



Placentia Planning Commission Agenda

Regular Meeting
December 8, 2015

6:30 p.m.

City Council Chambers
401 E. Chapman Avenue

Christine Schaefer
Chair

Frank Perez
Vice Chair

Dennis Lee
Commissioner

James Schenck
Commissioner

Thomas Solomonson
Commissioner

Vic Tomazic
Commissioner

Vacant
Commissioner

City of Placentia
401 E Chapman Avenue
Placentia, CA 92870

Phone: (714) 993-8124
Fax: (714) 528-4640
Website: www.placentia.org

Procedures for Addressing the Commission

Any person who wishes to speak regarding an item on the agenda or on a subject within the Planning Commission's jurisdiction during the "Oral Communications" portion of the agenda should fill out a "Speaker Request Form" and give it to the Commission Secretary BEFORE that portion of the agenda is called. Testimony for Public Hearings will only be taken at the time of the hearing. Any person who wishes to speak on a Public Hearing item should fill out a "Speaker Request Form" and give it to the Commission Secretary BEFORE the item is called.

The Commission encourages free expression of all points of view. To allow all persons the opportunity to speak, please keep your remarks brief. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of an entire group. To encourage all views, the Commission discourages clapping, booing or shouts of approval or disagreement from the audience.

**PLEASE SILENCE CELL PHONES AND OTHER ELECTRONIC
EQUIPMENT WHILE THE COMMISSION IS IN SESSION.**

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 993-8231. Notification 48 hours prior to the meeting will generally enable City staff to make reasonable arrangements to ensure accessibility.
(28 CFR 35.102.35.104 ADA Title II)

Copies of all agenda materials are available for public review in the Office of the City Clerk, City Planning Division Counter, Placentia Library Reference Desk and the internet at www.placentia.org under the Planning Commission page. Persons who have questions concerning any agenda item may call the City Planning Division at (714) 993-8124 to make inquiry concerning the nature of the item described on the agenda.

In compliance California Government Code Section 54957.5, any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda that are not exempt from disclosure under the Public Records Act will be made available for public inspection at the City Clerk's Office at City Hall, 401 East Chapman Avenue, Placentia, during normal business hours.

Study Sessions are open to the public and held in the City Council Chambers or City Hall Community Room.

REGULAR MEETING
6:30 p.m. – City Council Chambers

CALL TO ORDER:

ROLL CALL: Commissioner Lee
Commissioner Schenck
Commissioner Solomonson
Commissioner Tomazic
Vice Chair Perez
Chair Schaefer

PLEDGE OF ALLEGIANCE:

ORAL COMMUNICATIONS:

At this time the public may address the Planning Commission concerning any agenda item, which is not a public hearing item, or on matters within the jurisdiction of the Planning Commission. There is a five (5) minute time limit for each individual addressing the Planning Commission.

CONSENT CALENDAR: None

PUBLIC HEARING:

1. **Applicant:** Laser Island dba ADB Family Entertainment
Project Location: 1840 N. Placentia Avenue, Placentia, CA 92870

Use Permit (UP) 2015-06:

To Permit the Operation of a Laser Tag Entertainment Use Located at 1840 N. Placentia Avenue in the C-1 Neighborhood Commercial District. The Proposed Use is Not Expected to Create a Negative Impact on the Physical Environment and is Therefore Categorically Exempt Pursuant to the California Environmental Quality Act (CEQA) Guideline § 15061(b)(3) and City Environmental Guidelines.

Recommended Actions: It is recommended that the Planning Commission:

- a. Open the Public Hearing, concerning Use Permit 2015-06, Receive the staff report and consider all Public Testimony, and Close the Public Hearing; and
- b. Adopt Resolution PC-2015-21, A Resolution of the Planning Commission of the City of Placentia, Approving Use Permit 2015-06 for Laser Island DBA Family Entertainment Located at 1840 N. Placentia Avenue and Making Findings in Support Thereof; and
- c. Find that the project is Categorically Exempt Pursuant to the California Environmental Quality Act of 1970, as amended, the Guideline promulgated thereunder (14 CCR § 15303) and Placentia Environmental Guidelines.

2. **Applicant:** City of Placentia
Project Location: Citywide

Zone Code Amendment ZCA 2015-05:

A Resolution of the Planning Commission of the City of Placentia Recommending An Ordinance of the City of Placentia Adding Chapter 23.85 to Title 23 (Zoning Ordinance) of the Placentia Municipal Code Prohibiting Marijuana Cultivation within the City of Placentia.

The Proposed Ordinance would Prohibit All Marijuana Cultivation within the City Placentia.

The City of Placentia Planning Department has conducted an environmental review of the project and determined that it is exempt under 14 Cal. Code of Regulations, Section 15061 (B) (3) as there is no possibility that the activity in question may have a significant effect on the environment.

Recommended Actions: It is recommended that the Planning Commission:

- a. Open the Public Hearing concerning Resolution PC-2015-20, Receive the Staff Report and consider all Public Testimony, and Close the Public Hearing; and
- b. Adopt Resolution PC-2015-20, A Resolution of the Planning Commission of the City of Placentia Recommending that the City Council adopt amendments to the Placentia Municipal Code, Prohibiting the Cultivation of Marijuana within the City; and
- c. Find that the project is Categorically Exempt Pursuant to the California Environmental Quality Act of 1970, as amended, the Guideline promulgated thereunder (14 CCR § 15303) and Placentia Environmental Guidelines; and
- d. Find that the proposed amendment is merely preserving the City's current prohibition of marijuana cultivation throughout the City. Adoption of the proposed amendment expressly prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016.

OLD BUSINESS: None

NEW BUSINESS: None

DEVELOPMENT REPORT:

DIRECTOR'S REPORT:

PLANNING COMMISSION REQUESTS

Commission members may make requests or ask questions of Staff. If a Commission member would like to have formal action taken on a requested matter, it will be placed on a future Commission Agenda.

ADJOURNMENT

The Planning Commissioners ADJOURN to a Regular meeting on Tuesday, January 12, 2016 at 6:30 p.m. in the Placentia City Hall Front Community Meeting at 401 East Chapman Avenue, Placentia.

CERTIFICATION OF POSTING

I, Charles L. Rangel, Secretary to the Planning Commission of the City of Placentia, hereby certify that the Agenda for the December 8, 2015 Regular Meeting of the Planning Commission of the City of Placentia was posted on December 3, 2015.

Charles L. Rangel, Secretary



Placentia Planning Commission

Agenda Staff Report

TO: PLANNING COMMISSION

FROM: CONTRACT SENIOR PLANNER

DATE: DECEMBER 8, 2015

SUBJECT: **UP 2015-06: USE PERMIT FOR LASER ISLAND**

RECOMMENDATION:

It is recommended that the Planning Commission take the following action:

1. Open the public hearing, concerning Use Permit 2015-06, Receive the staff report and consider all Public Testimony, and Close the Public Hearing; and
2. Adopt Resolution PC-2015-21, A Resolution of the Planning Commission of the City of Placentia, Approving Use Permit 2015-06 for Laser Island DBA Family Entertainment Located at 1840 N. Placentia Avenue and Making Findings in Support Thereof; and
3. Find that the project is Categorically Exempt Pursuant to the California Environmental Quality Act of 1970, as amended, the Guideline promulgated thereunder (14 CCR § 15303) and Placentia Environmental Guidelines.

