licenses. See BMC Chapter 12.21 for definition.

Retail Nursery Microbusiness: A Microbusiness that is restricted to growing and selling cannabis plants and seeds. See BMC Chapter 12.21 for definition.

STAFF REPORT

DATE: May 16, 2018
TO: Members of the Planning Commission
FROM: Elizabeth Greene, Senior Planner
SUBJECT: Council Referral Regarding Cannabis and Existing Nurseries

INTRODUCTION

On July 25, 2017, City Council adopted a recommendation that the Planning Commission and Cannabis Commission create an ordinance to clarify City policy on cannabis and existing (non-cannabis) nurseries. The City Council also raised this issue at a March 20, 2018, Work Session focused on draft regulations for cannabis businesses.

The underlying question is whether existing conventional non-cannabis nurseries should be allowed to grow and sell immature cannabis plants and seeds on a retail basis. State license requirements as well as City and State regulations would apply.

The purpose of this report is not to provide a specific recommendation as of yet, but to begin to discuss the potential implications of allowing existing nurseries to combine cannabis and non-cannabis sales.

In the meantime, staff is working to further develop other components of regulations for cannabis businesses based on City Council input at the March 20, 2018 Work Session. City Council requested a second Work Session on cannabis regulations in the Fall 2018.

BACKGROUND

The passage of Proposition 64 in November 2016 allows the production, processing, distribution, testing and sale of adult use (non-medical) cannabis. The State has developed 27 different license types that cover all aspects of the industry supply chain, and established regulations and licensing to control how these businesses operate.

The land use regulations for these uses are the responsibility of each local jurisdiction. The City currently has regulations in place for medicinal cannabis retail, cultivation, manufacturing and testing uses in line with the former State standards. City staff is working with city commissions and community stakeholders to develop regulations for

new uses and modify existing regulations to conform to the new state laws. Based on feedback from the Council at a March 20, 2018 work session, much of the new ordinance language will require additional public consideration and may not be ready for adoption until the end of 2018 or beyond.

On July 25, 2017, the City Council asked the Cannabis Commission and Planning Commission to clarify city policy on cannabis and existing nurseries (see Attachment A). State law would allow licensed cultivation facilities to grow both medicinal and adult use cannabis on a wholesale basis. Cannabis Nursery uses as a wholesale cultivation use were considered as part of the larger cannabis ordinance review, and are included as an allowed use in the M District. Cannabis Nurseries with a retail component, and the use of existing conventional nursery sites for that purpose, were not specifically included in the discussion.

DISCUSSION

The goal of the Council referral is to have the Commissions consider whether or not existing conventional non-cannabis nurseries in Berkeley, such as Berkeley Horticultural and East Bay Nursery, should be allowed to have the option to grow and sell retail Cannabis plant starts/clones. Staff has identified existing retail nurseries on the map (Attachment B), which also identifies surrounding zoning designations (residential, commercial and manufacturing). This discussion explores this question in the context of State Cannabis license requirements, local Cannabis regulations and considerations, and local land use considerations.

In order for a conventional nursery to grow and sell cannabis plants and seeds, the City must answer two primary questions:

1. How would this use conform to State licensing requirements? The State has indicated that Cannabis Nurseries selling clones and seeds on a retail basis to the public would require licenses for Retail, Cultivation and Distribution. It is unclear whether non-cannabis products could be sold alongside cannabis products.
2. Would a cannabis nursery compliant with State requirements operate in the same manner as a conventional non-cannabis nursery? Should they be considered similar uses?

Considerations and Analysis

The Planning Commission should focus on three primary topics as it begins to evaluate whether the City should permit cannabis uses to establish at existing nurseries: location of existing nurseries; conformity with State regulations; and conformity with existing and potential local cannabis regulations. A brief description of these topics and issues considered by staff follows.

Location of existing nurseries. Local regulations for cannabis cultivators and nurseries are still being developed. The State law considers Cannabis Nurseries

a type of cultivation use, and the existing City of Berkeley cannabis ordinances would regulate Cannabis Nurseries in the same manner as other Cultivation businesses. They would be limited to the Manufacturing (M) district, and all growing would be restricted to indoors or greenhouses. Cultivators would be subject to operating standards including security requirements such as guards, 24-hour cameras, and on-site lighting to protect the premises from theft. Commercial cannabis cultivation in Berkeley is capped at 180,000 square-feet of canopy. Some of these regulations have not been approved by the Council and are still subject to change.

Staff has identified eight existing non-cannabis nurseries in Berkeley (not including businesses which may have a nursery component, such as grocery stores, hardware stores or pharmacies). Of these, half are considered non-conforming uses because they are located either partially or completely in residential districts. See Attachment B for a map of these uses.

Conformity with State Regulations. Per State law, any business involved in the production, testing, distribution and/or sale of cannabis in any form or amount, requires approvals from two jurisdictions: the State and the local jurisdiction in which it is located.

The State has 17 different cultivation license types. Cannabis Nurseries (CN) are one of these license types. CN are different from other cultivation uses in that they produce starter plants (clones) and seeds but not the buds that are used in cannabis products. All cultivators, including CNs, can only sell product on a wholesale basis to other state licensed businesses. State law currently only allows one license type, Retailer, to sell products on a retail basis. Usually, clones and seeds are sold by CNs to Retailers for sales to the public, or to other Cultivators to be grown to maturity and harvest. Members of the public wishing to grow cannabis at home must buy their plants or seeds from a cannabis Retailer.

According to the State, a CN selling product on a retail basis would need three types of cannabis licenses at the proposed site:

1. Cannabis Nursery license (separate premises, no public access)
2. Cannabis Retailer license (separate premises, public access only for persons over 21)
3. Cannabis Distributor (separate premises may not be necessary)

If an existing nursery continued to produce and sell non-cannabis nursery products, the non-cannabis nursery and retail area would also have to be separate from the Cannabis cultivation and retail areas. See Attachment C for a graphic representation of how these uses could operate together on a site if permitted by State regulations.

Conformity with Local Regulations. An assessment of current and proposed regulations (local) suggests that a CN could not include a cultivation component, because cultivation is only allowed in the M District.

The City has some existing regulations in place for medicinal cannabis cultivation and retail uses, and is working on new regulations to address new State regulations.

