



City of Camarillo

Planning Commission AGENDA REPORT

DATE: September 20, 2022

TO: Planning Commission

FROM: Joseph R. Vacca, AICP, Director of Community Development

SUBMITTED BY: Georg Winkler, Economic Development Manager

SUBJECT: **Zoning Ordinance Amendment to Allow Smoking Lounges in the City's Limited Manufacturing Zone**

SUMMARY

The proposed amendment to the Zoning Ordinance of the Camarillo Municipal Code (CMC) Section 19.28.050 would add smoking lounges in the City's Limited Manufacturing (L-M) Zone as an allowed use subject to a Conditional Use Permit (CUP) and add provisions for smoking lounges with the addition of Section 19.62.155. Additionally, the ordinance would amend Chapter 9.24 of the Health and Safety Code, removing the requirement for the smoking lounge to be the only tenant or use in the building which is ten feet from other buildings, and Chapters 9.24 and 9.36 redefining "Smoking Lounge" by amending the revenue requirement tied to the sale of smoking products and paraphernalia.

PUBLIC HEARING NOTICE

A Notice of Public Hearing for the Planning Commission meeting of September 20, 2022 was posted at Camarillo City Hall, as well as on the City's website (www.cityofcamarillo.org), and published in a newspaper of general circulation for the area (Camarillo Acorn).

DISCUSSION

Environmental Review

The recommendation on the proposed ordinance is exempt from the California Environmental Quality Act ("CEQA") under the State CEQA Guidelines (Chapter 3 of Title 14 of the California Code of Regulations beginning at Section 15000), specifically: Section 15060(c)(2), because the item will not result in a direct or reasonably foreseeable indirect physical change in the environment; Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the subject regulations have no potential for resulting in any

significant physical change to the environment, directly or indirectly; Section 15061(b)(3), because the item is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and Section 15378(b)(5), because this item involves an administrative activity that will not result in a direct or indirect physical change to the environment. Therefore, this item is exempt from CEQA.

Background

On July 12, 2020, the property owner of 912 Pancho Road submitted a Pre-Application for a Private Cigar Lounge. Staff responded to the Pre-Application with comments indicating that private lounges are not permitted in the L-M Zone and that the request cannot be supported.

On May 17, 2022, the City received a request for a Zoning Ordinance Amendment (ZOA) to allow smoking lounges in the City's L-M Zone from the property owner. This request was delivered to the City Manager and Director of Community Development.

Staff researched the land use issue and on July 22, 2022, presented to the Economic Development and Land Use Committee, which unanimously provided concurrence for City staff to prepare a ZOA for consideration for a recommendation of approval by the Planning Commission to the City Council.

STAFF REVIEW AND RECOMMENDATION

Limited Manufacturing Zone

The L-M Zone is intended to provide for and encourage planned industrial districts, compatible with surrounding or abutting residential zones which would not in any way depreciate the character of the community. Uses are to be confined to those administrative, wholesaling, warehousing, and manufacturing activities that can be carried on in an unobtrusive manner and to certain accessory facilities that are necessary to serve employees in the zone.

Smoking Lounges

The City of Camarillo's Municipal Code (CMC) currently does not allow for smoking lounges.

The CMC allows for "Clubs and lodges, private," in Light Manufacturing (M-1), Camarillo Commons Mixed-Use (CCM), Village Commercial Mixed-Use (CMU), Camarillo Old Town (COT), and Commercial Planned Development (CPD) Zones subject to review and approval of a Condition Use Permit, however, staff does not interpret "Clubs and lodges, private" to include smoking lounges.

While not currently permitted, smoking lounges are defined in Chapters 9.24 and 9.36. The CMC defines "Smoking lounge" as a business established for the purpose of providing customers with a place to purchase and smoke any form of tobacco or electronic smoking device product and/or purchase smoking products and paraphernalia and which generates at least ninety percent of its revenues from the sale of smoking products and paraphernalia.

It is required that no vendor may allow an employee or any other person to smoke or otherwise sample a tobacco product or electronic smoking device product prior to

purchase, unless the vendor's place of business is a legally permitted smoking lounge, and the smoking of the tobacco or electronic smoking device product is allowed under state or federal law.