REQUEST:

The applicant, Doug Hornecker for Laser Island dba Family Entertainment is requesting a Use Permit to establish a laser tag business within the C-1 zoning district.

BACKGROUND:

The Use Conformity Determination (UCD 2015-06) was adopted by Planning Commission to allow the laser tag use as a conditionally approved use at the November 10th Planning Commission meeting.

DESCRIPTION OF THE PROPOSED USE:

According to the applicant's Business Plan submitted to the City, Laser Island involves participants entering into the laser arena which consists of a jungle labyrinth for the purpose of engaging in laser tag. The object of the game is to score maximum points while defending oneself or the team's base from attack. Players are grouped into teams up to 20 players, identified with colors displayed on their vests and lasers. A typical round of play is twenty minutes. Points are scored by tagging the opposing team's members and deactivating their base station while avoiding being hit by the opposite team. The laser jungle where the game is played is complete with fluorescent and (UV) ultraviolet lights, pulsating music, and foggy darkness designed to bombard the player's senses. The arena is technologically sophisticated with the ability to interact with players.

Prior to a player entering into the laser arena, they go into a briefing room, the game rules and objectives are explained to participants. Then they go into a vesting room where a staff member gives a briefing about the theme of the specific game to the players. After the players have been briefed, they

In addition to the laser arena the project will also include a climbing attraction called the "Coco Climb" and a miniature golf course known as "Tiki Golf". There will also be party rooms available selling a variety of foods such as pizza, hot dogs, salads, ice cream and beverages. Due to the family oriented theme as well as the passionate competitive spirit among the teams, alcoholic beverages are not being proposed since it is felt that consumption of alcoholic beverages could contribute to an escalation of unruly behavior.

BUILDING DEPARTMENT & OCFA COMMENTS AND CONDITIONS

The Building Division and Orange County Fire Authority (OCFA) have reviewed the conceptual floor plan. Due to the large groups of people participating in the laser tag games and other related activities such as rock climbing and golfing, the proposed laser tag use changes the occupancy category from a "B" (Business) retail occupancy to the "A" (Assembly) amusement park occupancy. This change necessitates the installation of fire sprinklers and other related improvements subject to the review and approval of the Building Division and OCFA. All restrooms shall be in compliance with accessibility regulations of the State of California set forth in Title 24 of the California Code of Regulations. . Lastly, the Building Division shall require that kitchen plans shall be reviewed and approved by the Orange County Health Department and shall provide a new grease interceptor per the 2013 California Plumbing Code for the kitchen waste.

POLICE DEPARTMENT COMMENTS AND CONDITIONS

The Police Department (PD) has reviewed the proposed use. Due to the nature of the laser tag use is family oriented and attractive to patrons who are young as opposed to a specialized entertainment oriented to adults coupled with the fact that the applicant is not proposing to sell alcoholic beverages. PD is not requiring conditions of approval which involve the need for on-site private security. However, PD is requiring the applicant post "No Loitering" signs in the parking lot in order to deal with the potential problem of any unlawful activity. PD comments did note that should the Applicant decide in the future to apply for an ABC license, such a request would open up the project to additional conditions.

PLANNING DIVISION COMMENTS AND CONDITIONS

Staff notes that there was an earlier approval, (back in 1978) filed as Use Permit 78/18 for the commercial center known as the Pantry Market) which conditioned the project to provide a landscaped setback as a means of providing a buffer treatment between the commercial center and the residential neighborhood which is located contiguous and to the south of the center. The existing trees and plants in this area will be evaluated to assess their condition and determine if any replacement is appropriate. There has also been an ongoing issue with the existing landscape throughout the center as well as the trash enclosures which will also be evaluated for replacement if needed. The applicant shall be required to submit a landscape plan subject to the review and approval of the Development Services Department.

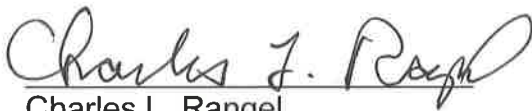
CBRE, which was hired by the City to prepare the Sales Tax Gap Analysis and to help identify appropriate tenants for major commercial centers, has been trying to procure major retail anchors for this commercial center. Additionally, the Broker for the property has reached out to numerous super market and specialty market businesses but due to a variety of circumstances and factors, including but not limited to the low volume intersection of Bastanchury Rd. and Placentia Ave. and the residual effects of the recession, the two anchor spaces have remained vacant for many years. Also, the super market/retail industry has become much more selective about opening new outlets. Moreover, the super market sector has become more competitive and profit margins have been trending downward, leading to some companies to go out of business, as in the case of "Fresh and Easy".

All these factors were carefully considered to reach the conclusion to support the laser Island entertainment proposal in the hopes that this family oriented specialized entertainment might bring about a regional draw which, in turn, might breathe new life into the center in the hopes of still landing a major retail anchor for the former Vons anchor space.

CEQA:

In accordance with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code §§ 21000 *et seq.*, the State CEQA Guidelines, 14 C.C.R. §§ 15000 *et seq.*, and the Environmental Impact Report Guidelines of the City of Placentia. Staff recommends that the Planning Commission exercise its independent judgment and find that UCD 2015-06 is exempt from CEQA pursuant to State CEQA Guidelines § 15061(b)(3) as it pertains to a use where it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment.

Prepared and submitted by:



Charles L. Rangel
Contract Senior Planner

Review and approved by:



Damien R. Arrula
Interim City Administrator

Attachments:

1. Conditions of Approval
2. Resolution PC-2015-21
3. Site Plan

**Special Conditions of Approval and Standard Development Requirements for
Use Permit (UP) 2015-06**

Project Applicant: Doug & Susie Hornecker/Laser Island dba ADB Family
Entertainment

Project Address: 1840 N. Placentia Avenue

CONDITIONS OF APPROVAL

If the above referenced application is approved, applicant and/or property owner shall comply with the Conditions listed below and the Standard Development Requirements attached.

ALL OF THE FOLLOWING SPECIAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE FULLY COMPLIED WITH FOR THE USE PERMIT TO CONTINUE IN GOOD STANDING.

CITY PLANNING DIVISION:

1. Use Permit (UP) 2015-06 is valid for a period of twelve (12) months from the date of final determination. If occupancy of the building for uses approved by this action is not established within such a period of time, this approval shall be terminated and shall be null and void.
2. Use Permit (UP) 2015-06 shall expire and be of no further force or effect if the use is discontinued or abandoned for a period of one (1) year.
3. Failure to abide by and faithfully comply with any and all conditions attached to this action shall constitute grounds for revocation of said action by the City of Placentia Planning Commission.
4. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, proceeding, liability or judgment against the City, its officers, employees, agents and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body or City staff action concerning applicant's project. The applicant shall pay the City's defense costs, including attorney fees and all other litigation-related expenses, and shall reimburse the City for any and all court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award which may issue against the City including but not limited to any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein. The

City agrees to promptly notify the applicant of any such claim filed against the City and to fully cooperate in the defense of any such action.

