

# MINUTES APPROVED AT THE PC MEETING ON NOVEMBER 16, 2023

## PLANNING COMMISSION REGULAR MEETING COUNCIL CHAMBERS, RICHMOND CITY HALL

Council Chambers  
October 5, 2023  
6:30 p.m.

### COMMISSION MEMBERS

David Tucker, Chair	Jen Loy	Vacant
Jonathan Harrison, Vice Chair	Alpa Agarwal	
Bruce Brubaker, Secretary	Vacant	

The regular meeting was called to order by Chair Tucker at 6:30 p.m.

### ROLL CALL

**Present:** Vice Chair Jonathan Harrison; Commissioner Bruce Brubaker, Jen Loy

**Absent:** Chair Tucker, Alpa Agarwal

### INTRODUCTIONS

**Staff Present:** Planning Staff: Community Development Director Lina Velasco, Planning Manager Hector Rojas, and Senior Assistant City Attorney James Atencio

### MINUTES –

July 6, 2023

**ACTION:** It was M/S/C (Loy, Brubaker) to approve July 7, 2023 draft meeting minutes, which carried by the following vote: 3-0-2 (Ayes: Tucker, Brubaker, Loy, Agarwal; Noes: None; Absent: Tucker, Agarwal).

[The Commission moved to the Brown Act]

### AGENDA

#### CONSENT CALENDAR –

Vice Chair Harrison said there were no Consent Calendar items on the Agenda.

#### BROWN ACT – Public Forum

No Public Comments for Non Agenda items.

[The Commission moved to the Consent Calendar]

### NEW BUSINESS

Vice Chair Harrison gave a brief overview of the Public Hearing policies and procedures.

## **MINUTES APPROVED AT THE PC MEETING ON NOVEMBER 16, 2023**

- 1. PLN23-284: Cannabis Ordinance Amendments PUBLIC HEARING** to consider Zoning Text Amendments to the City's Cannabis Ordinance (Richmond Municipal Code Section 15.04.610.270) to implement a Cannabis Equity Program by adding new retailer licenses, updating definitions, clarifying requirements around Cannabis business permits, and other related amendments. Various, owner; City of Richmond, applicant Planner: Lina Velasco Tentative Recommendation: Recommend Adoption to City Council

Community Development Director Lina Velasco introduced Kyle Tankard of SCI Consulting, who provided the staff's presentation for the Commission.

Kyle Tankard, Senior Consultant and Cannabis Policy Lead for SCI Consulting, explained that SCI has been collaborating with the Economic Development Commission and City Staff to implement Richmond's Cannabis Equity Program (CEP). Through this process staff has prepared amendments to the Richmond Municipal Code which include increasing the number of store front retail permits, add in new retail store front or delivery only permits, and allocate a portion of these new permits for equity applicants. The proposed amendments include updates to definitions, clarifies requirements around Cannabis business permits, and various other adjustments aimed at enhancing the regulatory clarity throughout the City's Cannabis Ordinance. In November 2019 City Council adopted Ordinance No. 16-19 which allowed for adult use cannabis activities, proposed two new non-storefront permits that was stricken by City Council, and City Council directed City staff to return with the Cannabis Equity Program which prioritizes the issuance of any new retailer licenses (storefront or non-storefront) to equity candidates. The Equity Program was adopted on December 7, 2021. City Council motioned on December 20, 2022 and directed staff to work with the EDC to research increasing retail cannabis locations. Three key factors considered in determining additional retail locations included population density, competition, and consumer demand. The common metric for retail locations is one retail location for every 15,000 to 20,000 people. With a population of 116-thousand people and using the common metric, Richmond can support three to five additional retail locations. Currently there are three existing retail locations. That's an average of one retail location per 38,000 residents. A chart was provided depicting nearby locations and their City's population and how many cannabis retail locations current exist. Next, the team created comparisons with local municipal communities for consideration of density and retail location. To assess the level of consumer demand within the City they looked at historical sales at the existing three retail locations and found an upward trend from 2016 to 2021. There was a significant drop in sales during 2022 and projection for 2023 indicates a continued decline. Despite the decline, sales remain healthy in all locations, which suggests healthy revenues for each store, even amidst an increase in competition. Staff came up with three expansion options. Conservative being two additional storefront locations with one being reserved for equity, Moderate which has two scenarios, three storefront retail locations with two reserved for equity; and two non-storefront retail locations, delivery only and both equity. The third is Aggressive with four storefront retail locations, three reserved for equity, and two non-storefront retail locations, delivery only and both equity. During the April 12, 2023 meeting the Economic Development Commission recommended that staff move forward with the Moderate expansion option, which aligns with the proposed zoning changes that are currently under consideration.

