



Planning & Community Development Department

Appeal of Board of Zoning Appeals Decision  
on Director Decision that CUP: Cannabis Retail  
Application submitted by SweetFlower Pasadena, LLC  
is Incomplete

City Council Meeting  
October 7, 2019





# Appeal of BOZA Decision

## Planning & Community Development Department

1. This is not a license to sell cannabis.
2. No authority to promulgate rules.
3. The requirement in the application is:

**LOCATION MAP** (Two copies)

- a) Identification of the applicable distance requirements as outlined in Section 17.50.066 D (5) "Location Requirements" of the Pasadena Municipal Code prepared by a licensed surveyor.
- b) Identification of all land uses and zoning classifications for all properties within the applicable distance requirements as outlined in Section 17.50.066 D (5) "Location Requirements" of the Pasadena Municipal Code.

4. Determination of application completion involves discretion.



# Appeal of BOZA Decision

Planning & Community Development Department

**The narrow issue before the City Council tonight is a quasi-judicial hearing on whether the appellant's June 12, 2019 CUP application was incomplete.**

On August 19, 2019, the appellant submitted an application to appeal the Board of Zoning Appeals' August 7, 2019 decision. The appellant has cited the following reasons for the appeal of the Board of Zoning Appeals' decision:

1. The appellant's CUP application was compliant with requirements of the Pasadena Municipal Code (P.M.C.); *The application was deemed incomplete because the measurements showing applicable distances under the code were not prepared by a licensed surveyor.*
2. The Director has no authority to promulgate cannabis regulations; *P.M.C. 17.60.040 D REQUIRES the Director to establish requirements for applications.*
3. The standards for determination of completeness were changed a number of times; *The application checklist was provided to all applicants at the June 12<sup>th</sup> meeting and all applicants were advised of the licensed surveyor requirement at the meeting.*
4. No consistency or fairness in determining the completeness of CUP applications. *All applications were reviewed for completeness upon submittal in the order received. Every other complete application submitted to the City includes code required measurements prepared by a licensed surveyor.*

PASADENA



# Standard of Review

Planning & Community Development Department

- The Zoning Code provides that the standard of review is *de novo* (without deference to prior decisions of BZA or Planning Director).
- The scope of review is limited to evidence related to SweetFlower's application and the issue of whether it is incomplete.
- Consideration of evidence or arguments unrelated to the incompleteness of SweetFlower's application would be considered irrelevant.



# Appeal of BOZA Decision

Planning & Community Development Department

- Pursuant to **17.60.060 (Initial Application Review)**, the scope of this appeal application is limited to the Director's determination that the application is incomplete.

**Section 17.60.060:**

- **2. Appeal of determination.** Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete or that the information requested by the Director is not required, the applicant may appeal the determination in compliance with Chapter 17.72 (Appeals).

**The narrow issue before the City Council tonight is whether the appellant's June 12, 2019 CUP application was incomplete.**