5. Prior to any changes in the days and hours of operation of Laser Island, the applicant shall obtain written approval from the Director of Development Services or his/her designee. The following are the specified days and hours of operation:

Hours of operation:

Monday - Thursday:	3:00 pm. – 9:00 p.m.
Friday -	3:00 pm – midnight
Sunday	noon – midnight

6. Any modifications to the approved floor plan or changes to the business operation hours, which do not expand or intensify the present use shall be reviewed by the Director of Development Services and may be modified administratively. Modifications to the approved floor plan or changes to the business operation hours, which expand or intensify the present use may be brought to the Planning Commission for modification at the discretion of the Director of Development Services
7. Prior to any modification of the floor plan that would affect parking as stipulated in the zoning code, the applicant shall obtain written approval from the Director of Development Services or his/her designee.
8. If at any time in the future, the Director of Development Services determines that a parking/circulation study is necessary to address parking and/or circulation issues relative to the use, the applicant and/or current business owner, shall be responsible for the cost of a parking and/or circulation study prepared by a consultant selected by the City. The applicant and/or current business owner shall also be responsible for the implementation costs of any mitigation measures deemed appropriate by the City based upon the findings of this study.
9. No outside storage or displays shall be permitted unless modified at the discretion of the Director of Development Services
10. Litter shall be removed daily from the premises, including adjacent public sidewalks, and from all parking areas under the control of the licensee. These areas shall be swept or cleaned, either mechanically or manually, on a weekly basis, to control debris.
11. All existing trash enclosures shall be reviewed in order to evaluate if they are in need of replacement and shall be replaced or repaired if deemed to be in disrepair. All bins shall be kept inside trash enclosures or designated areas, and gates closed at all times (if applicable), except during disposal and pick-up. Trash pick-up shall be done on a regular basis.

12. The applicant shall comply with all provisions of the Placentia Municipal Code, including Chapter 23.76, Noise Control.
13. Any temporary signs or permanent signs shall be reviewed and approved by the City prior to fabrication and installation. Prior to issuance of a building permit, the applicant shall submit a sign plan for the design of all proposed signage on the site for review and approval by the Director of Development Services or his/her designee. The sign plan shall comply with the criteria and requirements set forth in Chapter 23.90, Signs-Advertising Structures, of the Placentia Municipal Code.
14. Prior to issuance of building permits Applicant shall submit landscape plans which shall be subject to review of approval of the Development Services Department. All existing landscape, existing trees and plants in the commercial center shall also be evaluated and replaced if necessary subject to the review and approval of the City.
15. Prior to issuance of Certificate For Occupancy Applicant shall install all landscape improvements shown on the City approved landscape plans.
16. The applicant/business owner shall be responsible for maintaining the property, including the landscaped areas, walkways, and all paved surfaces, free from graffiti, debris and litter. Graffiti shall be removed by the applicant/business owner within 72 hours of defacement and/or upon notification by the City. The applicant/business owner is encouraged to contact the City's graffiti abatement contractor regarding graffiti eradication subscription programs.
17. The applicant/business owner shall obtain approval of a Building and Zoning Compliance Application and shall obtain a valid City Business License prior to operating the business.

CITY BUILDING DIVISION:

21. All Future tenant improvement plans, structural plans and calculation report shall be prepared and signed by a licensed California architect or engineer
22. Applicant shall be required to have occupied floor area (approximately 10,000 sq. ft.) equipped with automatic fire sprinklers. Plans for the new fire sprinkler system shall be reviewed and approved by the Building Division and Orange County Fire Authority prior to the installations
23. Kitchen plans shall be submitted to the O.C. Health Department for review and approval prior to final building permit issuance.
24. Provide new grease interceptor per 2013 California Plumbing Code for the kitchen waste.

25. Requirements for all legal exits (total number of exits, separations, signs, width) shall be in compliance with 2013 California Building Code.

POLICE DEPARTMENT:

26. The Applicant/establishment shall post "No Loitering" signs in the parking lot
27. For Special events planned in the parking lot, notify the Police Department at least two weeks in advance.

ORANGE COUNTY FIRE AUTHORITY:

28. Applicant or responsible party shall submit the plan(s) listed below to the Orange County Fire Authority for review. Approval shall be obtained on each plan prior to the event specified:

Prior to issuance of a building permit:

- Architectural (service codes PR200-PR285)

Prior to concealing interior construction:

- fire sprinkler system (service codes PR430-PR455)
- fire alarm (service code PR510-PR520)

29. Provide basic project information such as construction type, number of stories, total area and area per story, occupancy classification(s) and on which story each occupancy is located, whether the building is protected by a sprinkler system and, if so, what type (NPFA 13, 13-R, 13-D), etc. Per the California Building Code Chapter 411 Special Amusement buildings shall comply with this section. Special amusement buildings shall be equipped throughout with an automatic fire sprinkler system in accordance with Section 903.3.1.1 This building requires fire sprinklers. Indicate this on the plan.

30. Provide an allowable area calculation in accordance with CBC 506 and Equation 5-1.

Pursuant to:

Fire Sprinkler System (service codes PR400-PR465)

Sprinkler Monitoring System (service code PR500)

Fire Alarm System (service code PR500-PR520)

Hood and Duct Extinguishing System (service code PR335)

RESOLUTION NO. PC-2015-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLACENTIA APPROVING USE PERMIT NO. 2015-06 AND MAKING FINDINGS FOR A LASER TAG ENTERTAINMENT ESTABLISHMENT FOR THE PROPERTY LOCATED AT 1840 N. PLACENTIA AVENUE.

A. Recitals.

(i) Laser Island dba Family Entertainment, applicant located at 1840 N. Placentia Avenue ("Applicant" hereinafter) heretofore filed an application for approval of USE Permit NO. 2015-06, as described in the title of this Resolution. Hereinafter, in this Resolution, the subject Use Permit request is referred to as the "Application".

(ii) On December 8, 2015 this Commission conducted a duly noticed public hearing, as required by law, and concluded said hearing prior to the adoption of this Resolution.

(iii) All legal prerequisites to the adoption of this Resolution have occurred.

B. Resolution.

NOW, THEREFORE, it is hereby found, determined and resolved by the Planning Commission of the City of Placentia as follows:

1. The Commission hereby specifically finds that all of the facts set forth in the Recitals, Part A, of this Resolution are true and correct.

2. Based upon substantial evidence presented to this Commission during the public hearing conducted with regard to the Application, including written staff reports, verbal testimony and development plans, this Commission hereby specifically finds as follows:

a. The proposed use will not be: (1) detrimental to the health, safety or general welfare of the persons residing or working within the neighborhood of the proposed use or within the city, or (2) injurious to the property or improvements within the neighborhood or within the city. Subject to compliance with the attached Conditions of Approval and Standard Development Requirements (Attachment "1"), this use complies with all applicable code requirements and development standards of the "C-1" Neighborhood Commercial and (3) It is not anticipated that a laser tag entertainment will generate any negative impacts on the adjacent neighborhood. The use shall be

conducted within an enclosed building and contiguous to the building while maintaining an environment free from objectionable noise, odor, or other nuisances, subject to compliance with the attached Conditions of Approval and Standard Development Requirements.

b. The proposed use is consistent with the City's General Plan. The General Plan Land Use designation for the subject site is "Commercial", and the proposed use does not involve any change in the land use of the subject site. On or about December 8, 2015, the Planning Commission determined that laser tag entertainment establishments are permitted uses in the "C-1" Neighborhood Commercial District, subject to Use Permit approval.

c. The proposed use, activity or improvements, subject to the attached Conditions of Approval and Standard Development Requirements (Attachment 1), is consistent with the provisions of the Zoning Ordinance, or regulations applicable to the property. Approval of the Use Permit would be consistent with the zoning as the site can accommodate the proposed uses and other similar uses have been conditionally permitted within the "C-1" Neighborhood Commercial.

d. Conditions necessary to secure the purposes of this section, including guarantees and evidence of compliance with conditions are made part of the Use Permit approval. Attachment 1 contains Conditions of Approval and Standard Development Requirements specific to Use Permit 2015-05 to ensure compliance with the Placentia Municipal Code.