Commissioner Brubaker inquired if the downside to adding more retail locations had been considered. Some of that data might include an increase in police traffic, or harm to surrounding businesses. Mr. Tankard replied that data is available, and it goes both ways. There is a reduction in calls for police with given high security in place at the current retail location, but it is

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an area in which there is room to collect more data. Commissioner Brubaker asked Director Velasco if a used permit is granted to every licensee and if there have been any code compliance issues with existing cannabis locations. Director Velasco explained that the first process for all cannabis locations is to get a used permit from the Commission, the second requirement is to get an annual cannabis business permit. This gives staff, through code enforcement, an opportunity to ensure that all of the conditions are being applied and followed, such as taxes are paid, inspections have occurred, State licenses are current, and the onsite inspection occurs. In that process, staff has noticed that some of their regulations could be further clarified as to when they can and when they should deny a cannabis business permit. Some of the amendments in this Hearing reflects some of staff's recent experiences with those opportunities for compliance. If staff found a business that was significantly out of compliance, staff would return with a revocation of their use permit. The Cannabis Business Permit is one process that allows staff to ensure they follow the annual renewal process.

Commissioner Loy asked if over saturation were to occur, or problems with existing use holders, is there a process by which staff would hear police, mental health professionals or others, before they would allow them to apply for another use. Director Velasco explained that part of the use applicant process, all applicants are required to go through background checks. Additionally, provisions have been added to explain what would cause an applicant to be considered not a good choice. The equity program allows some effort to acknowledge that certain racial groups have been disproportionately represented in the criminalization of cannabis. Staff is doing outreach to enable those groups a path forward for getting into that type of industry. The police are involved in the reviewing process to avoid applicants with a history of violent crimes and review the applicants security plans. There is also a neighborhood compliance program to ensure they stay involved in their neighborhoods, as specific areas may have different concerns. Prior to coming before the Planning Commission, those neighborhood councils have been consulted in the process. Commissioner Loy commented that it's exciting to see the equity element in this program; her concern was in the process of ensuring staff acquired the data needed to have a successful program and make certain it was being used for those who were negatively impacted by the criminalization of cannabis, while also allowing opportunities to follow-up with code compliance. Commissioner Loy thanked staff for their work on the equity program, and the community who asked for it.

Commissioner Brubaker asked if there are any other programs in Richmond for equity based licenses. Director Velasco stated this is a different level of equity, however, the Commission and the community have been working at improving health outcomes in various communities that are disproportionately impacted by poor air quality, or poor water quality, poor climate resiliency. Richmond has a history of targeting focused efforts on improving some of those health inequities. This is the first license type that has an equity lens and it's focused. Commissioner Brubaker commented that this is type of a privilege in that there are a limited number of licenses awarded and makes it a benefit for the awardee. While liquor store licenses are an interesting example, they don't limit the number of licenses from a city government aspect. Community Development Manager Mr. Rojas explained that the City doesn't, however those alcohol licenses do have a maximum number allowed per tract to ensure that area is not over concentrated, with the caveat that the Commission can adopt findings of public convenience and assessment. Commissioner Brubaker expressed an interest in hearing about how the equity decision is made on an applicant, and who makes that decision. Director Velasco explained that the consultant, through working with the Economic Development Department, assisted in developing the Cannabis Equity program and can highlight some of the departments goals. Additionally, the city was successful in receiving a grant to fund helping an applicant prepare their application, purchase equipment, and support their business.

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Commissioner Loy expressed an interest in hearing about regional and state mechanisms that have been developed to support those who have been impacted by the criminalization of cannabis, to ensure they are set up for success; and if there are areas the City might tap into.

