

RESOLUTION NO. 2023 – 06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN BRUNO RECOMMENDING TO CITY COUNCIL TO NOT AMEND ARTICLE III (ZONING) OF TITLE 12 (LAND USE) OF THE MUNICIPAL CODE SECTION 12.300.070 TO REDUCE THE NUMBER OF COMMERCIAL CANNABIS RETAIL SALES (STOREFRONT SALES) IN THE TRANSIT CORRIDORS PLAN AREA MX-R, TOD-1, TOD-2, AND PD ZONES FROM THREE TO ONE AND TWO CANNABIS DISTRIBUTION FACILITIES IN THE M-1 ZONE AND NORTH OF SAN BRUNO AVENUE AND EAST OF EL CAMINO REAL, AND DELETING SECTION 4.70.070 AND MAKING A FINDING OF EXEMPTION UNDER CEQA

WHEREAS, At the January 24, 2023 City Council meeting, the City Council directed staff to prepare ordinance amendments to existing commercial cannabis regulations that would:

1. Reduce the total number of allowed businesses from a maximum of four to a maximum of two, with one being for distribution use only, and the second being retail and/or distribution; and
2. To remove the downtown (Central Business District) and The Shops at Tanforan from permitted locations for commercial cannabis operations.; and

WHEREAS, staff has completed the draft documents, which consist of amendments to Municipal Code Article III (Zoning) by amending Chapter 12.300 (Commercial Cannabis Operations); and

WHEREAS, the Planning Commission considered the proposed Municipal Code amendments relating to commercial cannabis storefront sales and distribution uses, at a public hearing held on February 21, 2023; and

WHEREAS, a Notice of Public Hearing was mailed on March 10, 2023, and duly noticed in the *San Mateo Times* with a one-quarter page notice on Saturday, March 11, 2023, for consideration of the proposed commercial cannabis ordinance amendment.

NOW, THEREFORE, BE IT RESOLVED by Planning Commission of the City of San Bruno, based on facts in the staff report, written and oral testimony, and information presented makes the following findings:

1. The Planning Commission hereby finds that the proposed amendments to the Municipal Code (Zoning Ordinance) to amend provisions for commercial cannabis retailers and distribution uses does not present facts to substantiate a change to the existing ordinance.
2. The Planning Commission noted that the number of cannabis businesses and their locations can be limited to fewer allowed under the existing ordinance by the City Council through the Cannabis Operator's Permit selection process.

3. The Planning Commission affirmed their support for the existing cannabis ordinance as stated in Resolution 2022-10 (their resolution of support for the existing ordinance). The Planning Commission included in their recommendation to the City Council in Resolution 2022-10 to further expand the locations where retail cannabis businesses could initially be conditionally permitted uses to include the Bayhill Shopping Center and Towne Center properties.
4. The Planning Commission hereby finds that the existing Commercial Cannabis Regulations are consistent with the following San Bruno General Plan policies:

LUD-A: Promote development of El Camino Real as a boulevard with a series of “districts”, with distinctive uses weaved together with unified streetscape, sidewalk improvements, and pedestrian amenities. Encourage residential development to promote walkability and transit use.

The allowance for cannabis sales or distribution in vacant buildings on El Camino Real will allow for new distinctive uses that will support existing commercial businesses along the corridor, allowing for the future creation of districts along El Camino Real.

LUD-C: Stimulate reuse and intensification with multi-use, transit-oriented development along El Camino Real and San Bruno Avenue. Provide amenities serving pedestrians, bicyclists, and transit riders along these corridors.

The allowance for the reuse of buildings on El Camino Real and San Bruno Avenue by allowing cannabis sales or distribution will serve to stimulate business activity along these corridors.

LUD-54: Support infill development in northern Montgomery Avenue area (east of the Caltrain Tracks) with business and industrial uses, while permitting a broader mix of uses. Capitalize on regional access through the BART and Caltrain systems to market office and industrial space to Bay Area businesses.

The allowance for cannabis distribution use in the M-1 zone, which includes Montgomery Avenue, adds a new use to the zone which is consistent with the goal of permitting a broader mix of uses.

ED-B: Provide development opportunities that allow for establishment of jobs within San Bruno, commensurate with local residents’ education and skills.

The allowance of cannabis uses will provide for additional local jobs within San Bruno.

5. The Planning Commission hereby finds that the proposed amendments to the Zoning Ordinance are not required for public necessity, convenience, and general

welfare because the allowance for cannabis uses in the city will provide for the purchase of products in the community rather than in neighboring communities.

6. The existing cannabis ordinance will not be detrimental to the health, safety, morals, comfort and general welfare of the Citizens of San Bruno.