(5). Subject to compliance with all Conditions of Approval and Standard Development Requirements as approved by the Planning Commission through Resolution PC-2015-21 and Use Permit 2015-06, the Placentia Police Department does not believe that this use permit issuance will create a law enforcement problem. The Development Services Department and the Placentia Police Department are supportive of this proposal.

3. Based upon the environmental review of the project, the Planning Commission finds that Use Permit (UP) 2015-06 is exempt from CEQA pursuant State CEQA Guidelines § 15061(b)(3) and § 15301 as it pertains to a matter which can be seen with certainty that there is no possibility that Use Permit (UP) 2015-06 will have a significant effect on the environment and as operation of existing structure or facilities.

4. The Planning Commission hereby directs that, upon approval of Use Permit 2015-06, a Notice of Exemption be filed with the Orange County Clerk/Recorder.

5. Based upon the findings and conclusions set forth herein, this Planning Commission hereby approves Use Permit 2015-06 as modified herein, and specifically subject to the conditions set forth in Attachment 1, attached hereto and by this reference incorporated herein.

6. The Secretary to the Planning Commission shall:

- a. Certify to the adoption of this Resolution; and
- b. Forthwith transmit a certified copy of this Resolution, by certified mail, to the Applicant at the address of record set forth in the Application.

ADOPTED AND APPROVED this 8th day of December, 2015.

Chairman

I, Charles L. Rangel, Secretary to the Planning Commission of the City of Placentia, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Placentia held on the 8th day of December, 2015, and was passed at this regular meeting of the Planning Commission of the City of Placentia held on the 8th day of December, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Charles L. Rangel.
Secretary to the Planning Commission

APPROVED AS TO FORM

YOLANDA M. SUMMERHILL,
ASSISTANT CITY ATTORNEY

Revision	By	Date
1	W.F. Beatty	9/20/15
2	W.F. Beatty	9/20/15
3	W.F. Beatty	9/20/15
4	W.F. Beatty	9/20/15
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95	W.F. Beatty	9/20/15
96	W.F. Beatty	9/20/15
97	W.F. Beatty	9/20/15
98	W.F. Beatty	9/20/15
99	W.F. Beatty	9/20/15
100	W.F. Beatty	9/20/15

ADB FAMILY ENTERTAINMENT INC.,
1571 N. 1ST AVE.,
UPLAND, CA 91786
(909) 286-1974
(909) 982-0044 FAX

CLIENT/ TENANT

W.F. BEATTY, AIA, AIBC,
179 FERN AVENUE,
UPLAND, CA 91786
909-981-7217, bicon@wfb.com

DESIGNER

INTERIOR RENOVATIONS FOR A LASER TAG ARENA, PARTY ROOM AND ACCESSORY USES IN EXISTING 1 STORY, 9460SF. TYPE V-B CONSTRUCTION, UNSPRINKLERED COMMERCIAL BUILDING, WITH AN OUTDOOR 3000 SF MINI GOLF COURSE AND COVERED SHELTER IN THE REAR/ SIDE YARDS

SCOPE OF WORK

LOT AREA 357,192 SF
TOTAL BLDG. AREA 92,796 SF.
ZONED C1 NEIGHBORHOOD COMMERCIAL
FRONT YARD 15'
REAR & SIDE YARDS NONE
LEASED AREA 9460 SF
@ 4/1000 SF = 38 CARS
410 SPACES PROVIDED
PARKING 9'6"X 19' W/ 25' LANE,
SMALL @ 8'-6"X 15'-0"

