



City Council Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2020-00598

June 16, 2020

Public Hearing Item 31

Title: Ordinance Amending Sections 17.216.510, 17.228.920, 17.424.060 and 17.424.070 of the Sacramento City Code Relating to Cannabis Uses in the Shopping Center Zone and the Del Paso Boulevard/Arden Way Special Planning District (M19-005) [Noticed 06/05/2020; Passed for Publication 06/06/2020; Published 06/05/2020]

Location: Citywide

Recommendation: Conduct a public hearing and upon conclusion adopt an Ordinance amending sections 17.216.510, 17.228.920, 17.424.060 and 17.424.070 of the Planning and Development Code relating to cannabis uses in the shopping center zone and the Del Paso Boulevard/Arden Way Special Planning District.

Contact: Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department

Presenter: Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department

Attachments:

- 1-Description/Analysis
- 2-Ordinance (Clean)
- 3-Ordinance (Redline)
- 4-Map of Del Paso Blvd/Arden Way SPD Boundaries

Description/Analysis

Issue Detail: The Del Paso Boulevard/Arden Way Special Planning District (SPD) was established in 1994 to assist in the preservation of an economic climate in this mixed-use neighborhood of residential, commercial and light industrial uses by retaining existing businesses while accommodating new development. One of the goals for properties in the area is to promote an active retail district along the two major thoroughfares of Del Paso Boulevard and Arden Way. A storefront cannabis dispensary, with an approved Conditional Use Permit (CUP), is a compatible land use with this goal. Cannabis production businesses and delivery-only dispensaries, however, are not.

In May of 2018, the Council amended the SPD to prohibit cannabis cultivation on parcels fronting Del Paso Boulevard and Arden Way (Ordinance 2018-0018). Staff recommends that the SPD be further amended to limit cannabis manufacturing, distribution and delivery-only businesses to the rear of the buildings that front on these two streets. These uses are not compatible with the goals of the SPD in that they are low intensity, non-retail uses that are not pedestrian-friendly and do not activate the street by encouraging visitors and customers to the SPD. The attached ordinance amends sections 17.424.060 and 17.424.070 to require that cannabis manufacturing, distribution and delivery-only dispensary uses be limited to the rear one-third of any building located on a parcel fronting Del Paso Boulevard or Arden Way in the SPD area and be accessible and visible from the rear only of the building. These amendments will allow for activation of vacant buildings in the area while still promoting retail and general commercial uses on the two major streets of the SPD.

The attached ordinance also proposes amendments to City Code chapters 17.216.510 and 17.228.920. These proposed amendments would: 1) permit storefront dispensaries in the Shopping Center (SC) zone subject to CUP review and approval; and 2) require, if a storefront cannabis dispensary was proposed in a Planned Unit Development (PUD), that the PUD be amended to allow storefront dispensaries to insure that the use is compatible with the goals and objectives of the PUD.

Policy Considerations: Adoption of the proposed ordinance amending certain sections of City Code title 17 will allow for retail cannabis sales with a CUP in an additional retail commercial zone (SC) of the city, while limiting non-retail cannabis uses on the Arden Way and Del Paso Blvd. frontages in the SPD. In addition, the proposed ordinance would now require Planning and Design Commission review of any storefront dispensary proposed in a PUD area in the city.

Economic Impacts: None.

Environmental Considerations: This action is exempt from the California Environmental Quality Act (CEQA) because it is the adoption of an ordinance, rule, or regulation that requires discretionary review, including environmental review, and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity (CEQA Guidelines sections 15061(B)(1), California Business and Professions Code section 26055(h)) and because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines section 15061(b)(3)).

Sustainability: Not applicable.

Commission/Committee Action: On September 26, 2019, the Planning and Design Commission recommended approval of the proposed amendments to City Code chapters 17.216 and 17.228 permitting storefront dispensaries in SC zones with a vote of 7-0-5 (none opposed, 5 absent). Those proposed amendments were also reviewed by the Law and Legislation Committee on February 18, 2020, with a vote of 4-0 to recommend approval to the City Council.

On April 23, 2020, the Planning and Design Commission reviewed the proposed amendments with an additional amendment to chapter 17.424 limiting commercial cannabis manufacturing, distribution and delivery-only dispensary uses on the Arden Way and Del Paso Blvd. frontages in the SPD and voted to recommend approval of the revised ordinance attached by a vote of 11 ayes, one no, with one seat vacant.