Existing Regulations: Currently, a business growing and selling medicinal cannabis would be subject to the following requirements:

- Cultivators must be located in the M District;
- The maximum cultivation allowed in the City is capped at 180,000 sf of canopy;
- Cultivation must occur indoors;
- Cultivation is not a retail use and no retail sales are allowed at the cultivation businesses.
- Retail is limited to 6 locations, and 6 Retailers have been approved;
- Retail can only occur in commercially zoned districts;
- Retail and Cultivation businesses must be located at least 600 feet from a K-12 school; and
- Retailers must be located at least 600 feet from another cannabis Retailer.

Based on these local requirements, a cannabis use with cultivation and retail components could not currently locate in the city since they have different location requirements. Currently, no additional retail uses are permitted because quota of six uses has already been met. Finally, some of the existing locations are not eligible for Retail or Cultivation use because of their proximity to a school or another Retailer.

Proposed Regulations: The proposed regulations are difficult to identify, since they are subject to change. Some of the following issues which will be addressed are:

- The number of Retailers in Berkeley;
- The location of Retailers, Cultivation and Distribution uses in Berkeley; and
- Any buffers from sensitive uses.

Until these regulations are developed, it will be difficult to determine how cannabis uses at existing nurseries might conform or conflict with final ordinance language.

Issues Considered by Staff

Based on these three topics, City staff has identified several implications of permitting existing conventional non-cannabis nurseries to add cannabis uses or convert to a Cannabis Nursery:

1. **Appropriate Location:** Most conventional nurseries are located either in or adjacent to residential areas. A CN could have more impacts (lighting, traffic, odors) on surrounding uses than the existing conventional nurseries.

- Consideration should be given to whether these uses should be permitted at any conventional nursery regardless of location or whether the location of the nursery should be considered.
2. Impacts of cannabis uses. Staff is not aware of other retail cannabis nursery uses in urban areas. Therefore, it is difficult to anticipate the impacts this use might have on a neighborhood. Performance standards would need to be developed to address potential impacts.
 3. Uses on site. Impacts from the use could vary greatly based on the types and extent of the uses allowed on the site.
 4. Expansion of a non-conforming use. Based on the Zoning Ordinance, the addition of cannabis production or sales would be considered a change in use to a conventional nursery. If the nursery is non-conforming due to its location in a Residential district, this change would require a Use Permit in order to be approved.
 5. Conformity with State regulations. Since this use would be a Berkeley construct, staff would need to confirm that the use will conform to State regulations, particularly the requirement for separate, distinct areas for cannabis sales and cultivation.
 6. Timing with local cannabis regulations. Allowing this use before regulations for retail and cultivation uses are adopted by Council could affect how future local cannabis regulations are implemented. For example, if the Council were to allow two more Retailers in the future, and two CNs operating on a retail basis are already established, no additional Retailers could be established.
 7. Exposure to cannabis. The introduction of cannabis uses into previously non-cannabis businesses, such as an existing nursery, could conflict with efforts to reduce children's exposure to cannabis products and advertising.

CONCLUSION

Staff recommends that the Planning Commission consider whether existing nurseries should be allowed to sell cannabis products, and if so, whether this should be done in advance of Council approval of other cannabis regulations for Retailers and Cultivators.

If the Commission wants to consider changes to the BMC and Zoning Ordinance to allow for this kind of use, the Commission should give staff direction on the type of language to include in the ordinance. Staff would then conduct public outreach that would inform development of ordinance language to be considered at a future meeting or public hearing.

ATTACHMENTS

- A. Council referral (July 25, 2017)
- B. Map of existing conventional nurseries and school buffer zones
- C. Graphic of potential retail cannabis site

Minutes from the Planning Commission regarding Retail Nurseries

APPROVED MINUTES OF THE PLANNING COMMISSION MEETING MAY 16, 2018 (Partial)

10. Discussion: Council Referral: Allowing Existing Nurseries to incorporate Cannabis Sales

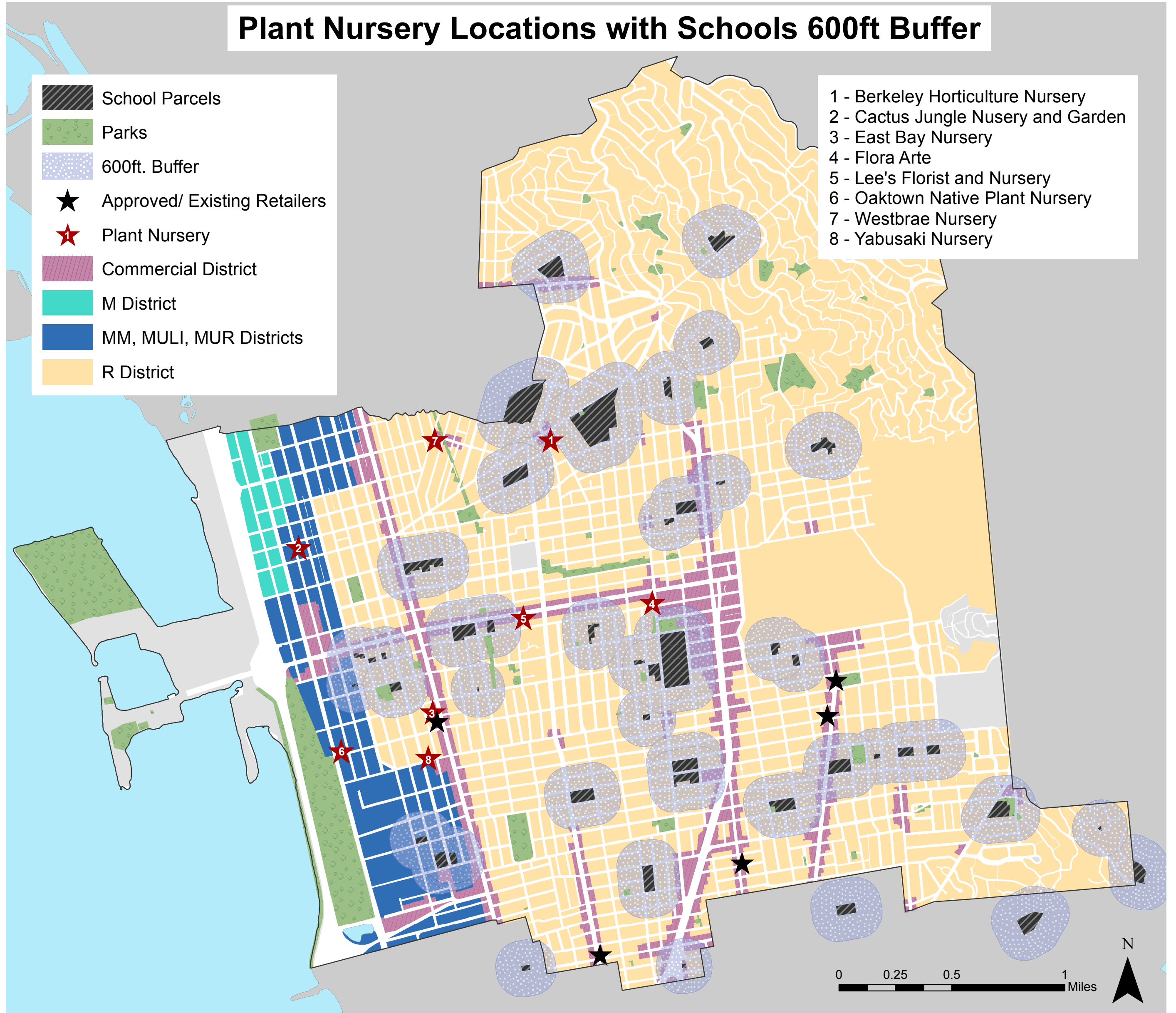
Staff reviewed the issues and concerns of considering allowing existing nurseries to incorporate cannabis retail sales, including: location of existing nurseries, conformity with state regulations, and conformity with local regulations. The Planning Commission discussed this issue and unanimously decided to not take this issue up until the Council provides more clarity including a decision on the quota for retail licenses and the location of retail licenses.