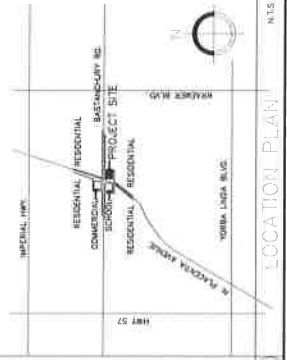
DEVELOPMENT DATA



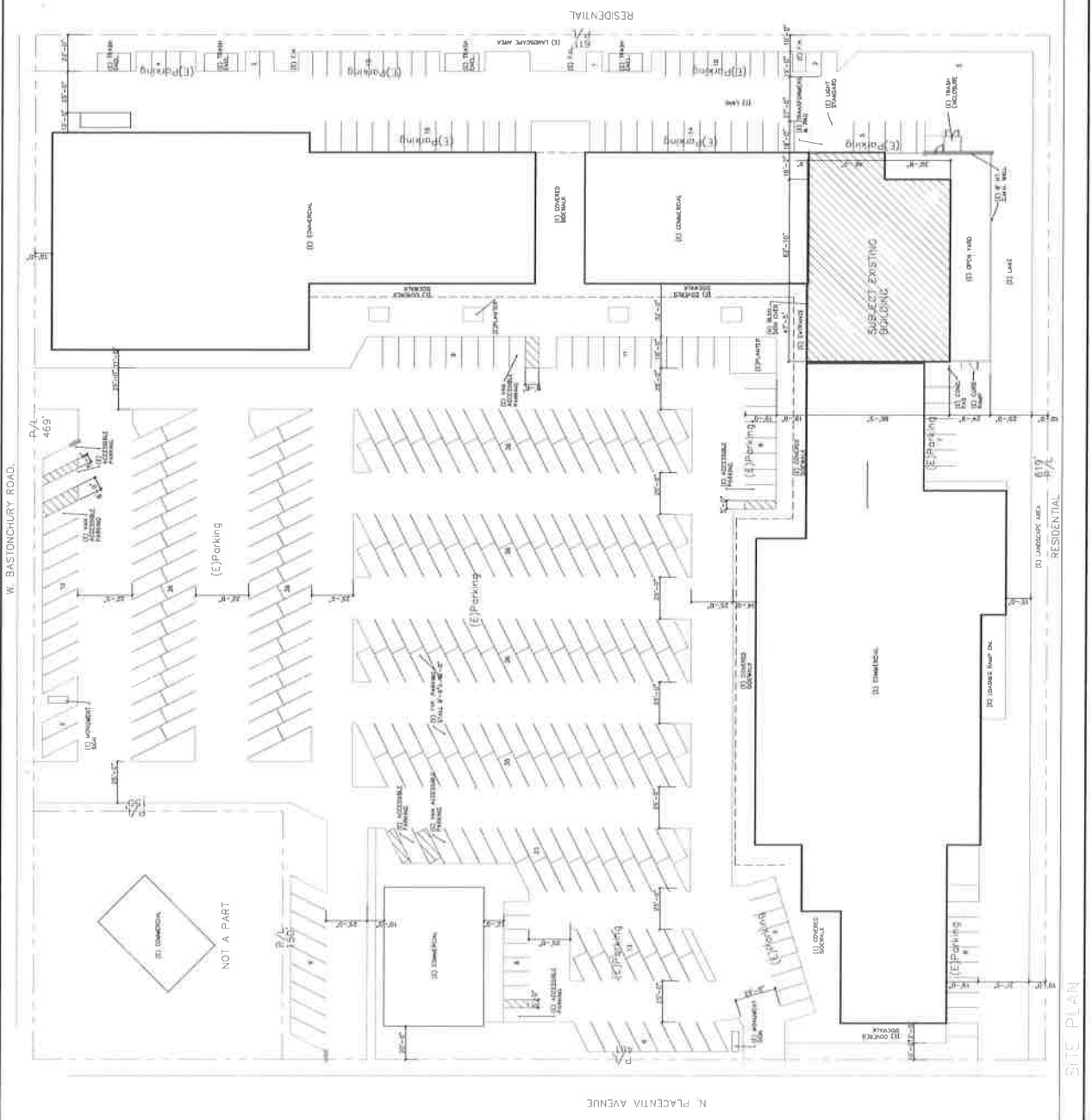
MONUMENT & BLDG. SIGN

APN 336-012-43
A TRACT: 791 BLOCK LOT 20
ORANGE COUNTY, CA

LEGAL DESCRIPTION



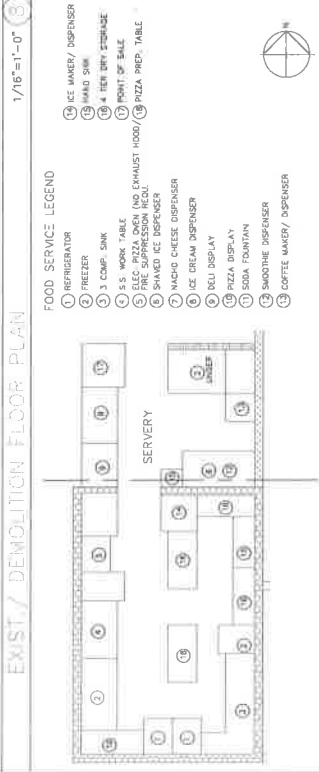
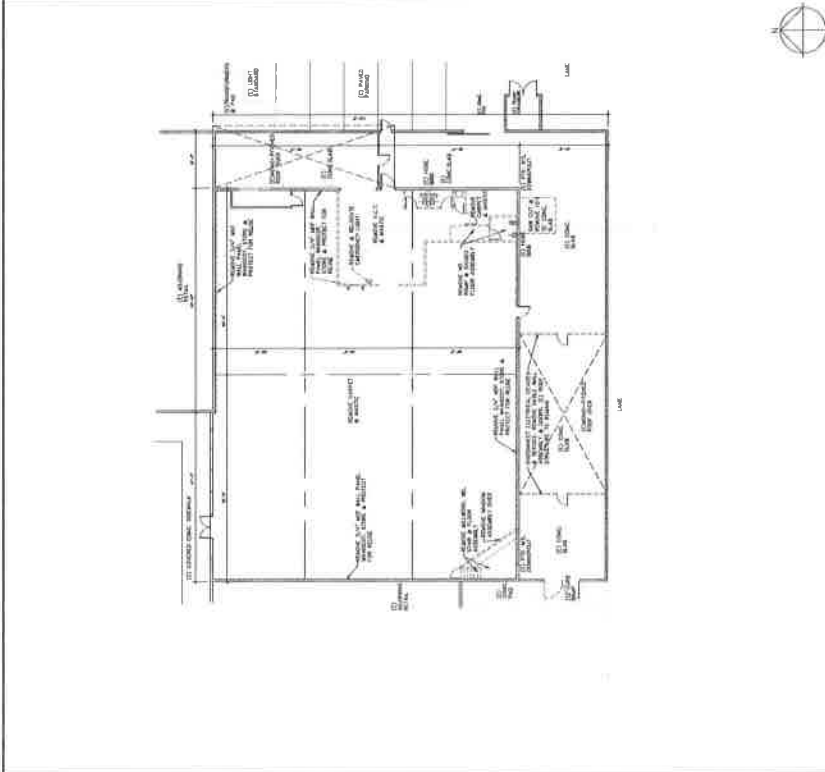
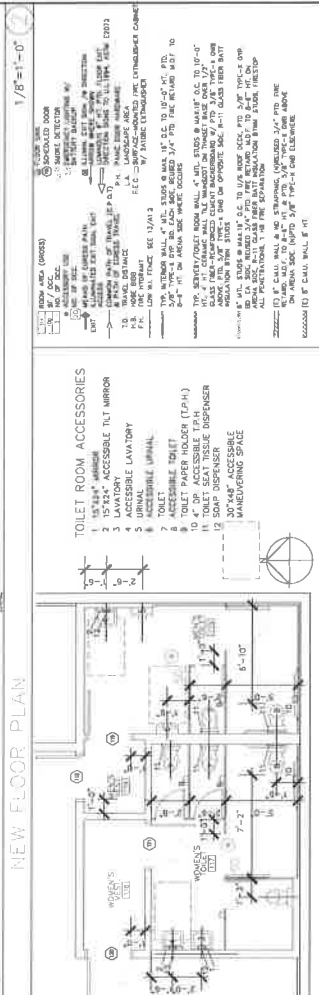
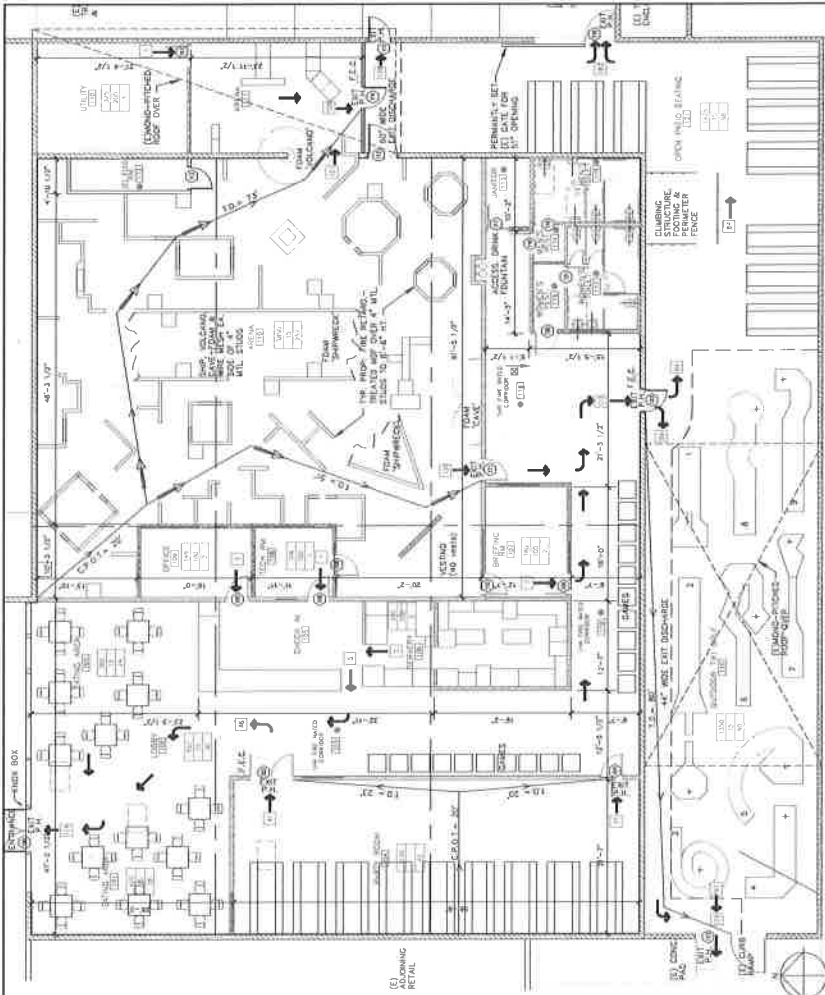
1" = 30'
NTS