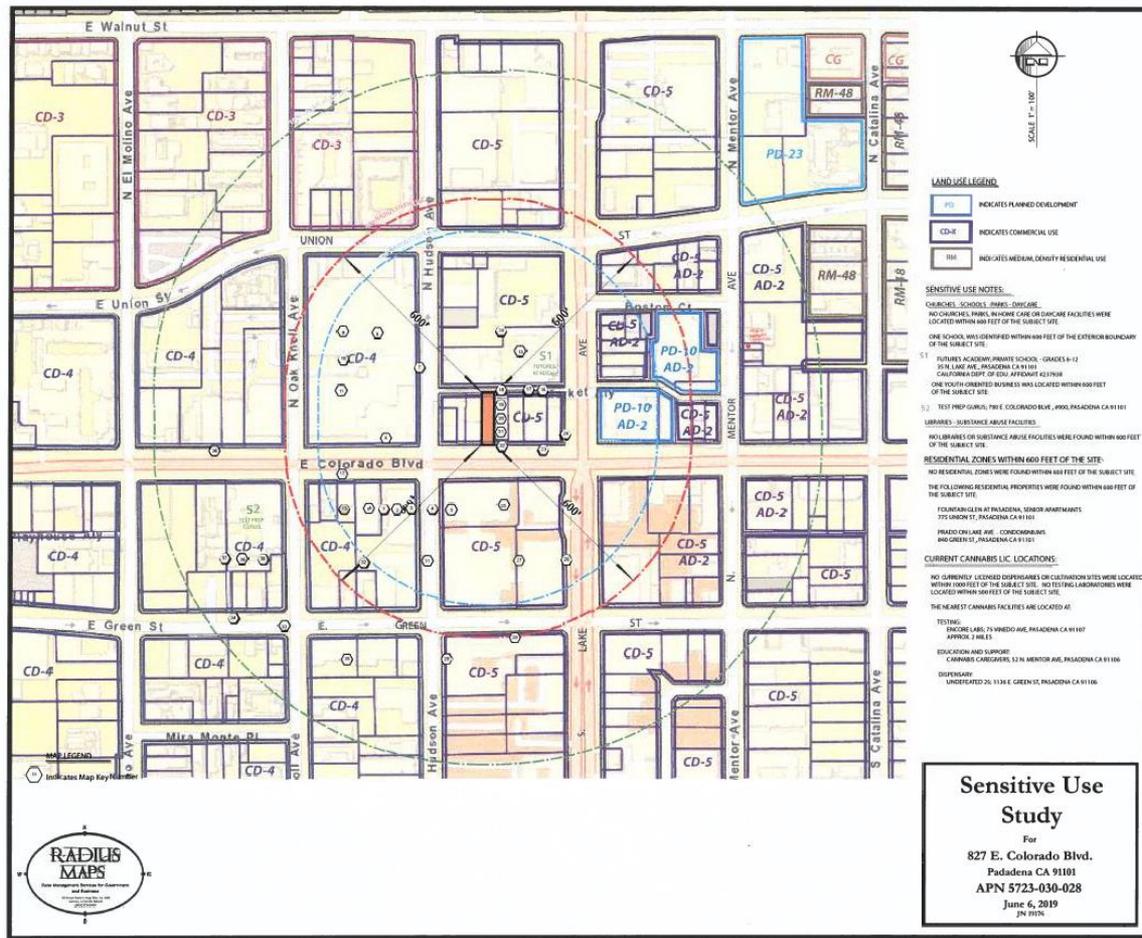


# Appellant First Submittal – June 12, 2019

## Planning & Community Development Department

The City issued status letters to all applicants on June 27, 2019.

The letter to the appellant indicated that their June 12<sup>th</sup> submission was incomplete and could not be processed because the required 600' and 1,000' distances were not prepared by a licensed surveyor.





# Location Map – Harvest of Pasadena, LLC

## Planning & Community Development Department

**Kimley»Horn**

June 12, 2019

Attn: City of Pasadena, Licensing

City of Pasadena  
100 North Garfield Avenue  
Pasadena, CA 91101

Re: Distance Certification Letter for proposed cannabis site located at 169 W. Colorado Blvd., Pasadena, CA 91105. APN 5713-004-016

The surveyor listed below has performed measurements of the subject site in relation to sensitive uses in accordance with land use information provided in the enclosed Sensitive Use Study prepared by Radius Maps, JN 19184, dated June 11, 2019. With respect to business licenses and sensitive land use determination, we defer to said study.

Utilizing scaled, high-resolution ortho-imagery, we have measured the radius rings (500', 600' & 1,000') from all corners of the subject parcel. We have reviewed the location of structures and the land use areas identified and concur with the results of the Sensitive Use Study.

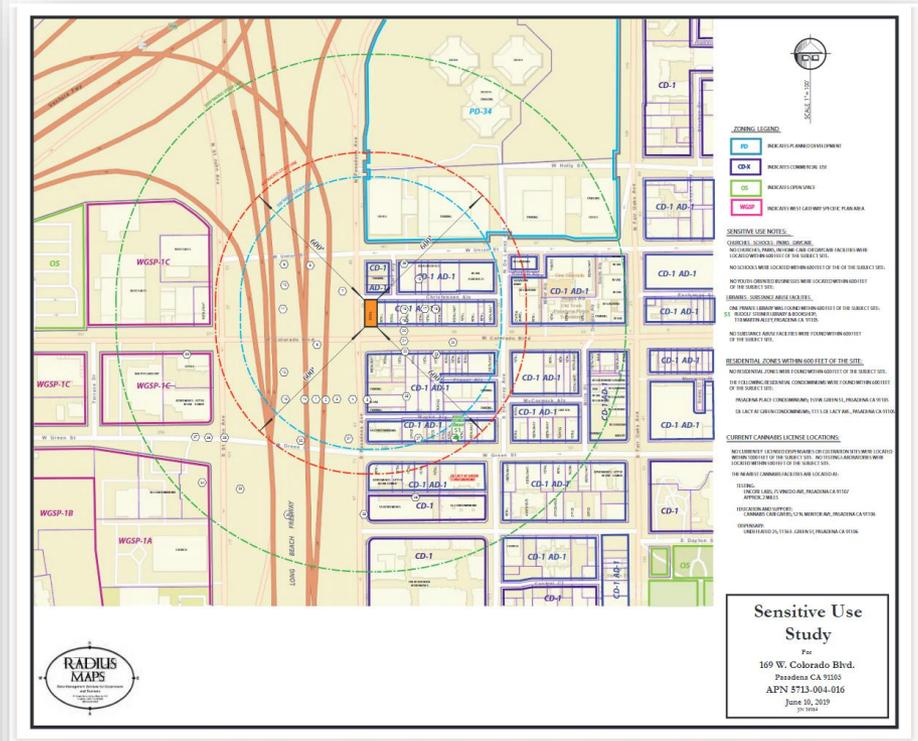
We hereby certify that the distances as represented in the Sensitive Use Study are accurate both in radius and identification. We further certify that the distances to the nearest cannabis facilities, from addresses stated within the Sensitive Use Study, are accurate.