Mr. Tankard explained that City Council adopted a Cannabis Equity Program manual that established the eligibility criteria. Applicants must meet a low income requirement, they must have current or past residency in the city of Richmond, and a prior conviction relating to cannabis or a family member that has been previously convicted. If those criteria are met, they can be accepted into the program. The city has hired a consultant to assist in developing a robust technical assistance program that will be a curriculum that is being developed to teach individuals how to run a business, how to market their business, teach them about cannabis regulations, and help prepare them to open a business. Once an applicant successfully completes that program, they will be eligible for the grants. Due to the limited number of licenses allowed, the City will be developing a merit based process in which applicants can apply for preliminary cannabis business licenses and the grant funding. Commissioner Brubaker asked if City Planning or the Economic Development Commission will be running the merit based process. Mr. Tankard answered it will be run jointly by the two departments. Director Velasco added that the way the ordinance is written, it will run through Community Development for the permitting process and Economic Development for the grant funding process. Many department will be involved in the scoring. Planning Commission will be involved in the use permitting process.

Vice Chair Harrison inquired if hypothetically speaking there are three applications that qualify for the equity program, could the third application also go through the program even those this is set up to be one non-equity and two equity. Director Velasco responded they would not be limited by the equity process, the applicant would just need to follow the competitive process that is laid out separately for the non-equity program, in which case they might not have the financial means to start the business.

Commissioner Brubaker asked if this program was retroactive for current retailers. Director Velasco confirmed that they may be eligible for some of the expansion grants, however the program is specifically designed for new licenses. Staff did reach out to existing stores to assist in the business development and workforce development aspects of the program.

Vice Chair Harrison opened the hearing for Public Comments.

Mr. Rojas stated there were none.

Vice Chair Harrison closed the public hearing and brought the item back to the Commission for discussion.

Commissioner Loy commented that in reading through the denial section, on page seventeen of the exhibit and page 28 of the agenda packet, there is a filing request of five days when an applicant is denied and a ten day response requirement for the City. Commissioner Loy questioned if those time frames are industry standard, as they seem expedited. Director Velasco explained that the turnaround times were set to reflect that the City understands the importance of getting an issue resolved when possible. She believed staff could meet them.

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Commissioner Brubaker inquired if the zoning amendment is intended to be a recommendation for City Council to complete the second reading and adoption process and if it is exempt from California Environmental Quality Act (CEQA). Director Velasco confirmed that was correct.

Vice Chair Harrison commented that given this is new territory, he is fine with going with the middle of the road, Moderate option. There isn't a need to go with the most Aggressive option until they understand fully that the program will be successful, and the Conservative option would provide less opportunity to gather the data needed to reach that decision.

Commissioner Loy concurred with Vice Chair Harrison.

Commissioner Brubaker expressed concern towards the declining sales, citing that could be an indication of over concentration, however agreed that too few likely wouldn't be enough to spark interest in the program. Additionally, the Moderate option is being recommended by the Economic Development Commission.

Commissioner Loy explained that with the Moderate option they aren't opening five additional storefronts immediately, but rather allows the potential to have five more; the market will assist in any over saturated market decisions. It also provides the opportunity for the existing retailers to potentially qualify for the expansion grant funds.

**ACTION: It was M/S/C (Brubaker, Loy) to Adopt Resolution No. 23-08 recommending adoption to the City Council of certain amendments to Richmond Municipal Code Section 15.04.610.270 (Marijuana/Cannabis Commercial Uses) to implement the Moderate option of the Cannabis Equity Program, which carried by the following vote: 3-0-2 (Ayes: Harrison, Brubaker, Loy; Noes: None; Absent: Tucker, Agarwal).**

[The Commission moved to Commission business]

### **COMMISSION BUSINESS**

#### **2. Reports of Officers, Commissioners and Staff -**

Director Velasco commented that it was good to see the Commissioners in person. Staff have communicated with the Mayor's staff, who anticipate appointments for the Commission will be coming before the end of the year. Those interested in serving on a Commission or Board may apply through the City Clerk's webpage. All applications received are then forwarded to the Mayor's office and City Council for consideration.

Mr. Rojas reported that the Housing Element was submitted to HCD and certified.

#### **3. Adjournment -** The meeting was adjourned at 7:20 p.m. to the next regular meeting on November 2, 2023.