

RESOLUTION NO. 973

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA INITIATING A ZONING TEXT AMENDMENT TO ENACT NEW ARTICLE 17.5 "MARIJUANA OPERATION OVERLAY DISTRICT (MO)" AND NEW ARTICLE 48 "MARIJUANA REGULATIONS" OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE AND TO AMEND OTHER RELATED PACIFICA MUNICIPAL CODE PROVISIONS, AND INITIATING A ZONING MAP AMENDMENT TO ESTABLISH A NEW MARIJUANA OPERATION OVERLAY DISTRICT (MO), AND RECOMMENDING CITY COUNCIL APPROVAL OF TEXT AMENDMENT TA-105-17 AND REZONING RZ-197-17

Initiated by: Planning Commission

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (the "Compassionate Use Act" or "CUA"); and

WHEREAS, on January 1, 2004, the California Legislature enacted the "Medical Marijuana Program Act" or "MMPA," to clarify the scope of the Compassionate Use Act, to establish a voluntary program for identification cards issued by counties for qualified patients and primary caregivers, and to provide criminal immunity to qualified patients and primary caregivers for certain activities involving medical marijuana, including the collective or cooperative cultivation of medical marijuana; and

WHEREAS, on October 9, 2015, Assembly Bills 243 and 266 and Senate Bill 643 (collectively, the "Medical Marijuana Regulation and Safety Act" or "MMRSA") were enacted to create a state regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana, the manufacturing of medical marijuana products, and physician recommendations for medical marijuana; and

WHEREAS, on June 27, 2016 Senate Bill 837 was enacted, which included a number of technical changes to the MMRSA, including renaming the act to the Medical Cannabis Regulation and Safety Act (the "MCRSA")

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64, known as the "Control, Regulate and Tax Adult Use of Marijuana Act" (the "AUMA"), under which a variety of non-medical marijuana businesses can operate subject to local ordinances and individuals may grow, possess and use limited amounts non-medical marijuana; and

WHEREAS, the CUA, MMPA, MMRSA, MCRSA, and AUMA are collectively known as the "State Marijuana Laws"; and

WHEREAS, the City's Zoning Regulations, codified in Chapter 4 of Title 9 of the Pacifica Municipal Code, do not contain provisions to expressly regulate marijuana-related activity, and the City thereby would risk losing local control to regulate marijuana-related activity according to the State Marijuana Laws if it does enact new regulations; and

WHEREAS, the Planning Commission desires to recommend to the City Council enactment of a new Article 17.5 "Marijuana Operation Overlay District (MO)" and new Article 48 "Marijuana Regulations" of Chapter 4 of Title 9 of the Pacifica Municipal Code to establish the number and type of permissible uses, locations, and operational standards for marijuana-related activity; and

WHEREAS, the Planning Commission desires to recommend to the City Council establishment of a new overlay zoning district in the City's Zoning Map, the Marijuana Operation Overlay District (MO), to establish and depict permissible locations for certain marijuana-related activity; and

WHEREAS, the Planning Commission desires to recommend to the City Council an express prohibition of all marijuana-related activity not expressly permitted in the new Article 17.5 "Marijuana Operation Overlay District (MO)" and new Article 48 "Marijuana Regulations" of Chapter 4 of Title 9 of the Pacifica Municipal Code; and

WHEREAS, various amendments to other zoning provisions are necessary to ensure consistency with the new zoning provisions regulating marijuana-related activity, including without limitation Article 3 "Establishment of Districts," Article 4 "R-1 Single-Family Residential District," Article 5 "R-1 Two-Family Residential District," Article 6 "R-3 Multiple-Family Residential District," Article 6.5 "R-3/L.D. Multiple-Family Density Residential District," Article 7 "R-3-G Multiple-Family Residential Garden District," Article 10 "C-1 Neighborhood Commercial District," Article 11 "C-2 Community Commercial District," Article 12 "C-3 Service Commercial District," Article 19 "Agricultural District (A)," Article 22 "Planned Development District (P-D)," Article 23 "General Provision and Exceptions," Article 27 "Projections into Yards," and, Article 31 "Home Occupation Permits" of Chapter 4 of Title 9 of the Pacifica Municipal Code;

WHEREAS, the City Council and Planning Commission held a joint study session to solicit public input on proposed marijuana regulations and provided direction to staff on March 6, 2017; and

WHEREAS, the Planning Commission held a study session to solicit public input on proposed marijuana regulations and locational standards and provided direction to staff on May 1, 2017; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed zoning text and map amendments contained in Text Amendment TA-106-17 and Rezoning RZ-197-17 on May 15 and June 5, 2017.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.
3. The proposed amendments recommended by the Planning Commission are consistent with the City's General Plan and Local Coastal Land Use Plan.

4. The Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines § 15061(b)(3) because the ordinance will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby intend to initiate enactment of a new Article 17.5 "Marijuana Operation Overlay District (MO);" a new Article 48 "Marijuana Regulations" of Chapter 4 of Title 9 of the Pacifica Municipal Code; amendments of other related Pacifica Municipal Code provisions; and, an amendment of the Zoning Map to establish a new Marijuana Operation Overlay District (MO).

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby recommend approval to the City Council of the City of Pacifica the zoning text amendments described in Text Amendment TA-106-17 and the zoning map amendment described in Rezoning RZ-197-17, included as Exhibits A and B to this Resolution.

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PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 5th day of June 2017.

AYES, Commissioners: BARINGER, CLIFFORD, COOPER, GORDON,
NIBBELIN

NOES, Commissioners: CAMPBELL

ABSENT, Commissioners: N/A

ABSTAIN, Commissioners: N/A

John Nibbelin, Chair

ATTEST:

Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:

Michelle Kenyon, City Attorney