AB-13 (1995) restricts workplace smoking, however, per Labor Code Section 6404.5, a smoking lounge is not considered a place of employment and is exempt. AB-13 requires smoking lounges to be in an enclosed area in, or attached to, a bona fide retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

To comply with this exemption, a tobacco shop's main purpose must be to sell tobacco products and paraphernalia, and the tobacco shop must have a separate entrance, separate enclosure, and separate business license from any other establishment on the property. Additionally, the tobacco shop cannot sell alcohol, food, or other non-tobacco related products.

Proposed Zoning Ordinance Amendments to Allow Smoking Lounges in the L-M Zone

For "Smoking Lounges" to be permitted by CMC, Section 19.28.050 - Uses subject to a conditional use permit, an amendment that adds "Smoking Lounge" to the list of uses subject to a CUP in the L-M Zone is required.

AB-13 does not require specific revenue thresholds for smoking products and paraphernalia sales, however, to qualify for the smoking lounge exemption, the main purpose must be to sell tobacco products and paraphernalia. The CMC's definition of "Smoking Lounge" includes a revenue requirement of "at least ninety percent of its revenues from the sale of smoking products and paraphernalia," which may be too restrictive for a smoking lounge business model.

The proposed ordinance amends the definition to, "a business established for the primary purpose of providing customers with a place to purchase and smoke any form of tobacco or electronic smoking device product and/or purchase smoking products and paraphernalia and which generates the majority of its revenues from the sale of smoking products and paraphernalia."

The property located at 912 Pancho Road is a multi-tenant building, and as such, Chapter 9.24 of the Health and Safety Code would require an amendment to allow smoking lounges to be in a building with other tenants. Currently, Section 9.24.030 - Permissible smoking areas, only allows for smoking lounges that are located in a building which contains no other businesses, or uses, and the walls of the building are at least ten feet from any other building. The proposed ordinance amends Section 9.24.030 by removing this requirement.

The proposed ordinance includes additional provisions required of a smoking lounge, which are proposed to be added to the CMC as Section 19.62.155 – Smoking Lounges, and would include specific parameters, such as age requirements, parking requirements, signage requirements, and other items identified in the attached resolution.

Cigar Lounges in Other Jurisdictions

While there are no smoking lounges in Camarillo, there are smoking lounges across the region to serve as examples.

Simi Valley's Cigar Factory Lounge is located in a multi-tenant building in a Commercial Zone. Thousand Oaks' Old Oaks Cigars and Liquor Co. is in a single tenant building in a Commercial Zone surrounded by auto repair shops and a gas station. In Ventura, Ventura Cigar Lounge is in a multi-tenant building in a Commercial Zone. In Woodland Hills, Stixx Private Cigar Lounge is in a multi-tenant building in a Commercial Zone that is immediately adjacent to a Residential Zone.

Possible Impacts

A ZOA covers an entire specific zoning area in the City so it will affect many properties within that zoning designation and not just the immediate neighbors of the subject property. If an ordinance is adopted, then we could have more smoking lounges in the L-M Zone, which may or may not have negative impacts on existing tenants within this zoning area.

Allowing a smoking lounge in the L-M Zone, depending on its hours of operation, might impact existing industrial users. Even if adequate measures are taken to eliminate smoke from neighbors, there may be issues of smoke drifting into neighboring units and how that is going to impact other businesses that might be against smoking.

Parking may also be of concern depending on the hours of operation. Per CMC Chapter 19.44, industrial uses, including light industrial and general industrial are parked at one space per 500 square feet. This use would be subject to commercial parking standards which are parked at one space per 250 square feet.

Industrial vacancy rates are currently experiencing record lows in Camarillo (1.3%), and increasing the types of uses allowed in Industrial Zones may further reduce vacancy rates.

Recommendation

On July 22, 2022, the Economic Development and Land Use Committee unanimously provided concurrence for City staff to prepare a ZOA for consideration for a recommendation of approval by the Planning Commission to the City Council.

For that reason, staff recommends that the Planning Commission adopt the proposed resolution recommending that the City Council approve the proposed ordinance.

SUGGESTED ACTION

Adopt a resolution recommending approval to the City Council of a proposed ordinance amending Camarillo Municipal Code Chapter 9.24, 9.36, and 19.28, and adding CMC 19.62.155, to allow smoking lounges in the L-M Zone.

ATTACHMENTS

- Attachment 1 - Resolution
- Attachment 2 - Redline CMC Sections 9.24, 9.36, and 19.28
- Attachment 3 - Addition - CMC Section 19.28.155
- Attachment 4 - EDLU Committee Smoking Lounge Report
- Attachment 5 - Public Hearing Notice