WHEREAS, commercial cannabis regulations do not have the potential for creation of a significant environmental impact pursuant to the California Environmental Quality Act (CEQA), and as such are exempt from further environmental consideration per CEQA Guidelines Section 15061(b)(3). The commercial cannabis program involves relatively minor amendments to the Municipal Code to provide for a limited number of commercial cannabis retailers and/or distribution uses (two maximum), with such potential uses focused on portions of San Bruno Avenue and El Camino Real, where a wide range of retail uses are already permitted. Further, the anticipated location of such uses within existing buildings or lease spaces, combined with the regulatory requirements for commercial cannabis operations imposed by the city as part of the cannabis program, would not have the potential for creation of any potentially significant environmental impacts. Each individual commercial cannabis project would be subject to submittal of a Commercial Cannabis Operators Permit and Conditional Use Permit and would also be subject to potential environmental review; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Bruno, recommends to the City Council to not adopt the proposed amendments to the Zoning Ordinance amending Section 12.300.070, Development Standards, and deleting Section 04.70.070, Maximum Number of Authorized Cannabis Operators Permitted.

3/22/2023

Date

DocuSigned by:

Gerard Madden

Chair

ATTEST

DocuSigned by:

Michael Lauglin

Planning Commission Secretary

APPROVED AS TO FORM

DocuSigned by:

Trisha Ortiz

City Attorney

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I, Planning Commission Secretary, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of San Bruno this 24th day of February 2023 by the following vote:

AYES	Commissioners:	<u>Biasotti, Lethin, Durazo, Harman, Johnson, Kuhn</u>
NOES	Commissioners:	<u>Madden</u>
ABSENT	Commissioners:	<u>None</u>
RECUSED	Commissioners	<u>None</u>

Exhibit A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN BRUNO AMENDING ARTICLE III (ZONING) OF TITLE 12 (LAND USE) OF THE MUNICIPAL CODE BY AMENDING SECTION 12.300.070 TO LIMIT COMMERCIAL CANNABIS RETAIL SALES (STOREFRONT SALES) TO THE TRANSIT CORRIDORS PLAN AREA MX-R, TOD-1, TOD-2, AND PD ZONES, REDUCE THE NUMBER OF COMMERCIAL CANNABIS RETAIL SALES PERMITS FROM THREE TO ONE, AND ALLOW TWO CANNABIS DISTRIBUTION FACILITY PERMITS IN THE M-1 ZONE AND NORTH OF SAN BRUNO AVENUE AND EAST OF EL CAMINO REAL, AND DELETING SECTION 4.70.070 AND MAKING A FINDING OF EXEMPTION UNDER CEQA

THE CITY COUNCIL OF THE CITY OF SAN BRUNO DOES ORDAIN AS FOLLOWS:

Section 1. Based on the facts in the Staff Report, written and oral testimony, and exhibits presented, the City Council hereby makes the following findings of facts in support of the proposed Municipal Code amendments regarding establishment of commercial cannabis storefront sales and distribution operations:

1. The zoning code amendments were considered by the San Bruno Planning Commission on February 21, 2023 at a duly noticed public hearing. At the conclusion of the public hearing, the Planning Commission adopted Resolution No. 2023-XX- recommending that the City Council adopt the zoning code amendments modifying the zones in which commercial cannabis storefront sales and cannabis distribution facilities are conditionally permitted uses.
2. A notice of public hearing was duly posted for consideration of this proposed ordinance at the City of San Bruno City Council meeting of _____, 2023, and on said date, the public hearing was opened, held and closed.
3. The proposed ordinance is consistent with the General Plan of the City of San Bruno, including the following goals and policies:

LUD-A: Promote development of El Camino Real as a boulevard with a series of “districts”, with distinctive uses weaved together with unified streetscape, sidewalk improvements, and pedestrian amenities. Encourage residential development to promote walkability and transit use.

The allowance for cannabis sales or distribution in vacant buildings on El Camino Real will allow for new distinctive uses that will support existing commercial businesses along the corridor, allowing for the future creation of districts along El Camino Real.

LUD-C: Stimulate reuse and intensification with multi-use, transit-oriented development along El Camino Real and San Bruno Avenue. Provide amenities serving pedestrians, bicyclists, and transit riders along these corridors.

The allowance for the reuse of buildings on El Camino Real and San Bruno Avenue by allowing cannabis sales or distribution will serve to stimulate business activity along these corridors.

LUD-54: Support infill development in northern Montgomery Avenue area (east of the

Caltrain Tracks) with business and industrial uses, while permitting a broader mix of uses. Capitalize on regional access through the BART and Caltrain systems to market office and industrial space to Bay Area businesses.

The allowance for cannabis distribution use in the M-1 zone, which includes Montgomery Avenue, adds a new use to the zone which is consistent with the goal of permitting a broader mix of uses.

ED-B: Provide development opportunities that allow for establishment of jobs within San Bruno, commensurate with local residents' education and skills.