1" = 30'
NTS



Tenant Improvements for
Laser Island Tag Facility,
1840 N. Placentia Avenue,
Placentia, CA 92670





Placentia Planning Commission

Agenda Staff Report

TO: PLANNING COMMISSION

FROM: CONTRACT SENIOR PLANNER

DATE: DECEMBER 8, 2015

SUBJECT: **ZONING CODE AMENDMENT ZCA-2015-05, A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE PROHIBITING MARIJUANA CULTIVATION**

SUMMARY:

In response to three new bills that were signed into law by Governor Jerry Brown on October 9, 2015 related to regulation of medical marijuana with the State of California, City Staff reviewed the current zoning ordinance related to prohibition of marijuana cultivation within the City of Placentia ("City"). Staff recommends an amendment to the zoning ordinance to make explicit the fact that cultivation of marijuana and/or medical marijuana is prohibited in the City. To that end, Staff has prepared an ordinance for expressly prohibiting such activity. In accordance with state and local law, the attached ordinance is presented to the Planning Commission for consideration.

RECOMMENDATION:

It is recommended that the Planning Commission take the following actions:

1. Open the Public Hearing concerning Resolution PC-2015-20, Receive the Staff Report and consider all Public Testimony, and Close the Public Hearing; and
2. Adopt Resolution PC-2015-20, A Resolution of the Planning Commission of the City of Placentia Recommending that the City Council adopt amendments to the Placentia Municipal Code, Prohibiting the Cultivation of Marijuana within the City; and
3. Find that the project is Categorically Exempt Pursuant to the California Environmental Quality Act of 1970, as amended, the Guideline promulgated thereunder (14 CCR § 15303) and Placentia Environmental Guidelines; and
4. Find that the proposed amendment is merely preserving the City's current prohibition of marijuana cultivation throughout the City. Adoption of the proposed amendment expressly prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016.

BACKGROUND

In the State of California, cities have the authority to adopt and enforce local laws so long as they are not in conflict with state or federal law. On the basis of this authority, the City has adopted a zoning ordinance that provides the permissible uses of and development standards for all land within the City's boundaries. To this end, the City has adopted a host of 'use classifications,' which define uses within the City. Under the zoning ordinance, a use classification not listed within a given zoning district is prohibited, unless otherwise authorized by the zoning administrator.

Neither indoor, nor outdoor cultivation of marijuana is found among the use classifications approved by the City. It is thus currently prohibited. The proposed ordinance prohibiting marijuana cultivation, however, will make the prohibition explicit. Until such time as the City may elect to regulate marijuana cultivation, it is in the best interest of the health and safety of the public to prohibit marijuana cultivation within the jurisdiction of the City.

The unregulated cultivation of marijuana can adversely affect the health, safety and well-being of the city and its residents. Comprehensive regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, smells and indoor electrical fire hazards that may result from unregulated marijuana cultivation, especially if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana can be cultivated in a concentrated place.

The indoor cultivation of substantial amounts of marijuana, without regulation, also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.

Children are particularly vulnerable to the effects of marijuana use, and the presence of marijuana plants has proven to be an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including hospitals, schools, church parks or playgrounds, childcare centers, recreation centers or youth centers. Cultivation of any amount of marijuana at, or near these sensitive uses presents unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises, without regulation, is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.

The cultivation of marijuana in other cities, without regulation, has resulted in calls for service to the police department, including calls for robberies thefts, and physical assaults from marijuana that is grown both indoors and outdoors. Cultivation bans in other cities have been reviewed by the courts and have been upheld in a variety of forms, including complete bans on cultivation within city limits (see *Maral v. City of Live Oak* (2014)).

STATE LAW GOVERNING MARIJUANA CULTIVATION

The laws governing medical marijuana cultivation, sale, and use in California have evolved rapidly, and are presently in flux at the state level. As has been widely reported in the media, the State of California is attempting to create a new statewide framework to regulate medical marijuana cultivation, sale, and use (see AB 243 (Wood), AB 266 (Bonta, Cooley, Jones-Sawyer, Lackey, and Wood), and SB 643 (McGuire)). These efforts are partially an acknowledgment of the confusion and lack of uniform regulation created in the wake of Proposition 215 (1996), which enacted the Compassionate Use Act, and passage of the Medical Marijuana Program Act of 2003. All three of these bills have been passed by the Legislature and were signed by Governor Brown on October 9, 2015. Their passage significantly affects the City's regulation of this subject.

Generally, the new laws continue to recognize the power of local governments to regulate marijuana cultivation. However, under AB 243, the State Department of Food and Agriculture will establish a 'Medical Cannabis Cultivation Program,' which will be administered by the Department's secretary "except as specified in subdivision (c)" and will administer the new state laws pertaining to the cultivation of medical marijuana. Under subdivision (c):

If a city ... does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the [State Department of Food and Agriculture] shall be the sole licensing authority for medical marijuana cultivation applicants in that city... (Health & Safety Code § 11362.777(c) (4).)

Since this new framework has been signed into law, it is appropriate that the City ensure its prohibition on the cultivation of marijuana is clear, so there is no question of the need for the State to act as the only licensing authority under the new laws¹.

ANALYSIS

ZONING ORDINANCE AMENDMENT FINDINGS

In order to approve an amendment to the municipal code, the Planning Commission is required to make findings as follows:

1. *The proposed amendment will not be detrimental to the health, safety or general welfare of the persons residing or working within the neighborhood of the proposed amendment or within the city.*

¹ Notwithstanding the foregoing, it should be noted that this new legislation could be overturned by the voters. The Secretary of State has recently announced that an initiative to amend the California Constitution with regard to medical marijuana issues has been cleared for circulation. According to the State Attorney General's summary, if passed, the initiative would, among other things, bar "state and local laws that restrict patients' ability to obtain, *cultivate*, or transport medical marijuana, including concentrated cannabis, in any way that does not apply equally to other plants." (Emphasis added.) A second marijuana initiative to amend the State Constitution ("The Control, Regulate and Tax Cannabis Act of 2016") was just submitted to the state Attorney General on October 5th and would likewise impact local regulation of cultivation. While there is no way of predicting whether either of these initiatives (or another that has not yet surfaced) might pass, it is certain the City will need to continue to monitor and revise regulations governing marijuana.