On May 19, 2020 the Law and Legislation Committee reviewed the revised ordinance and, with a vote of four ayes, voted to recommend approval of the attached ordinance to the City Council.

Rationale for Recommendation: The proposed amendments reflect the direction of the Council discussed at their workshop on January 14, 2020 relative to the addition and location of cannabis businesses in the City.

Financial Considerations: Not applicable.

Local Business Enterprise (LBE): Not applicable.

Public/Neighborhood Comments: Staff received phone calls prior to the April 23, 2020 Planning and Design Commission meeting expressing support for the changes to the code which would permit storefront dispensaries in the SC zone. An e-comment was also submitted to the City Council on June 2nd in support of the changes to the SC zone.

E-comments submitted during the May 29th Law and Legislation Committee meeting and the June 2nd City Council pass for publication agenda item expressed concern that the proposed ordinance related to the SPD amendments did not reflect the comments Councilmember Warren made at the January 14, 2020 council meeting. Since the January 14th meeting, City staff worked on developing the proposed ordinance and consulted with Councilmember Warren's office on the final proposed version. The staff report describing the ordinance under development was included in the April 23rd Planning and Design Commission agenda packet and posted on the City Clerk's agenda website on Thursday April 16, 2020. The report indicated that the ordinance would be posted as a supplemental item prior to the commission meeting. The final version of the ordinance was posted as a supplemental on the City Clerk's agenda website and distributed to PDC members on Monday April 20, 2020. This was more than 72 hours before the April 23, 2020 PDC meeting, as required by law.

There were also e-comments voicing concern that the proposed ordinance is less restrictive than current City Code requirements, allowing cannabis manufacturing, distribution and dispensaries in the Del Paso Blvd and Arden Way SPD. The proposed ordinance, in fact, places additional restrictions on these proposed uses. Currently an applicant can apply for a CUP to have cannabis manufacturing, distribution, and delivery-only dispensary businesses on parcels fronting Del Paso Blvd. and Arden Way in the SPD area. The proposed ordinance indicates that an applicant cannot apply for a CUP unless their business can meet the additional restrictions of utilizing only up to one-third of the building for the proposed use, not having entrances to the business from Arden Way or Del Paso Blvd, nor can the businesses be visible from Arden Way or Del Paso Blvd. If an applicant cannot meet these three requirements then they cannot apply for the use permit. If the proposed ordinance is not adopted then an applicant will not be required to meet these restrictions. These restrictions would not apply to retail cannabis storefront dispensaries; however, a storefront dispensary is still subject to CUP review and approval. Cannabis cultivation would continue to be prohibited on parcels that front on Del Paso Blvd. and Arden Way in the SPD.

ORDINANCE NO.
Adopted by the Sacramento City Council

[Date Adopted]

**AN ORDINANCE AMENDING SECTIONS 17.216.510, 17.228.920,
17.424.060, AND 17.424.070 OF THE SACRAMENTO CITY CODE, RELATING
TO CANNABIS USES IN THE SHOPPING CENTER ZONE AND THE DEL PASO
BOULEVARD/ARDEN WAY SPECIAL PLANNING DISTRICT**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

The city council finds the following:

1. As amended by this ordinance, the Planning and Development Code complements, supports, and facilitates the implementation of the goals, policies, and other provisions of the general plan and the city's specific plans and transit village plans; and
2. The amendments in this ordinance promote the public health, safety, convenience, and welfare of the city.

SECTION 2.

A. A row is added to the table set forth in subsection B.2 of section 17.216.510 (SC zone; conditional uses; commercial and institutional uses) of the Sacramento City Code to read as follows:

Cannabis dispensary	Limited to storefront cannabis dispensary (delivery-only cannabis dispensary not allowed) Subject to special use regulations in section 17.228.920	ZA/PDC
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B. Except as amended by subsection A above, all provisions of section 17.216.510 remain unchanged and in full effect.

SECTION 3.

A. Section 17.228.920 of the Sacramento City Code is amended as follows:

1. Subsection B is amended to read as follows:

B. A conditional use permit is required to establish a cannabis dispensary in the C-2, C-4, M-1, M-1(S), M-2, M-2(S), and SC zones.

2. Subsection E is amended to read as follows:

E. In any zone, a cannabis dispensary must comply with the following provisions:

1. Cannabis dispensary operations must be within a fully enclosed building and must not be visible from the public right-of-way.