The allowance of cannabis uses will provide for additional local jobs within San Bruno.

4. The proposed ordinance has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and the San Bruno environmental review procedures and is determined to be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.
5. The proposed ordinance to establish provisions for commercial cannabis storefront sales and distribution uses will not be detrimental to the health, safety, morals, comfort and general welfare of the Citizens of San Bruno.

Section 2. Section 12.300.070 (Development Standards) of Chapter 12.300 (Commercial Cannabis Operations) of Article III (Zoning) of Title 12 (Land Use) of the Municipal Code is hereby amended to read as follows, with additions shown with underlines and deletions shown with strikethrough:

12.300.070 Development Standards.

All commercial cannabis operations shall comply with the following requirements, and the following applicable requirements of this Section shall be deemed conditions of all cannabis conditional use permit approvals. The Planning Commission and/or City Council may also impose any other development standards that do not conflict with the standards set forth below. Failure to comply with applicable requirement contained in this Code shall be grounds for revocation of any permit issued in compliance with this Code.

A. Underlying Zone Standards. The establishment of a commercial cannabis operation shall comply with all applicable City zoning site development standards of the zone in which the commercial cannabis operation is located, the building and construction codes, maximum occupancy loads, fire codes, and health and safety regulations in effect in the City, except as explicitly modified by this chapter. Non-conforming uses or properties must be brought into conformity with all applicable standards including, but not limited to, parking, landscaping, and signage.

B. Permitted Locations. Commercial cannabis operations shall only be permitted in the following zones:

1. Cannabis retailers shall be permitted only in:

- a. The following Transit Corridors Plan areas: (i) ~~the Central Business District (CBD),~~ ^{(ii)¹} the Transit Oriented Development - Medium Density Mixed-Use District (TOD-1), (ii) the Transit Oriented Development - High Density Mixed-Use District (TOD-2), (iii) Planned Development District (P-D) for Mills Park, and (iv) Planned Development District (P-D) for 111 San Bruno Avenue.

- b. The Multi Use - Residential Focus District (MX-R)

- c. ~~The Planned Development District (P-D) for the Shops at Tanforan Mall.~~

2. ~~One~~ Cannabis distribution facilities shall be permitted only in the M-1 zone and limited to the geographic area located north of San Bruno Avenue and east of El Camino Real.

C. Maximum Number. A maximum of ~~four~~two commercial cannabis operations shall operate in the City, with any combination of one cannabis retailers ~~(up to three)~~ or and up to two cannabis distribution facilities ~~(up to one)~~, as long as the total number of commercial cannabis operations does not exceed ~~four~~two.

D. Proximity to Sensitive Uses. No commercial cannabis operation shall be established or located within 600 feet of sensitive uses. The distance between any commercial cannabis operation and any sensitive uses shall be measured in a straight line, without regard to the boundaries of the City and intervening structures, from the nearest property line of the site containing the commercial cannabis operation to the nearest property line of the sensitive uses. ~~In the case of The Shops at Tanforan, the distance shall be measured from the perimeter of any individual lease space or store.~~

Section 3. Table 12.280-1: Permitted Uses in Mixed-Use Zoning Districts of Section 12.280.020 (Permitted Uses.) of Chapter 12.280 (Mixed-Use Zoning Districts) of Article III (Zoning) of Title 12 (Land Use) of the Municipal Code is hereby amended to add new lines under "Commercial Uses" to read as follows, with the remainder of Table 12.280-1 remaining unchanged:

Land Uses	CBD	TOD-S	TOD-1	TOD-2	CC	MX-R
Commercial Uses						
Cannabis retailer	-	-	C ⁴	C ⁴	-	C ⁴

Footnote 4: Subject to obtaining the necessary permits pursuant to Chapters 4.70 and 12.300.

Section 4. Section 4.70.070 (Maximum Number of Authorized Cannabis Operators Permitted) of Chapter 4.70 (Commercial Cannabis Operator Permit) of Title 4 (Licenses and Regulations) of the San Bruno Municipal Code is hereby deleted in its entirety.

Section 5. This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it is not a project and there is not a possibility that the ordinance may have a significant effect on the environment.

¹ Note: Text additions are shown underlined and text deletions are shown with a strikethrough.

Section 6. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of San Bruno hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 7. This Ordinance shall take effect and be in force 30 days after its adoption.

Section 8. The City Clerk shall publish this Ordinance according to law.

Rico E. Medina, Mayor

ATTEST:

Lupita Huerta, City Clerk

APPROVED AS TO FORM

Trisha Ortiz, City Attorney

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I hereby certify that the foregoing Ordinance No.
_____ was introduced on _____, 2023,
and adopted at a regular meeting of the San Bruno
City Council on _____, 2023, by the following
vote:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

RECUSE: COUNCILMEMBERS: _____