Public Comments: 2 speakers.

Plant Nursery Locations with Schools 600ft Buffer

- School Parcels
- Parks
- 600ft. Buffer
- Approved/ Existing Retailers
- Plant Nursery
- Commercial District
- M District
- MM, MULI, MUR Districts
- R District

- 1 - Berkeley Horticulture Nursery
- 2 - Cactus Jungle Nusery and Garden
- 3 - East Bay Nursery
- 4 - Flora Arte
- 5 - Lee's Florist and Nursery
- 6 - Oaktown Native Plant Nursery
- 7 - Westbrae Nursery
- 8 - Yabusaki Nursery





PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

DECEMBER 5, 2018

Amendments to Allow Conversion of up to two Existing Nurseries into Cannabis Retail Nursery Microbusinesses

The Planning Commission, of the City of Berkeley, will hold a Public Hearing on the above matter, on **Wednesday, December 5, 2018**, at the North Berkeley Senior Center, 1901 Hearst Ave. (at Martin Luther King, Jr. Way), Berkeley, California (wheelchair accessible). The meeting starts at 7:00 p.m.

PROJECT DESCRIPTION: The proposed amendment to the City's Zoning Ordinance (Berkeley Municipal Code Title 23) would create definitions and development standards to allow up to two existing retail nurseries to convert into businesses which grow cannabis seeds and immature plants and sell them to the public (Retail Nursery Microbusiness). The new ordinance would add a Microbusiness subsection to Chapter 23C.25 (Cannabis Uses) and add definitions to Chapter 23F.04 (Definitions). The ordinance would:

1. Create definitions for Microbusiness and Retail Nursery Microbusiness;
2. Establish development standards for Microbusinesses; and
3. Establish development standards for Retail Nursery Microbusinesses, including:
 - a. Create a quota of two Retail Nursery Microbusinesses;
 - b. Subject businesses to a Zoning Certificate in commercial and manufacturing districts;
 - c. Require businesses located partially or entirely in a residential district to obtain a Use Permit as a change to a non-conforming use; and
 - d. Exempt businesses from cannabis Retailer buffers.

LOCATION: Citywide.

ENVIRONMENTAL REVIEW STATUS: The proposed changes would be exempt from the California Environmental Quality Act pursuant to Guidelines Section 15061(b)(3) because it can be seen with certainty that the proposed amendments to replace a standard nursery use with another type of nursery use would not have a significant effect on the environment. Any proposed discretionary project would be subject to CEQA review. No changes to development potential are proposed.

PUBLIC COMMENT & FURTHER INFORMATION

Comments may be made verbally at the Public Hearing, and in writing before the hearing. Written comments or questions concerning this project should be directed to:

Alene Pearson
Planning Commission Secretary
City of Berkeley
Land Use Planning Division
1947 Center Street, Berkeley, CA 94704 Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7490
E-mail: planning@ci.berkeley.ca.us
E-mail: apearson@CityofBerkeley.info
Telephone: (510) 981-7489

1947 Center Street, 2nd Floor
Berkeley, CA 94704

To assure distribution to Commission members prior to the meeting, ***correspondence must be received by 12:00 noon, seven (7) days before the meeting.*** For items with more than ten (10) pages, fifteen (15) copies must be submitted to the Secretary by this deadline. For any item submitted less than seven (7) days before the meeting, fifteen (15) copies must be submitted to the Secretary prior to the meeting date.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. Agendas are also available on the Internet at: www.ci.berkeley.ca.us.

FURTHER INFORMATION

Questions should be directed to Alene Pearson, at 981-7489, or apearson@CityofBerkeley.info.



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: December 5, 2018

TO: Members of the Planning Commission

FROM: Jim Frank, Associate Planner
Beth Thomas, Principal Planner

SUBJECT: Bicycle Parking Standards

SUMMARY

Based on the 2017 Berkeley Bicycle Plan, the City's Department of Public Works is proposing that the Planning Commission consider incorporating standards for bicycle parking into the Zoning Ordinance. More robust bicycle parking would increase the supply of end-of-trip bicycle facilities, which are integral to making bicycling a viable mode of transportation in the City of Berkeley. This report introduces the 2017 Bicycle Master Plan and provides information on how proposed bicycle parking standards were developed. The Planning Commission is asked to review the materials and discuss possibility of adding bicycle parking requirements to development standards in the Zoning Ordinance.

BACKGROUND

The Zoning Ordinance provides auto and bicycle parking standards; however, auto parking standards appear in all districts whereas bicycle parking standards appear only in chapters pertaining to non-residential districts. The 2017 Berkeley Bicycle Plan, adopted by City Council on May 2, 2017, provides recommended bicycle parking standards that would apply to development in all districts.

Current Parking Regulations

Currently, non-residential districts regulate bicycle parking through Section 23E.28.070 (*Bike Parking*). This section sets general bicycle parking standards for commercial, manufacturing and mixed uses. Proposed parking requires approval of location and type from the City Traffic Engineer and Zoning Officer. The section reads:

Except in C-E and C-T Districts, Bicycle Parking shall be provided for new floor area or for expansions of existing industrial, commercial, and other non-residential buildings at a ratio of one space per 2,000 square feet of gross floor area.