The proposed amendment is merely preserving the City's current prohibition of marijuana cultivation throughout the City. Adoption of the proposed amendment *expressly* prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016.

2. *The proposed amendment will not be injurious to property or improvements within the neighborhood or within the city.*

The proposed amendment is merely preserving the City's current prohibition of marijuana cultivation throughout the City. Adoption of the proposed amendment *expressly* prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016.

3. *The proposed amendment will be consistent with the latest adopted general plan.*

The proposed amendment is merely preserving the City's current prohibition of marijuana cultivation throughout the City. Adoption of the proposed amendment *expressly* prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016.

ENVIRONMENTAL REVIEW

Pursuant to Section 15061(b) (3) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA) of 1970, as amended, the adoption of the ordinance amendments contemplated by the proposed ordinance (the "Project") is exempt from environmental review as there is no possibility that the Project would have a significant effect on the environment given that the proposed amendments simply clarify existing prohibitions on the outdoor cultivation of marijuana in City.

FISCAL IMPACT

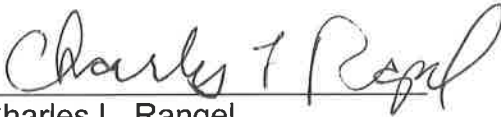
None.

PUBLIC NOTICE

Public contact was made through posting of the Planning Commission Agenda on the City's official notice bulletin board, posting of the agenda and staff report on the City's web page, and availability of the agenda and staff report in the City Clerk's office, located at 401 E. Chapman Ave. Placentia, CA 92870, and at the Placentia Police Department.

In addition, notice through publication in the Placentia News-times on November 27, 2015.

Prepared and submitted by:


Charles L. Rangel
Contract Senior Planner

Review and approved by:


Christian L. Bettenhausen
City Attorney

Reviewed and approved by:


Damien R. Arrula
Interim City Administrator

Attachments:

1. Resolution No. 2015-20
2. Ordinance O-2015-XX

**PLANNING COMMISSION
RESOLUTION NO. 2015-20**

**A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF PLACENTIA RECOMMENDING THAT THE
MAYOR AND CITY COUNCIL ADOPT AN ORDINANCE
AMENDING TITLE 8 (HEALTH AND SANITATION) OF THE
PLACENTIA MUNICIPAL CODE RELATED TO
MARIJUANA CULTIVATION**

WHEREAS, pursuant to the applicable provisions of the Placentia Municipal Code, the Planning Commission at its regular meeting of December 8, 2015, held a duly advertised public hearing and considered the proposed amendment to Title 23 (Zoning Code) of the Placentia Municipal Code; and

WHEREAS, the Planning Commission, having duly considered all written and oral statements presented in regard to the proposed ordinance, determined that the adoption of the ordinance will not impair the public health, safety, and general welfare; and

WHEREAS, the Planning Commission makes the following specific finding of fact related to the Environmental Review process pursuant to the CEQA Guidelines:

The project is found to be exempt from the California Environmental Quality Act (CEQA) as the project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. As such the proposed amendments are not likely to change the physical environment. It merely changes the standards for the storage of refuse and recyclable materials. (CEQA Guidelines 15061(b)(3)).

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

SECTION 1: Pursuant to Section 15061(b)(3) of the Guidelines for implementation of CEQA, the project is found not to be subject to CEQA.

SECTION 2: Pursuant to Section 23.96.040 of the Placentia Municipal Code, the Planning Commission makes the following specific findings of fact related to the proposed zoning text amendments:

1. The proposed amendment will not be detrimental to the health, safety or general welfare of the persons residing or working within the neighborhood of the proposed amendment or within the city.

The proposed amendment is merely preserving the City's current prohibition of marijuana cultivation in all zoning districts. Adoption of the proposed amendment
RESOLUTION PC-2015-20

expressly prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016.

2. The proposed amendment will not be injurious to property or improvements within the neighborhood or within the city.

The proposed amendment is merely preserving the City's current prohibition of marijuana cultivation in all zoning districts. Adoption of the proposed amendment *expressly prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016.*

3. The proposed amendment will be consistent with the latest adopted general plan.

The proposed amendment is merely preserving the City's current prohibition of marijuana cultivation in all zoning districts. Adoption of the proposed amendment *expressly prohibiting marijuana cultivation with the City is recommended for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016*

SECTION 3: The Planning Commission hereby recommends that the Mayor and City Council of the City of Placentia adopt an ordinance amending the Placentia Municipal Code by adding Chapter 8, as follows:

Chapter 8.46. Marijuana Cultivation

8.46.010. Purpose.

The City Council of the City Placentia hereby finds and determines that it is the purpose and intent of this article to prohibit marijuana cultivation, in order to promote the health, safety, morals and general welfare of the residents and the businesses within the City by maintaining local control over the ability to authorize and regulate marijuana-related businesses, including cultivation.

8.46.020. Applicability

- A. Nothing in this article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the CUA.

- B. All the provisions of this article shall apply to all property, public and private, within the City.
- C. All the provisions of this article shall apply indoors and outdoors.

8.46.030. Definitions

The following definitions apply to this chapter:

- A. "Marijuana" shall have the same definition as that set forth in California Health & Safety Code Section 11018.
- B. "Medical marijuana" shall mean marijuana used for medical purposes in accordance with California Health and Safety Code section 11362.5.
- C. "Marijuana cultivation" shall mean the planting, growing, harvesting drying or processing of marijuana plants or any part thereof for any purpose, including medical marijuana, and shall include both indoor and outdoor cultivation.
- D. "Person" shall mean any person, firm, corporation, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer and/or salesperson.

8.46.040. Cultivation of marijuana prohibited

Marijuana cultivation by any person, including primary caregivers, qualified patients and dispensaries, is prohibited in all zone districts within the City of Placentia.

8.46.050. Declaration of public nuisance

Any use, structure, or property that is altered, enlarged, erected, established, maintained, moved, or operated contrary to the provisions of this article, is hereby declared to be unlawful and a public nuisance and may be abated by the city through civil, criminal, and/or administrative proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.

8.46.060. Violations

- A. Violations of this article shall be punishable pursuant to Chapter 1.08 of this Code.
- B. This article is not the exclusive means for the abatement of marijuana

RESOLUTION PC-2015-20

Page 3 of 5

dispensaries within the City of Placentia. The remedies set forth pursuant to this section shall be in addition to any other existing remedies for violations of the Zoning Code, including but not limited to, any action at law or equity.