Michael J. Knapp, PLS No. 8012  
Registered California Professional Land Surveyor



Attachments: Sensitive Use Study

Suite 2050  
660 South Figueroa  
Los Angeles, California  
90017





# Location Map – The Atrium Group, LLC

## Planning & Community Development Department

### RADIUS MAP CERTIFICATION STATEMENT CITY OF PASADENA

EZR Surveying LLC has conducted a research investigation and review to identify all the sensitive receptors that surround the property located at 70 W UNION ST, PASADENA, CA.

This review has been conducted to the best of our ability and is reflected in the 600' & 1000' Land Use Map provided, utilizing the following methods:

- A physical inspection of each parcel of land within a 600 foot radius of the site to identify the specific land uses
- Internet research using various databases, such as Google Earth

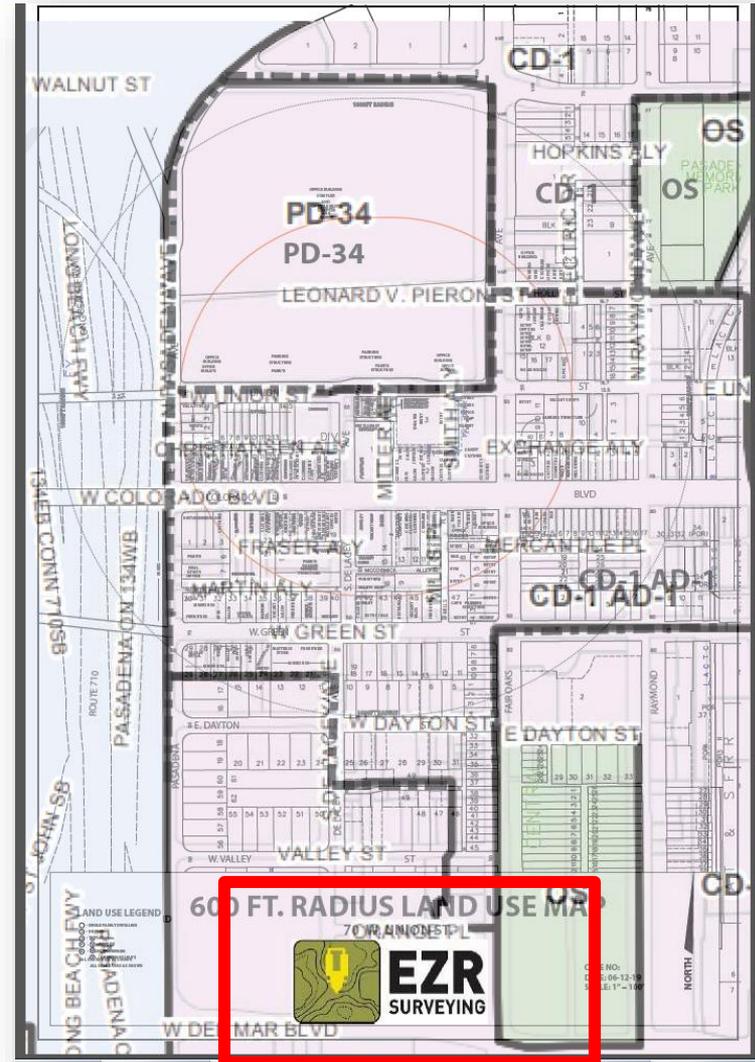
Cannabis retailers shall be permitted in only the CO, CL, CG, CD and IG zoning districts and shall be subject to the following requirements:

- No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer or cultivation site, or within 500 feet of any testing laboratory; **NONE WERE EVIDENT**
- No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone; **NONE WERE EVIDENT**
- No retailer shall be established or located within a mixed-use development project containing a residential use component; **NONE WERE EVIDENT**
- No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any childcare center, in-home (family of day care home), youth-oriented facility, church or faith congregation, or substance abuse center; **NONE WERE EVIDENT**
- No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, library, or K-12 school; **NONE WERE EVIDENT**
- Retailers shall be required to comply with all zoning, land use and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in the Pasadena Municipal Code. **NONE WERE EVIDENT**

We hereby certify that the above information and Land Use Map being provided for this investigation is correct and true to the best of our knowledge and ability

6/13/2019  
Date

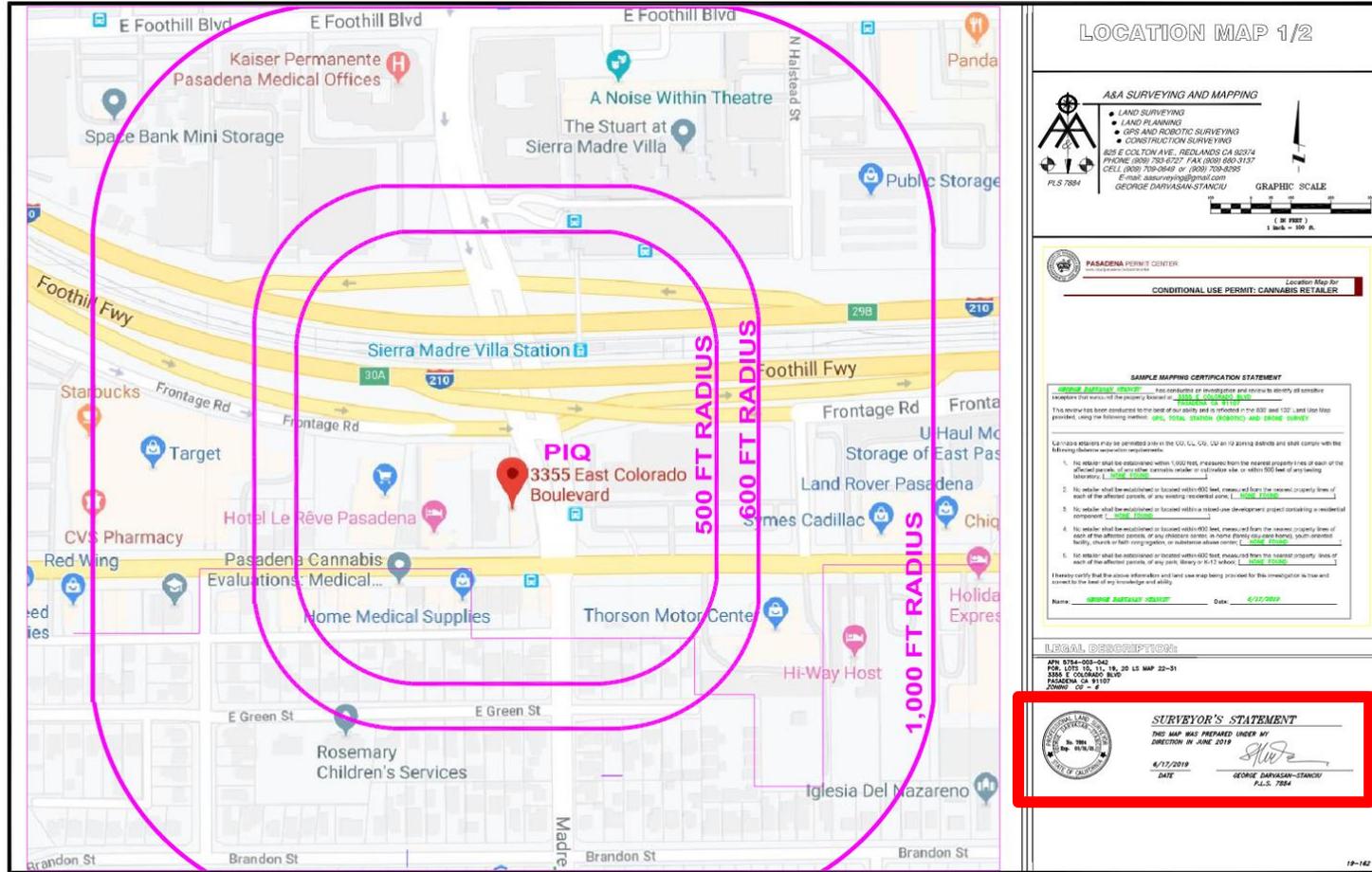
Ethan Z. Remington, P.L.S.