2. The cannabis dispensary site cannot be located within 600 feet of a school.

3. The cannabis dispensary must comply with all applicable state and local laws.

4. Each property owner seeking a conditional use permit for cannabis dispensary shall provide a neighborhood responsibility plan in order for the decision-maker to make the requisite findings set forth in section 17.808.200. The neighborhood responsibility plan must address the adverse impacts of a cannabis dispensary on the surrounding area. Compliance with the neighborhood responsibility plan shall be achieved through an agreement with the city, conditions of approval on the use permit, or through other means acceptable to the city.

5. Notwithstanding section 17.452.040.B.2.d, no cannabis dispensary may be established in a planned unit development, unless the planned unit development schematic plan and design guidelines expressly authorize the use.

B. Except as amended by subsection A above, all provisions of section 17.228.920- remain unchanged and in full effect.

SECTION 4.

Section 17.424.060 of the Sacramento City Code is amended to read as follows:

17.424.060 C-2 general commercial zone.

A. Allowed uses.

1. Except as provided in subsections B, C, D, and E of this section, the uses permitted in the C-2 zone under this title outside of the Del Paso Boulevard/Arden Way SPD are allowed in the C-2 zone within the Del Paso Boulevard/Arden Way SPD.

2. If this title requires the approval of a conditional use permit or other discretionary permit, or imposes other restrictions or requirements on the establishment of a particular use in the C-2 zone outside of the Del Paso Boulevard/Arden Way SPD, approval of the same discretionary permit and compliance with the same restrictions or requirements are required for the use in the C-2 zone within the Del Paso Boulevard/Arden Way SPD.

B. Allowed uses—Manufacturing, service, and repair. Manufacturing, service, and repair uses are allowed in the C-2 zone within the Del Paso Boulevard/Arden Way SPD as follows:

1. Manufacturing, service, and repair uses not exceeding 6,400 gross square feet of floor area are allowed.

2. Manufacturing, service, and repair uses greater than 6,400 but less than 20,000 gross square feet of floor area are allowed, subject to the following requirements:

a. The use requires a zoning administrator conditional use permit;

b. Newly constructed buildings for this use shall be designed to be convertible to commercial use; and

c. If located on Del Paso Boulevard, the use shall have an office or another active commercial use facing the street.

C. Allowed uses—Tobacco retailing. Tobacco retailing is allowed in the C-2 zone within the Del Paso Boulevard/Arden Way SPD with a zoning administrator conditional use permit.

D. Allowed uses – Cannabis manufacturing, cannabis distribution, and delivery-only cannabis dispensary uses are allowed on parcels that front Del Paso Boulevard or Arden Way in the C-2 zone as follows:

1. The uses do not exceed one-third of the gross square feet of the floor area of the parcel.

2. The uses can only be accessed from the rear of the parcel.

3. The uses are not visible from the public right-of-way.

E. Prohibited uses. The following uses are prohibited in the C-2 zone in the Del Paso Boulevard/Arden Way SPD:

1. Adult entertainment business;

2. Adult-related establishment;

3. Check-cashing center;

4. Mortuary; crematory; and
5. Cannabis cultivation on parcels fronting Del Paso Boulevard or Arden Way.

SECTION 5.

Section 17.424.070 of the Sacramento City Code is amended to read as follows:

17.424.070 M-1 light industrial zone.

A. Allowed uses.

1. Except as provided in subsections B, C, D, and E of this section, the uses permitted in the M-1 zone under this title outside of the Del Paso Boulevard/Arden Way SPD are allowed in the M-1 zone within the Del Paso Boulevard/Arden Way SPD.
2. If this title requires the approval of a conditional use permit, or other discretionary permit, or imposes other restrictions or requirements on the establishment of a particular use in the M-1 zone outside of the Del Paso Boulevard/Arden Way SPD, approval of the same discretionary permit and compliance with the same restrictions or requirements are required for the use in the M-1 zone within the Del Paso Boulevard/Arden Way SPD.

B. Allowed uses—Office. Office uses are allowed in the M-1 zone in the Del Paso Boulevard/Arden Way SPD, as follows:

1. Office uses not exceeding 10,000 gross square feet of floor area, or up to 35% of gross floor area of building per parcel, whichever is greater, are allowed.
2. Office uses located less than ¼ mile from a light rail station that do not exceed 40,000 gross square feet of floor area and are located in a building with a floor area ratio of 0.4 or greater are allowed.
3. Office uses that are not covered by paragraph 1 or 2 of this subsection require a planning and design commission conditional use permit.

C. Allowed uses—Tobacco retailing. Tobacco retailing is allowed in the M-1 zone within the Del Paso Boulevard/Arden Way SPD with a zoning administrator conditional use permit.