SECTION 3: Any provision of the Placentia Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council of the City of Placentia declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED, APPROVED, AND ADOPTED this 8th day of December, 2015

Chairman

I, Charles L. Rangel, Secretary to the Planning Commission of the City of Placentia, do hereby certify that the foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Placentia held on the 8th day of December, 2015, and was passed at this regular meeting of the Planning Commission of the City of Placentia held on the 8th day of December, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Charles L. Rangel.
Secretary to the Planning Commission

APPROVED AS TO FORM

YOLANDA M. SUMMERHILL,
ASSISTANT CITY ATTORNEY

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLACENTIA,
CALIFORNIA, ADDING CHAPTER 8 TO THE CITY OF PLACENTIA CITY
MUNICIPAL CODE PROHIBITING MARIJUANA CULTIVATION**

WHEREAS, the City of Placentia, pursuant to its police power, may adopt regulations to protect the health, safety and welfare of the public, Cal. Const. art. XI, § 7, Cal. Govt. Code § 37100, and thereby is authorized to declare what use or condition constitutes a public nuisance; and

WHEREAS, Section 38771 of the California Government Code 38771 authorizes the City through its legislative body to declare actions and activities that constitute a public nuisance; and

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

WHEREAS, the People of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5 et seq.) (the "CUA"), which exempts qualified patients and their primary caregivers from criminal prosecution under enumerated Health and Safety Code sections for use of marijuana for medical purposes; and

WHEREAS, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) (the "MMPA"), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and

WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which establishes a state licensing system for medical marijuana cultivation, manufacturing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, dispensing, and delivery within their jurisdictions. Under the MMRSA, cities and counties may continue to ban medical marijuana cultivation, manufacturing, dispensing, and delivery, in which case the new law would not allow or permit these activities within the cities and counties; and

WHEREAS, notwithstanding the CUA, the MMPA, and the MMRSA, marijuana remains a schedule I substance pursuant to Cal. Health & Saf. Code § 11054 (d)(13); and

WHEREAS, marijuana also remains a schedule I substance pursuant to federal law, 21 U.S.C. § 812, Schedule 1 (c)(10), and federal law does not provide for any medical use defense or exception (*Gonzales v. Raich*, 545 U.S. 1 (2005); *United States v. Oakland Cannabis Buyers' Coop.*, 532 U.S. 483 (2001)); and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMPA preempt local regulation in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013); and

WHEREAS, the MMRSA expressly allows cities and counties to ban marijuana cultivation consistent with current state law including the *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013);

WHEREAS, the MMRSA provides that if a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under the principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to the MMRSA, then commencing March 1, 2016, the state will be the sole licensing authority for medical marijuana cultivation applicants (Health & Safety Code section 11372.777(c)(4));

WHEREAS, the City intends by the adoption of this ordinance to prohibit marijuana cultivation within the City for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016, added by the MMRSA; and

WHEREAS, the City of Placentia's Municipal Code does not prohibit marijuana cultivation as a permitted use in any zone in the City; and

WHEREAS, the City Council of the City of Placentia finds that, until such time as the City may elect to regulate marijuana cultivation, it is in the interest of the health, safety and welfare of the City to make explicit that marijuana cultivation is prohibited anywhere in the City and is a public nuisance per se; and]

WHEREAS, the City Council finds that the cultivation of marijuana has the potential to significantly impact, the City's jurisdiction. These impacts include the following:

- A. The unregulated cultivation of marijuana can adversely affect the health, safety and well-being of the city and its residents. Comprehensive regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, smells and indoor electrical fire hazards that may result from unregulated marijuana cultivation, especially if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana can be cultivated in a concentrated place.
- B. The indoor cultivation of substantial amounts of marijuana, without regulation, also frequently requires excessive use of electricity, which often creates an

unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.

- C. Children are particularly vulnerable to the effects of marijuana use, and the presence of marijuana plants has proven to be an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including hospitals, schools, church parks or playgrounds, childcare centers, recreation centers or youth centers. Cultivation of any amount of marijuana at, or near these sensitive uses presents unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises, without regulation, is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.
- D. The cultivation of marijuana in other cities has resulted in calls for service to the police department, including calls for robberies thefts, and physical assaults from marijuana that is grown both indoors and outdoors.

WHEREAS, the City of Placentia, California, pursuant to the provisions of the California Environmental Quality Act (hereinafter "CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) has determined that the Ordinance is exempt pursuant to Section 15061(b)(3) of Title 14 the California Code of Regulations; and

WHEREAS, the City Council finds that the provisions of this Ordinance are consistent with the City of Placentia's General Plan; and

WHEREAS, the City Council finds that this Ordinance will not adversely affect property values and will not be detrimental to the City; and

WHEREAS, on December 16, 2015, following proper notice and public hearing, the City's Planning Commission adopted Resolution No. 2015-20 recommending to the City Council the adoption of an Ordinance amending Title 23 of the Placentia Municipal Code, relating to marijuana cultivation; and

WHEREAS, the City Council has considered evidence presented by the Planning Commission and City Staff at a duly noticed public hearing held on December 16, 2015; and

WHEREAS, all legal prerequisites prior to the adoption of this ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PLACENTIA DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2: Chapter 8.46 is hereby added to the Placentia Municipal Code to read as follows:

Chapter 8.46. Marijuana Cultivation

8.46.010. Purpose.

The City Council of the City Placentia hereby finds and determines that it is the purpose and intent of this article to prohibit marijuana cultivation, in order to promote the health, safety, morals and general welfare of the residents and the businesses within the City by maintaining local control over the ability to authorize and regulate marijuana-related businesses, including cultivation.

8.46.020. Applicability.

- A. Nothing in this article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the CUA.
- B. All the provisions of this article shall apply to all property, public and private, within the City.
- C. All the provisions of this article shall apply indoors and outdoors.

8.46.030. Definitions.

The following definitions apply to this chapter:

- A. "Marijuana" shall have the same definition as that set forth in California Health & Safety Code Section 11018.
- B. "Medical marijuana" shall mean marijuana used for medical purposes in accordance with California Health and Safety Code section 11362.5.
- C. "Marijuana cultivation" shall mean the planting, growing, harvesting drying or processing of marijuana plants or any part thereof for any purpose, including medical marijuana, and shall include both indoor and outdoor cultivation.
- D. "Person" shall mean any person, firm, corporation, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer and/or salesperson.

8.46.040. Cultivation of marijuana prohibited.

Marijuana cultivation by any person, including primary caregivers, qualified patients and dispensaries, is prohibited throughout the City of Placentia.

8.46.050. Declaration of public nuisance.

Any use, structure, or property that is altered, enlarged, erected, established, maintained, moved, or operated contrary to the provisions of this article, is hereby declared to be unlawful and a public nuisance and may be abated by the city through civil, criminal, and/or administrative proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.

8.46.060. Violations.

- A. Violations of this article shall be punishable pursuant to Chapter 1.08 of the City of Placentia Municipal Code.
- B. This article is not the exclusive means for the abatement of marijuana dispensaries within the City of Placentia. The remedies set forth pursuant to this section shall be in addition to any other existing remedies for violations of the Municipal Code, including but not limited to, any action at law or equity.

SECTION 3: Any provision of the Placentia Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council of the City of Placentia declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

Passed and adopted on this ____ day of December, 2015

Jeremy B. Yamaguchi, Mayor

ATTEST:

Patrick, Melia, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF PLACENTIA)

I, Patrick Melia, City Clerk of the City of Placentia, do hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council on the _____th day of _____, 2015, and was finally adopted at a regular meeting held on the ____ day of _____, by the following vote.

AYES:
NOES:
ABSENT:
ABSTAIN:

Patrick Melia, City Clerk

Approved as to Form:

Christian L. Bettenhausen, City Attorney