# Location Map – Varda (Tony Fong)

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# Background

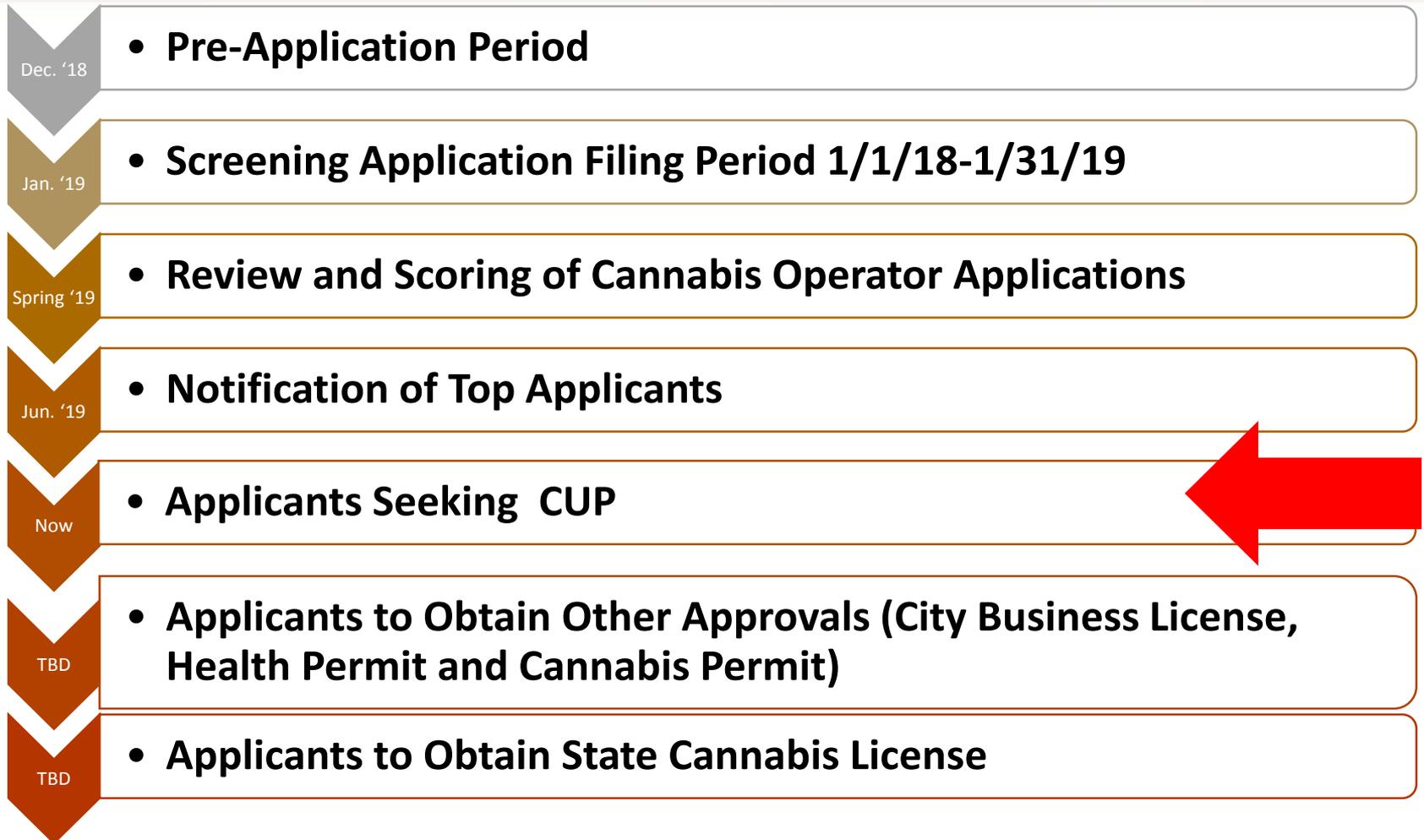
## Planning & Community Development Department