D. Allowed uses – Cannabis manufacturing, cannabis distribution, and delivery-only cannabis dispensary uses are allowed on parcels that front Del Paso Boulevard or Arden Way in the M-1 zone as follows:

1. The uses do not exceed one-third of the gross square feet of the floor area of the parcel.
2. The uses can only be accessed from the rear of the parcel.

3. The uses are not visible from the public right-of-way.

E. Prohibited uses. The following uses are prohibited in the M-1 zone in the Del Paso Boulevard/Arden Way SPD:

1. Adult entertainment business;
2. Adult-related establishment;
3. Auto dismantler;
4. Mobilehome sales, storage;
5. Recycling facility; and
6. Cannabis cultivation on parcels fronting Del Paso Boulevard or Arden Way.

F. Development standards. In the M-1 zone in the Del Paso Boulevard/Arden Way SPD, outdoor storage incidental to a manufacturing use is allowed within 100 feet of the manufacturing use it serves. Outdoor storage shall be screened within an area enclosed on all sides by a solid fence (such as woven wire with slats) or a solid wall, at least six feet in height.

ORDINANCE NO.
Adopted by the Sacramento City Council

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**AN ORDINANCE AMENDING SECTIONS 17.216.510, 17.228.920,
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SECTION 1.

The city council finds the following:

1. As amended by this ordinance, the Planning and Development Code complements, supports, and facilitates the implementation of the goals, policies, and other provisions of the general plan and the city's specific plans and transit village plans; and
2. The amendments in this ordinance promote the public health, safety, convenience, and welfare of the city.

SECTION 2.

A. A row is added to the table set forth in subsection B.2 of section 17.216.510 (SC zone; conditional uses; commercial and institutional uses) of the Sacramento City Code to read as follows:

<u>Cannabis dispensary</u>	<u>Limited to storefront cannabis dispensary (delivery-only cannabis dispensary not allowed)</u> <u>Subject to special use regulations in section 17.228.920</u>	<u>ZA/PDC</u>
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B. Except as amended by subsection A above, all provisions of section 17.216.510 remain unchanged and in full effect.

SECTION 3.

A. Section 17.228.920 of the Sacramento City Code is amended as follows:

1. Subsection B is amended to read as follows:

B. A conditional use permit is required to establish a cannabis dispensary in the C-2, C-4, M-1, M-1(S), M-2, ~~and~~ M-2(S), and SC zones.

2. Subsection E is amended to read as follows:

E. In any zone, a cannabis dispensary must comply with the following provisions:

1. Cannabis dispensary operations must be within a fully enclosed building and must not be visible from the public right-of-way.

2. The cannabis dispensary site cannot be located within 600 feet of a school.

3. The cannabis dispensary must comply with all applicable state and local laws.

4. Each property owner seeking a conditional use permit for cannabis dispensary shall provide a neighborhood responsibility plan in order for the decision-maker to make the requisite findings set forth in section 17.808.200. The neighborhood responsibility plan must address the adverse impacts of a cannabis dispensary on the surrounding area. Compliance with the neighborhood responsibility plan shall be achieved through an agreement with the city, conditions of approval on the use permit, or through other means acceptable to the city.

5. Notwithstanding section 17.452.040.B.2.d, no cannabis dispensary may be established in a planned unit development, unless the planned unit development schematic plan and design guidelines expressly authorize the use.

B. Except as amended by subsection A above, all provisions of section 17.228.920- remain unchanged and in full effect.

SECTION 4.

Section 17.424.060 of the Sacramento City Code is amended to read as follows:

17.424.060 C-2 general commercial zone.

A. Allowed uses.

1. Except as provided in subsections B, C, ~~and~~ D, and E of this section, the uses permitted in the C-2 zone under this title outside of the Del Paso Boulevard/Arden Way SPD are allowed in the C-2 zone within the Del Paso Boulevard/Arden Way SPD.

2. If this title requires the approval of a conditional use permit or other discretionary permit, or imposes other restrictions or requirements on the establishment of a particular use in the C-2 zone outside of the Del Paso Boulevard/Arden Way SPD, approval of the same discretionary permit and compliance with the same restrictions or requirements are required for the use in the C-2 zone within the Del Paso Boulevard/Arden Way SPD.