2017 Berkeley Bicycle Plan

In 2017, the City adopted a new bicycle plan, which contains many policies to promote bicycle parking in all districts. It includes the following policies.

Policy D-2: Through good design practices, continue to expand citywide bike parking supply including short-term and long-term facilities for both commercial and residential land uses.

Policy OM-2: Maintain bicycle parking.

The purpose of the bicycle parking regulations is to increase the amount of bicycle parking to ensure that there is adequate supply of parking for those using a bicycle as a means of transportation. The availability of safe and secure bicycle parking is a key determinant in allowing residents and visitors to choose bicycling over other transportation options.

The 2017 Berkeley Bicycle Plan proposed bicycle parking standards for various land uses after extensive public outreach. These standards are summarized in Appendix F to the 2017 Berkeley Bicycle Plan (see Attachment 1).

Developing Standards:

The bicycle parking standards and requirements recommended in the 2017 Berkeley Bicycle Plan are based on an extensive review of similar cities in terms of population, land area, population density, and bicycle mode share. Staff also reviewed cities with different characteristics (smaller, larger, denser, etc.) to understand the differences in parking requirements. Of comparison cities, staff observed the following notable requirements:

- Bicycle parking requirement for new development
- Bicycle parking requirement for renovations
- Requirement of locker and shower facilities for large office development projects
- Requirement of bicycle parking for large public events

Attachment 2 provides a summary of best practices from other cities.

Bicycle parking recommended in the 2017 Berkeley Bicycle Plan closely align to the requirements set forth by the Association of Pedestrian and Bicycle Professionals (APBP). APBP recently released a guide for bicycle parking requirements based on land-use and activity combinations. The proposed requirements similarly set forth calculation rules based on land-use and activity to determine the minimum and total amount of both short- and long-term bicycle parking.

Types of Bicycle Parking

The 2017 Berkeley Bicycle Plan proposes standards for two types of bicycle parking: short-term and long-term.

Short-term bicycle parking encourages shoppers, customers, messengers, and other visitors to use bicycles by providing a convenient and readily accessible place to park bicycles for short periods. Short-term bicycle parking should serve the main entrance of a building and should be visible to pedestrians and bicyclists. Examples include various metal racks and inverted U racks fastened to the ground with anchors.

Long-term bicycle parking allows employees, students, residents, commuters, customers and others to park a bicycle for any time period in a secure and weather-protected place. Examples include lockers found at transit stations or in-building lockers or cages. Long-term parking is generally more expensive and requires more space, but is critical to encourage bicycling for commuting purposes when a bicycle must be left for the duration of a work shift. The draft regulations require a combination of short- and long-term parking that varies with the expected needs of bicyclists at various destinations.

Relationship to Other City Policy Documents

- *The Downtown Area Plan (DAP)* addresses bicycle parking as an important accessibility goal and notes the need for increased bicycle parking. One goal listed in the Access chapter of the DAP states:

Downtown BART Bike Station has helped meet some demand since it opened in 2010, but the demand for bicycle parking exceeds the supply near major destinations like the YMCA, central library, and blocks with high levels of commercial activity.

In addition, an action item under the previously stated goal requires *“the provision of secure bicycle parking facilities by new development projects (and major renovations), both public and private”*.

- *The Climate Action Plan* was adopted in 2009 with an ambitious target of reducing greenhouse gases by 33 percent below 2000 levels by 2020. It has goals to continue to expand and improve bicycle and pedestrian infrastructure as well as partner with BART and AC Transit to improve access to transit.
- *The City’s Complete Streets Policy*, adopted in 2012, calls for the development of a comprehensive, integrated transportation network that provides convenient travel for all users including cyclists and pedestrians.
- *The Streets and Open Space Improvement Plan (SOSIP)* goals include:

Policy 3.2: Bicycle Parking: Increase the supply of convenient, secure and attractive short-term and long-term bicycle parking throughout the Downtown Area, but especially near major destinations.

Public Engagement

As part of the 2017 Berkeley Bicycle Plan development, extensive outreach was conducted which included two public open houses, regular engagement with the Bicycle Subcommittee of the Transportation Commission, information tables at nearly a dozen local community events (e.g., farmers' markets, street fairs), outreach at the 2015 and 2016 Bike to Work Day events, a project website with an ongoing comment page, and a bicycling preference survey. Over 1,000 comments were received throughout the process, from gathering existing conditions through review of the public draft plan document.

The 2017 Berkeley Bicycle Plan was not presented to the Planning Commission for review and/or comment.

DISCUSSION

Currently the Zoning Ordinance provides bicycle parking standards for non-residential projects in non-residential districts. The 2017 Berkeley Bicycle Plan proposes bicycle parking standards that would apply more broadly. To provide an idea of how standards are currently applied to projects, Attachment 3 provides a summary of recent projects. These projects are representative mixed use and commercial use projects. The table shows the amount of bicycle parking that the Berkeley Municipal Code requires and the amount of bicycle parking associated with the project. The table also translates this information to bicycle parking standards (or ratios) that can be compared to guidance in the 2017 Berkeley Bicycle Plan.

Analysis of the table shows that in each project, more than two or three times the required bicycle parking spaces were provided. The proposed ratios are therefore in line with the amount of spaces that are already being provided.

Planning Commission is asked to discuss and provide direction on the following questions.

1. Are the bicycle parking standards in the 2017 Berkeley Bicycle Plan adequate?
2. Should bicycle parking standards apply in all residential districts?

NEXT STEPS

Based on Planning Commission direction, Public Works staff will work in collaboration with Planning staff to develop draft Zoning Ordinance amendments that will be considered by the Planning Commission at a future meeting.

ATTACHMENTS

1. Berkeley Bicycle Plan Appendix F: Minimum Bike Parking Requirements

2. Comparison of Bicycle Parking Standards Among Cities
3. Bicycle Parking Provided in Recent Use Permits

Appendix F: Bike Parking

Minimum Bike Parking Requirements

Uses listed below shall meet the district minimum bike parking requirement of two long term spaces and two short term spaces, unless otherwise stated in the table. In all cases, the greater of the requirements shall apply. No bike parking is required for uses not specified in this table. Applicants are encouraged to provide more bike parking than the minimums specified below.

NOTE: For mixed-use buildings, bike parking shall be required for each use.