- Measured CC and DD approved by Voters on June 5, 2018.
- Measure CC allows a limited number of cannabis retailers, cultivators, and testing labs to operate within specific zoning districts in the city. Up to:
  - 6 retailer permits (can include delivery)
  - 4 cultivation site permits
  - 4 testing laboratory permits
- Measure DD levies a business license tax on commercial cannabis businesses of up to \$10/canopy square foot (for cultivation) and between 4-6% of gross receipts (for retail sales)



# Selection Process

## Planning & Community Development Department





# Permittee Selection

## Planning & Community Development Department

- An informational workshop was held in November 2018 to explain the process and procedures.
- The filing period for the screening application was January 1<sup>st</sup> to January 31<sup>st</sup> 2019.
- A total of 128 applications were received:
  - > Retail Cannabis: 122 applications
  - > Testing Laboratories: 3 applications
  - > Cultivators: 3 applications
- All applications were scored and ranked by a designated selection committee comprised of expert staff at neutral, third-party consultant group, Hinderliter, de Llamas & Associates Companies (HdL).
- The top six applicants for the retailer category were then interviewed by members of City staff. These interviews were monitored by the City's Internal Audit group.



# Top-Scoring Applicants

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- The six top-scoring applicants were identified on June 5, 2019 and were offered the opportunity to submit a *Conditional Use Permit: Cannabis Retailer (CUP)* application.

**Applicant Name**

Integral Associates Dena, LLC

Tony Fong

The Atrium Group, LLC

Harvest of Pasadena, LLC

SweetFlower Pasadena, LLC

MME Pasadena Retail, LLC



# CUP Application – Top 6

## Planning & Community Development Department

- When the City Council adopts regulations, it doesn't adopt, review or consider the application that is required for relative entitlements, instead, the PMC delegates this authority to the Planning and Community Development Director (P.M.C. Section 17.60.040 D).
- A new Conditional Use Permit Cannabis Retailer application was created
  - > This application is specifically for cannabis retailers and includes several requirements that are specific to cannabis use.
  - > It is commonplace and expected for applications to have unique, specific requirements tailored to address specific land use issues.
  - > This new application requires, among other things, demonstration of site control and verification that the proposed site meets the City's distance separation requirements to sensitive uses.



# Overview of Regulations

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<b>Retailer</b>	
<b>Use</b>	Allows a commercial cannabis business to operate where cannabis and/or cannabis products are offered for retail sale, including deliveries as part of retail sale
<b>Zoning/ Location</b>	<ul style="list-style-type: none"><li>• Allowed in commercial and industrial zones – CO, CL, CG, CD, IG</li><li>• 600 ft. from residential zones</li><li>• 600 ft. from sensitive uses, including K-12 schools, libraries, parks, substance abuse centers, etc.</li><li>• 1,000 ft. from other cannabis retailers and cultivators</li></ul>
<b>Density</b>	<ul style="list-style-type: none"><li>• Up to 6 retailers may operate at any one time</li><li>• No more than one (1) per council district</li></ul>



# Cannabis Retailer CUP

## Planning & Community Development Department

- On June 12, 2019, a workshop was held with representatives for the top applicants where the *CUP: Cannabis Retailer* application was distributed.
- The *Conditional Use Permit: Cannabis Retailer* is a new land use and has a new application that includes several additional requirements for supplemental documentation that are specific to the cannabis retail use.
- The CUP application for cannabis retailers is not the same as the standard application that is utilized for other uses which require a conditional use permit.
- There is no requirement in state law or in the PMC that requires that application contents be set forth therein – cities across the state set forth submission requirements in the specific application at issue.



# Distribution of CUP Application

## Planning & Community Development Department

- The Conditional Use Permit: Cannabis Retailer application packet (CUP) was distributed to the applicants at the same time.
  - > Workshop was attended by twelve individuals consisting of two representatives for each of the top six applicants.
  - > The City's Internal Audit staff was also present at the meeting.
  - > City staff spent two-hours with the applicants.
  - > City staff reviewed every section of the application and responded to questions.
  - > Hard-copy of the application was distributed at the beginning of the meeting.
  - > Only the first complete application with a compliant location will be processed per Council District.
  - > Applicants were provided the opportunity to ask questions during and after the meeting.