B. Allowed uses—Manufacturing, service, and repair. Manufacturing, service, and repair uses are allowed in the C-2 zone within the Del Paso Boulevard/Arden Way SPD as follows:

1. Manufacturing, service, and repair uses not exceeding 6,400 gross square feet of floor area are allowed.

2. Manufacturing, service, and repair uses greater than 6,400 but less than 20,000 gross square feet of floor area are allowed, subject to the following requirements:

a. The use requires a zoning administrator conditional use permit;

b. Newly constructed buildings for this use shall be designed to be convertible to commercial use; and

c. If located on Del Paso Boulevard, the use shall have an office or another active commercial use facing the street.

C. Allowed uses—Tobacco retailing. Tobacco retailing is allowed in the C-2 zone within the Del Paso Boulevard/Arden Way SPD with a zoning administrator conditional use permit.

D. Allowed uses – Cannabis manufacturing, cannabis distribution, and delivery-only cannabis dispensary uses are allowed on parcels that front Del Paso Boulevard or Arden Way in the C-2 zone as follows:

1. The uses do not exceed one-third of the gross square feet of the floor area of the parcel.

2. The uses can only be accessed from the rear of the parcel.

3. The uses are not visible from the public right-of-way.

E. Prohibited uses. The following uses are prohibited in the C-2 zone in the Del Paso Boulevard/Arden Way SPD:

1. Adult entertainment business;

2. Adult-related establishment;

3. Check-cashing center;

4. Mortuary; crematory; and
5. Cannabis cultivation on parcels fronting Del Paso Boulevard or Arden Way.

SECTION 5.

Section 17.424.070 of the Sacramento City Code is amended to read as follows:

17.424.070 M-1 light industrial zone.

A. Allowed uses.

1. Except as provided in subsections B, C, and D, and E of this section, the uses permitted in the M-1 zone under this title outside of the Del Paso Boulevard/Arden Way SPD are allowed in the M-1 zone within the Del Paso Boulevard/Arden Way SPD.
2. If this title requires the approval of a conditional use permit, or other discretionary permit, or imposes other restrictions or requirements on the establishment of a particular use in the M-1 zone outside of the Del Paso Boulevard/Arden Way SPD, approval of the same discretionary permit and compliance with the same restrictions or requirements are required for the use in the M-1 zone within the Del Paso Boulevard/Arden Way SPD.

B. Allowed uses—Office. Office uses are allowed in the M-1 zone in the Del Paso Boulevard/Arden Way SPD, as follows:

1. Office uses not exceeding 10,000 gross square feet of floor area, or up to 35% of gross floor area of building per parcel, whichever is greater, are allowed.
2. Office uses located less than ¼ mile from a light rail station that do not exceed 40,000 gross square feet of floor area and are located in a building with a floor area ratio of 0.4 or greater are allowed.
3. Office uses that are not covered by paragraph 1 or 2 of this subsection require a planning and design commission conditional use permit.

C. Allowed uses—Tobacco retailing. Tobacco retailing is allowed in the M-1 zone within the Del Paso Boulevard/Arden Way SPD with a zoning administrator conditional use permit.

D. Allowed uses – Cannabis manufacturing, cannabis distribution, and delivery-only cannabis dispensary uses are allowed on parcels that front Del Paso Boulevard or Arden Way in the M-1 zone as follows:

- 1. The uses do not exceed one-third of the gross square feet of the floor area of the parcel.**
- 2. The uses can only be accessed from the rear of the parcel.**

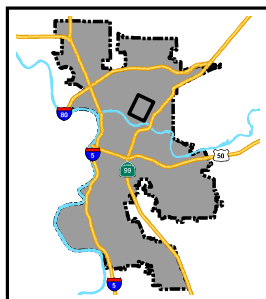
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E. Prohibited uses. The following uses are prohibited in the M-1 zone in the Del Paso Boulevard/Arden Way SPD:




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2. Adult-related establishment;
3. Auto dismantler;
4. Mobilehome sales, storage;
5. Recycling facility; and
6. Cannabis cultivation on parcels fronting Del Paso Boulevard or Arden Way.

FE. Development standards. In the M-1 zone in the Del Paso Boulevard/Arden Way SPD, outdoor storage incidental to a manufacturing use is allowed within 100 feet of the manufacturing use it serves. Outdoor storage shall be screened within an area enclosed on all sides by a solid fence (such as woven wire with slats) or a solid wall, at least six feet in height.

Del Paso/ Arden Way Special Planning District



Legend

-  Parcel Fronts Del Paso Blvd or Arden Way
-  Del Paso-Arden Way SPD
-  Public Park

0 0.1 0.2
Miles



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