USE	LONG-TERM PARKING REQUIREMENT	SHORT-TERM PARKING REQUIREMENT
General Commercial (retail sales, personal household services, food and alcohol service)	1, or 1 per 10,000 square feet of gross floor area	2, or 1 per 2,000 square feet of gross floor area
Community and Institutional Uses and Lodging, except schools and entertainment and assembly uses	1, or 1 per 10,000 square feet of gross floor area	2, or 1 per 15,000 square feet of gross floor area
Schools, Public or Private	1, or 4 spaces per classroom, or 1 per five students, or 1 per 2,500 square feet	2, or 2 spaces per classroom, or 1 per 3,500 square feet of gross floor area
Daycare or Child Care Centers	1, or 1 space per 25 students, or one per 6,000 square feet of gross floor area	2, or 1 space per 25 students, or 1 per 6,000 square feet of gross floor area
Office Uses	2, or 1 space per 2,500 square feet of gross floor area	2, or 1 space per 10,000 square feet of gross floor area
Industrial, Manufacturing and Wholesale Trade	1, or 1 space per 30,000 square feet of gross floor area	No Spaces Required
Dwelling Units (fewer than four) and Accessory Dwelling Units	No Spaces Required	No Spaces Required
Dwelling Units (five or more)	1 space per three bedrooms	2, or 1 space per 40 bedrooms
Group Living Accommodations (Dormitories, Fraternity and Sorority Houses, Rooming and Boarding Houses, Transitional Housing)	2, or 1 space per 2.5 bedrooms	2, or 1 space per 20 bedrooms
Nursing Homes and Senior Congregate Housing	1, or 1 space per 10 bedrooms	2, or 1 space per 30 bedrooms
Live/Work Units	No Spaces Required	2, or 1 space per 5 units

Comparison of Bicycle Parking Standards Among Cities

	APBP (Min Req.)		Oakland		Alameda		Cambridge (College town of simliar size as Berkeley)	
Use	Short Term	Long Term	Short Term	Long Term	Short Term	Long Term	Short Term	Long Term
Multi Family Dwelling	None	2, or 0.05 spaces/bedroom	2, or 1 space for each 20 dwelling units	No spaces required	2, or 0.05 spaces per bedroom	No spaces required	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
Senior Housing	2, or 0.10 spaces for each bedroom	2, or 0.05 spaces/bedroom	2, or 1 space for each 20 dwelling units	2, or 1 space for each 10 dwelling units.			None Required	None Required
Live/Work Units	N/A	N/A	2, or 1 space for each 20 dwelling units	2, or 1 space for each 4 dwelling units.	1 space per 20 units Minimum of 6 spaces	2, or 1 space per 4 units	one bicycle parking space for each ten (10) automobile parking spaces or fraction thereof	one bicycle parking space for each ten (10) automobile parking spaces or fraction thereof
Non Assembly Cultural (Library, government, etc.)	2, or 1 space for each 10 employees	2, or 1 space for each 10,000 s.f. of floor area spaces	Spaces for 2% of maximum expected daily attendance.	2, or 1 space for each 20 employees	1 space per 4,000 s.f. Minimum of 2 spaces	2, or 1 space per 10 employees	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
Assembly (Church, theatre, stadium)	2, or 1 space for each 20 employees	Spaces for 2% of maximum expected daily attendance	2, or 1 space for each 40 fixed seats, or one space for each 2,000 s.f. of floor area, whichever is greater	2, or 1 space for each 40 fixed seats, or one space for each 4,000 s.f. of floor area, whichever is greater	1 space per 40 fixed seats, or 1 per 2,000 s.f., whichever is greater Minimum of 2 spaces	2, or 1 space per 40 fixed seats, or 1 per 4,000 s.f., whichever is greater	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
Daycare or Child Care Centers	2, or 1 space for each 20 employees	2, or 1 space for each 20 students spaces	2, or 1 space per each 20 students of planned capacity	2, or 1 space for each 10 employees	1 space per 20 employees Minimum of 2 spaces	2, or 1 space per 20 students of planned capacity	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
Schools, Public or Private	2, or 1 space for each 10 employees	2, or 1 space for each 20 students of planned capacity	2, or 1 space per each 20 students of planned capacity spaces.	2, or 1 space for each 10 employees	1 space per 3,000 s.f., or 1 per 20 students of planned capacity, whichever is greater Minimum of 2 spaces	2, or 1 space per 10 employees and 1 per 5 students of planned capacity	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
Retail Grocery/ Food	2, or 1 space for each 12,000 s.f. of floor area	2, or 1 space per 2,000 s.f. of floor area spaces	2, or 1 space for each 2,000 s.f. of floor area	2, or 1 space for each 12,000 s.f. of floor spaces	1 space per 2,000 s.f. Minimum of 2 spaces	2, or 1 space per 10,000 s.f.	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
General Retail	2, or 1 space for each 12,000 s.f. of floor area	2, or 1 space per 5,000 s.f. of floor area spaces.	1 space for each 5,000 s.f. of floor area. Minimum requirement is 2 spaces	2, or 1 space for each 12,000 s.f. of floor spaces	1 space per 2,000 s.f. Minimum of 2 spaces	2, or 1 space per 10,000 s.f.	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
Office	2, or 1 space for each 10,000 s.f. of floor area	2, or 1 space per 20,000 s.f. of floor area	2, or 1 space for each 20,000 s.f. of floor area	2, or 1 space for each 10,000 s.f. of floor spaces.	1 space per 2,500 s.f. Minimum of 2 spaces	2, or 1 space per 10,000 s.f.	one bicycles space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
Manufacturing and Production	2, or 1 space for each 15,000 s.f. of floor area	Number of spaces to be prescribed by the Director of City Planning.	No spaces required.	2, or 1 space for each 15,000 s.f. of floor area	2 spaces at each public entrance Minimum of 2 spaces	2, or 1 space per 8,000 s.f.	one bicycle space or locker for each two dwelling units or portion thereof	one bicycles space or locker for each two dwelling units or portion thereof
In most cases the minimum is two spaces as shown in "2, or"								

Comparison of Bicycle Parking Standards Among Cities

Use	APBP (Min Req.)		Oakland		Alameda		Cambridge (College town of simliar size as Berkeley)	
	Short Term	Long Term	Short Term	Long Term	Short Term	Long Term	Short Term	Long Term