# CUP Application Submissions

## Planning & Community Development Department

	<i><b>Applicant</b></i>	<i><b>Date of Submission</b></i>	<i><b>Time Submitted</b></i>	<i><b>Proposed Location</b></i>	<i><b>Council District</b></i>	<i><b>Required Distances by Licensed Surveyor?</b></i>
1.	SweetFlower Pasadena, LLC	June 12, 2019	5:34 p.m.	827 E Colorado Blvd	3	No
2.	Harvest of Pasadena, LLC	June 12, 2019	10:20 p.m.	169 W Colorado Blvd	3	Yes
3.	The Atrium Group, LLC	June 12, 2019	10:56 p.m.	70 W Union	3	No
4.	The Atrium Group, LLC	June 13, 2019	4:48 p.m.	70 W Union	3	Yes
5.	Varda (Tony Fong)	June 17, 2019	3:59 p.m.	3355 E Colorado Blvd	4	Yes
6.	Integral Associates Dena, LLC	June 21, 2019	8:04 p.m.	112 W Colorado Blvd	6	Yes
7.	SweetFlower Pasadena, LLC	June 27, 2019	2:52 p.m.	827 E Colorado Blvd	3	No
8.	Integral Associates Dena, LLC	June 27, 2019	4:25 p.m.	908 E Colorado Blvd	7	Yes
9.	SweetFlower Pasadena, LLC	July 3, 2019	3:41 p.m.	827 E Colorado Blvd	3	Yes
10	SweetFlower Pasadena, LLC	July 3, 2019	3:41 p.m.	827 E Colorado Blvd	3	Yes



# Cannabis Permit Process

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**Top Applicants**

**Incomplete Application**

**Complete but Not Code Compliant**

**Complete Application**

Integral

CD 8

Tony Fong

CD 4

Atrium

CD 3

Harvest

CD 3

SweetFlower

CD 3

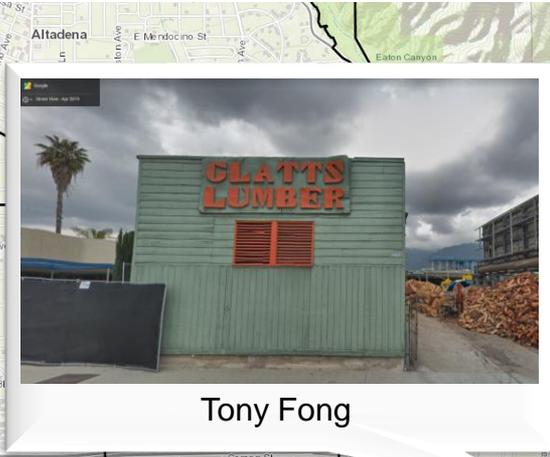
PASADENA



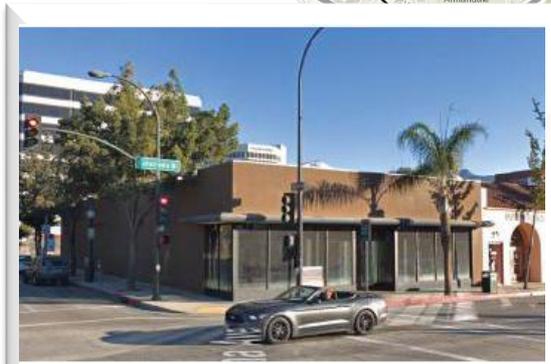
# Proposed Locations

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<u>Applicant</u>	<u>Location</u>	<u>Council District</u>
Harvest of Pasadena, LLC	169 W. Colorado Blvd	3
Tony Fong	3355 E. Colorado Blvd	4
Integral Associates Dena, LLC	908 E. Colorado Blvd	7



Tony Fong



Harvest of Pasadena



Integral Associates Dena, LLC



# Application Submittal Requirements

## Planning & Community Development Department

Pursuant to this Section 17.60.040 D of the Pasadena Municipal Code, there are four required items that shall be provided for every application and the Director has the discretion to require **“any additional materials identified by the Director”**.

As such, it is the determination of the Director that the items required in the “Conditional Use Permit: Cannabis Retailer” application are additional required materials.