Bicycle Parking Provided in Recent Use Permits						
Address	Address	BMC Required Parking	Actual Short Term Provided	Actual Long Term Provided	New Regulations: Short Term Parking	New Regulations: Long Term Parking
2009	Addison Street	14	26	45	2	15
2072	Addison Street	1	0	12	3	27
2028	Bancroft	17	0	37	2	11
2538-42	Durant	19	0	32	2	21
2067	University	16	0	48	2	21
2720	San Pablo	14	10	36	2	29
2701	Shattuck	14	0	44	2	19
2597	Telegraph	13		48	2	16
2902	Adeline	2	10	56	4	19



Office of the City Manager

PUBLIC HEARING
November 27, 2018

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Economic Development Manager
Timothy Burroughs, Director, Planning & Development Department
Subject: Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses

RECOMMENDATION

Conduct a public hearing and adopt the first reading of an ordinance amending the Berkeley Municipal Code to streamline and clarify the permitting process for small businesses in commercial districts by:

1. Reducing the amount of parking required for businesses moving into existing commercial spaces;
2. Simplifying food service categories by reducing them from three to one;
3. Reducing permitting time and costs for small businesses that request a change of use in existing commercial spaces;
4. Clarifying the permit process for new business types that may not be specifically defined in the City's zoning rules;
5. Making 'commercial recreation' uses (such as bowling alleys, miniature golf courses or ping pong clubs) easier to permit in commercial districts; and
6. Streamlining the permit process and providing clear performance standards for restaurants that wish to serve beer and wine.

The ordinance would amend Berkeley Municipal Code Chapters 23E.16, 23E.36, 23E.40, 23E.44, 23E.48, 23E.52, 23E.56, 23E.60, 23E.64, 23E.68, and 23E.98.

SUMMARY

On April 25, 2017, the City Council adopted a slate of referrals sponsored by Councilmember Hahn under the umbrella of a "Small Business Support Package" (see Attachment 2). On May 15, 2018, in response to the 2017 referral, Council referred to the Planning Commission a set of six recommendations that would make the permitting process "easier, clearer and more streamlined" for new and expanding small businesses (Attachment 3). The Planning Commission considered the recommendations in the context of current zoning regulations and General Plan objectives and developed a set of proposed Zoning Ordinance amendments for City Council consideration.

FISCAL IMPACTS OF RECOMMENDATION

The proposed Zoning Ordinance amendments are designed to streamline the permitting process for small businesses in commercial districts. Changes are expected to encourage business activities and therefore may result in a modest increase in business license tax and sales tax revenues.

CURRENT SITUATION AND ITS EFFECTS

Berkeley's Zoning Ordinance has evolved over decades to reflect the changing landscape of property development and land use. Its requirements guide the City's growth while preserving its distinctive character. Berkeley has nine commercial districts, each with a unique set of zoning regulations that reflect neighborhood and community needs and ensure that the purposes of the individual districts are met. One unifying theme in all commercial districts is the value of small, locally owned businesses, which are an integral part of Berkeley's history and culture.

City Council referred to the Planning Commission a set of six recommendations that would shorten and simplify the permitting process for small businesses wanting to locate in Berkeley's commercial districts. City staff researched recommendations in the context of current zoning regulations, business case studies, existing conditions in commercial districts, and purposes of the General Plan. Findings were presented to the Planning Commission for consideration. The Planning Commission analyzed materials, considered public input, and directed staff to develop a set of Zoning Ordinance amendments that benefit smaller businesses and improve the permitting process (Attachment 1).

Planning Commission Recommendations

The Planning Commission considered modifications to Berkeley Municipal Code (BMC) Chapters 23E.16, 23E.36, 23E.40, 23E.44, 23E.48, 23E.52, 23E.56, 23E.60, 23E.64, 23E.68, and 23E.98 on June 20, 2018, July 18, 2018 and October 3, 2018. At its October 3, 2018 meeting the Planning Commission held a public hearing and recommended by unanimous vote a set of modifications to the Zoning Ordinance. The ordinance modifications are summarized below. For a detailed discussion of technical edits to the Zoning Ordinance, see the October 3, 2018 Planning Commission Staff Report (Attachment 4). Minutes from this meeting are provided as Attachment 5.

- 1. Remove additional parking requirement associated with a "change of use" when a new business moves into an existing commercial space.** When a new business moves into an existing commercial space, it must provide additional off-street parking if the new use requires more parking than the previous use. This change is triggered solely by use and does not involve a change in square footage and/or modifications to the building exterior. This requirement results in added costs to new businesses in the form of required parking waivers and/or leased parking spaces.

This modification will provide relief to restaurants and medical offices, which have traditionally had higher parking requirements than other retail uses. This modification will make existing commercial spaces more attractive to small businesses.

Commercial districts affected: C-1 General Commercial, C-N Neighborhood Commercial, C-NS North Shattuck, C-SA South Area, C-SO Solano and C-W West Berkeley

- 2. Create one “Food Service Establishment” category to characterize restaurant uses.** The existing three food categories, Carry Out Food Store, Quick Service Restaurants and Full Service Restaurant, are an artifact of quotas that once regulated the types and numbers of restaurants allowed in the various commercial districts. The proposed consolidation of restaurant categories into one classification known as “food service establishment” is fairly straightforward, as quotas were largely rescinded in 2015. Where differing regulations concerning food services required resolution, Planning Commission generally recommended that the simpler, less restrictive of the regulations be applied across categories.

To account for the new lower levels of discretion associated with Food Service Establishments, the Planning Commission requested that the Notice of Administrative Decisions for AUPs be mailed to property owners and residents within a 300-foot radius of subject properties instead of the current practice of mailing to the immediately adjacent property owners and tenants.

This modification will provide relief to small businesses by simplifying the Zoning Ordinance and providing applicants with clarity during the permitting process and as market forces lead to changes in food service types. In some cases, this modification will shorten the permitting process, resulting in time and cost savings.

Commercial districts affected: All

- 3. Reduce level of discretion associated with “change of use” from a UP(PH) to an AUP for businesses moving into existing commercial spaces.** “Changes of use” for retail businesses wanting to locate in existing commercial spaces can sometimes require a UP(PH). Under existing zoning, the same use may only require an AUP if the commercial space is new. This inconsistency occurs with commercial spaces larger than 3,000 or 5,000 square feet, depending on the district. Requiring a UP(PH) adds time and cost to the permitting process and can make existing commercial spaces difficult to lease.

This modification provides relief to businesses and property owners by reducing permitting costs and permitting time and removes uncertainty by clarifying the Zoning Ordinance. It also makes existing commercial spaces more attractive to businesses, especially those that are larger than 3,000 square feet in size.

Commercial districts affected: C-1, C-E, C-N, C-NS, C-SO and C-SA

- 4. Reduce level of discretion needed to approve a “use deemed compatible” from a UP(PH) to an AUP in Neighborhood Commercial districts.** Business models that combine retail with entertainment, recreational activities, or other complementary uses can be challenging to align with existing use classifications in the Zoning Ordinance. In the Neighborhood Commercial districts, experiential retail business models require Zoning Officer approval of a “use deemed compatible” through the UP(PH) process. The higher level of discretion adds time and cost to the permitting process.

This modification provides relief to businesses with innovative business models by reducing permitting time and costs. It also helps retain existing businesses who want to expand services in order to meet the changing needs of the community.

Commercial districts affected: C-E, C-N, C-NS, C-SA, and C-SO

- 5. Apply C-DMU regulations for Commercial Recreation Centers (CRCs) to Avenue Commercial Districts and require AUPs for CRCs in the Neighborhood Commercial Districts.** In the C-DMU, CRCs are allowed with the following permits:

Size Threshold (square feet)	Permit Required
Under 5,000	ZC
5,000 – 10,000	AUP
Over 10,000	UP(PH)

In most other commercial districts, CRCs require a UP(PH), regardless of the size of the commercial space. CRCs provide benefits to commercial districts and draw customers both regionally and locally. Using a tiered permitting structure will simplify the permitting process for smaller sized CRCs.

The Planning Commission discussed size thresholds at multiple meetings in order to identify appropriate levels of discretion for CRCs. Their final recommendation applies C-DMU thresholds to Avenue Commercial districts and requires AUPs for CRCs of all sizes in Neighborhood Commercial districts. This recommendation was intended to provide an increased level of discretion in Neighborhood Commercial districts. Staff has included a technical amendment to this recommendation, provided as Attachment 6 (Table of CRC Permit Thresholds), to ensure CRCs in Neighborhood Commercial districts require more discretion than CRCs in Avenue Commercial districts.

This modification provides a simpler permitting process to CRCs wanting to establish in Berkeley. The tiered permitting structure benefits smaller businesses by taking commercial space size into consideration. Smaller businesses would require lower levels of discretion, thereby reducing start-up costs and shortening permitting timelines.

Commercial districts affected: All except C-DMU

- 6. Reduce level of discretion for Food Service Establishments serving beer and wine incidental to seated food service from an AUP to a ZC.** Currently, an AUP (with Conditions of Approval) is required when a restaurant desires to serve beer and wine. This local discretion is redundant because alcohol service is regulated through the State's Alcohol Beverage Control (ABC) Department, which already imposes licensing standards and noticing to the public during the application process, and provides opportunity for local input from the Police Department on the conditions imposed on that license. Under this change, the City's permit process would also continue to include standard conditions of approval, currently tied to AUPs, which would instead be added to the Zoning Ordinance as performance standards applicable to all such uses.

This modification will benefit restaurants that provide seated food service. It will reduce permitting costs and reduce redundant city requirements that are already enforced and required by the State.

Commercial districts affected: All

The Planning Commission requested additional public outreach to inform the public about tonight's Council's hearing. In response, the City released a "Berkeley Considers" survey that both announced this agenda item and gathered input from community members.

BACKGROUND

On April 25, 2017, the City Council referred to the City Manager the preparation of a package of programs and policies to support the establishment of new, and sustainability of existing, small and locally owned businesses. The strategies that City Council asked staff to analyze and implement included "streamlining of zoning, permitting and licensing requirements and processes for small/local businesses and not-for-profits, to reduce associated costs and delays" and reducing levels of discretion. In City Council's annual referral prioritization exercise conducted in May 2017, the item was ranked as the Council's top priority among the referrals not pertaining to housing.

During summer and fall of 2017, Office of Economic Development (OED) staff conducted significant outreach and research on Berkeley's small businesses and presented its findings at a City Council Worksession on January 16, 2018¹. Over the first quarter of 2018, OED and Planning Department staff collaborated to identify potential modifications to the Zoning Ordinance that would streamline the review process for small businesses. OED Staff also consulted with business district network leaders and numerous individual owners and operators of Berkeley's small businesses for their input. OED and Planning staff presented a set of recommendations to City

¹ See *Economic Development Worksession, Small Business Support*.
https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx

Modifications to the Zoning Ordinance to Support Small Businesses

PUBLIC HEARING
November 27, 2018

Council in a report on May 15, 2018. City Council referred these recommendations to Planning Commission.

The Planning Commission considered this item at three public meetings between June and October 2018. Discussions primarily focused on current regulations, permit history, and existing conditions in commercial districts with specific attention paid to levels of discretion, permitting thresholds, parking requirements and differences between Avenue Commercial and Neighborhood Commercial districts.

ENVIRONMENTAL SUSTAINABILITY

Small businesses contribute to sustainable transportation and consumer behavior by providing opportunities to shop in commercial districts that are accessible by foot, bicycle and transit. The continued pursuit of environmental sustainability goals, as well as the programs and public policies that encourage that pursuit, represents a core economic strength for Berkeley and a competitive advantage of the City and the region.

RATIONALE FOR RECOMMENDATION

The goal of these Zoning Ordinance amendments is to simplify and streamline the permitting experience for small businesses, which can in turn enhance the quality of commercial district offerings, help fill vacant storefronts, and generate more local and sustainable economic opportunities. Berkeley's commercial districts, and the small businesses that comprise them, are vital to the City's fiscal, social and civic wellbeing. These Zoning Ordinance amendments are designed specifically to support small independent operators seeking to invest and activate commercial districts and will provide the community with needed goods and services.

ALTERNATIVE ACTIONS CONSIDERED

Planning Commission considered a range of options with respect to levels of discretion, permitting thresholds, parking requirements and other various changes that benefited small business. The recommendations presented in this report address the goals of City Council's referral.

CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534
Timothy Burroughs, Director, Planning & Development, (510) 981-7437

Attachments:

1. Zoning Ordinance Amendment to Modify Berkeley Municipal Code Sections 23E.16.040.A, 23E.28.130, 23E.36.030.A, 23E.36.080.B, 23E.40.030, 23E.40.080.B, 23E.44.030, 23E.44.040.A, 23E.48.030, 23E.48.080.B, 23E.52.030, 23E.52.060.D, 23E.52.080.B, 23E.56.030.A, 23E.56.060.C, 23E.60.030, 23E.60.060.D, 23E.60.080.B, 23E.64.030.A, 23E.64.080.B, 23E.64.090.H, 23E.68.030.A, 23E.68.040, 23E.68.090.C, and 23E.98.050 to modify permitting regulations for businesses in commercial districts.
2. Small Business Support package referral, April 25, 2017

Modifications to the Zoning Ordinance to Support Small Businesses

PUBLIC HEARING
November 27, 2018

3. Zoning Ordinance modification referral, May 15, 2018
4. Planning Commission Staff Report from October 3, 2018
5. Final Minutes from October 3, 2018 Planning Commission Meeting
6. Table of Proposed CRC Permit Thresholds
7. Public Hearing Notice

Berkeley Considers Survey Results on Zoning Ordinance Amendments to Support Small Businesses

https://www.opentownhall.com/portals/257/Issue_6947/survey_responses

HOME INFO SIGN IN HELP

f in

139 **Should the Council adopt an Ordinance to streamline and clarify the permitting process for small businesses in commercial districts by making amendments related to parking, food service categories, change of use, new business types, recreational uses, and standards for serving beer and wine?**

Introduction Feedback **Your Response** Outcome

Demographics Map Filter Download

80 responses

Summary Responses (80) Survey

Should the Council approve this agenda item?

	Response Percent	Response Count
Yes	93.8%	75
No	2.5%	2
Other/see comments	3.8%	3

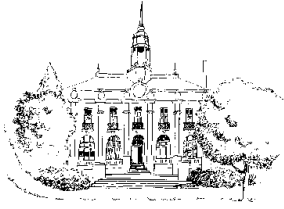
Is there anything you would like the Council to consider regarding this agenda item?

Answered : 48
Skipped : 32

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Page 1 of 1
Kriss Worthington

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CONSENT CALENDAR

November 27, 2018

To: Honorable Mayor and Members of the City Council
From: Councilmember Kriss Worthington
Subject: Short Term Referral to Expedite Components of the More Student Housing Now Resolution, and budget referral to the annual appropriation ordinance adoption

RECOMMENDATION:

Short term referral to the City Manager and the Planning Department to promptly move forward with components of the More Student Housing Now Resolution that do not require additional CEQA review, amend existing City ordinances and policies that prevent the implementation of SB 1227, and provide a budget referral to the annual appropriation ordinance adoption that would allocate the necessary resources as determined by the Planning Staff.

BACKGROUND:

This referral is intended to expedite the implementation of particular components of the More Student Housing Now Resolution. The Planning Staff have identified the conversion of second-floor commercial spaces to residential units, the expansion of car-free housing, and the creation of ground floor residential units as not requiring additional CEQA review. Therefore, the Planning Commission should be given the opportunity to vote on these policies at the earliest possible date. This Referral would also allow the City Council to approve a budget based on Planning Staff determination of needed resources for consultants and/or CEQA compliance.

Senator Nancy Skinner introduced and secured the passage of SB 1227, which “requires a density bonus to be provided to a developer that agrees to construct a housing development in which all units in the development will be used for students enrolled full-time at an institution of higher education.” This bill was created with both the City of Berkeley and UC Berkeley in mind, but existing City law may restrict the implementation of SB 1227. Therefore, the Council should recommend that the City of Berkeley make any administrative or ordinance changes necessary in order to take advantage of SB 1227. Doing so would not require additional CEQA review and would help actualize elements of the More Student Housing Resolution.

FINANCIAL IMPLICATIONS:

Budget referral to be determined by Planning Staff recommendation. Preliminary staff report suggested \$250,000

ENVIRONMENTAL SUSTAINABILITY: No negative impact and consistent with city standards.

CONTACT PERSON: Councilmember Kriss Worthington 510-981-7170
Holden Valentine 516-282-5400

Pearson, Alene

Subject: Supporting modifications to the zoning ordinance

From: Heather Haxo Phillips <heather@adelineyoga.com>

Date: November 16, 2018 at 7:49:39 PM PST

To: "council@cityofberkeley.info" <council@cityofberkeley.info>, "Klein, Jordan" <jklein@cityofberkeley.info>, "Manager@cityofberkeley.info" <Manager@cityofberkeley.info>

Subject: **Supporting modifications to the zoning ordinance**

Hello to the Berkeley City Council and our City Manager,

I am writing on behalf of the Lorin Business Association regarding the November 27 Council item recommending modifications to the zoning ordinance to streamline permitting for small businesses.

The Lorin Business Association enthusiastically supports the proposed changes to the zoning ordinance.

Our LBA members and board leadership have provided input and feedback in every step of the process. Including:

- being interviewed by staff of the Office of Economic Development and the Planning Department
- discussing the issues with City staff at our Lorin Business Association meetings
- looking at drafts of the proposed modifications and providing feedback
- providing input directly to Timothy Burroughs and Jordan Klein
- providing feedback at multiple BBDN Meetings (Berkeley Business District Network)
- attending meetings of the Planning Commission where we gave public comment multiple times

The work that has gone into crafting these ordinances has been thoughtful and thorough. Frankly, the whole process has been impressive. All parties have taken their task very seriously. In particular, City Staff and the Planning Commissioners have embodied their role as civil servants in the best way possible. Conversations have been productive, thorough and creative. Many questions have been asked, many issues have pondered, many solutions vetted. Over the last year, dozens of our City's best thinkers have engaged in clear headed discussion and detailed research which has lead to the six straightforward recommendations that you have in front of you.

I urge you to accept these recommendations as they are written, and to accept them without delay. They will make a huge positive impact in the Lorin District, and around all of Berkeley. I feel that the businesses in the Lorin district have been listened to. The proposed changes reflect our needs. And we need these changes to be implemented as soon as possible.

We in South Berkeley also urge you to encourage further work on zoning ordinance changes. The 6 proposed changes are only the beginning. Our independent businesses are in need of further support. There are many important issues that have been discussed by the Office of Economic Development, the Planning Department, the Planning Commission, BBDN and the City Council's Ad-Hoc committee supporting small business. The many important ideas on the table need more discussion and implementation - sooner rather than later. We urge the City Council to keep the support of independent businesses as a Council priority. Please keep doing this important work, and keep implementation schedules moving. Timing is of the essence, especially in vulnerable commercial districts as the Lorin.

We appreciate the opportunity to write this letter of support, and look forward to seeing the modifications be approved.

Sincerely,
Heather Haxo Phillips
Board Member
Lorin Business Association

Heather Haxo Phillips
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"Illuminated emancipation, freedom, unalloyed and untainted bliss await you, but you have to choose to embark on the inward journey to discover it."
- BKS Iyengar