### **Section 17.60.040 D Application Preparation and Filing):**

*The Director shall establish in writing the submittal requirements for permit applications required by this Zoning Code. All applications shall include the following submittal materials, as well as any additional materials identified by the Director:*

- 1. A signed application review form;*
- 2. The application fee, if required, in compliance with the Council’s Fee Resolution;*
- 3. A completed environmental assessment form if the project is subject to the California Environmental Quality Act (CEQA), unless the form has been submitted with a previous application for this project; and*
- 4. Where the application requires mailed a public notice in compliance with Chapter 17.76 (Public Hearings), a map showing the location and street address for the project and all lots within the required notice mailing radius for the permit, and a mailing list, keyed to the map, containing the names and addresses of the record owners of each lot, as shown on the County’s latest equalized property tax assessment roll, in compliance with Chapter 17.76 (Public Hearings).*



# Over 60 Entitlement Applications

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- The City Council has adopted zoning regulations governing over 60 entitlement applications

Planning & Community Development

## Permit Applications and Forms Directory

All applications must be filled out completely and submitted to the Permit Center with applicable fees. The Master Application is required for all legislative applications. If you are submitting a legislative application, you only fill out the Master Application once, and fill out all supplemental applications as required. There are two versions of the Master Application, the Environmental Assessment Supplemental questions for environmental impact review and the short form, which is a single page.

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# Affordable Housing Concession Permit

Planning & Community Development Department



PASADENA PERMIT CENTER  
www.cityofpasadena.net/permitcenter

## SUBMITTAL CHECKLIST FOR DENSITY BONUS WAIVERS / INCENTIVES REQUEST

This checklist should be reviewed together with a Planner at the Permit Center and must be submitted with the application.

### MINIMUM REQUIREMENTS:

**THREE (3)** sets of the submittal materials

MASTER APPLICATION/ENVIRONMENTAL ASSESSMENT FORM

PHOTOS -

A minimum of 4 photos (varied angles) of the project site showing structures. Indicate on the sewer map (labeling each photo) the direction taken.

SITE PLAN (11X17)

Please include the following on the Site Plan:

- a) Applicant's name, address & phone number.
- b) North arrow & drawing scale.
- c) Project Site Address
- d) Property Lines
- e) Internal & external rights-of-way
- f) Existing structures and their uses labeled
- g) Location of adjacent structures and uses labeled
- h) Proposed structures and their uses (use solid bold lines)
- i) Mature trees (4" or more in diameter)
- j) Yard dimensions
- k) Topography when applicable
- l) Vicinity map showing 1/2 mile radius street system with project site highlighted (integrated at lower right hand corner of plan).

DENSITY BONUS WAIVER(S) REQUEST LETTER

A signed letter from the applicant to the Zoning Administrator detailing all density bonus incentives/waivers requested and how each waiver relates to the affordability of the project.

COST PRO-FORMA

A cost pro-forma shall be submitted that includes:

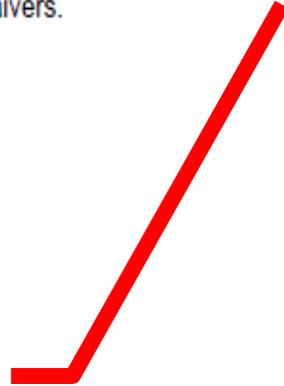
- a) Financial justification for EACH specific development incentive/waiver requested that clearly demonstrates how granting each individual waiver will make the project feasible.
- b) A cost comparison of the project without the requested incentives/waivers versus with the incentive/waivers.

### COST PRO-FORMA

A cost pro-forma shall be submitted that includes:

- a) Financial justification for EACH specific development incentive/waiver requested that clearly demonstrates how granting each individual waiver will make the project feasible.
- b) A cost comparison of the project without the requested incentives/waivers versus with the incentive/waivers.

incentives/waivers requested and how each waiver relates to the affordability of the project.





# Hillside Development Permit

## Planning & Community Development Department

### Submittal Checklist for HILLSIDE DEVELOPMENT PERMIT

#### SPECIFIC ENTITLEMENT REQUIREMENTS:

In addition to the minimum submittal requirements, the following specific entitlement requirements for Hillside Development Permits shall also be submitted:

- SUPPLEMENTAL APPLICATION** (eight copies)
  - c) Description of Request (i.e. Comprehensive Scope of Work in narrative form).
  - d) Findings for a Hillside Development Permit.
  - e) Worksheet for Average Slope, Floor Area Ratio and Neighborhood Compatibility.
- DEVELOPMENT SCHEDULE** (eight copies)
- FLOOR PLANS** (eight full size copies and four 11"X17" reductions)
- ELEVATIONS** (eight full size copies and four 11"X17" reductions)
- ELEVATION SECTIONS** (eight full size copies and four 11"X17" reductions)
- STREET ELEVATION SKETCHES** (eight full size copies and four 11"X17" reductions)
- GRADING PLAN** (eight full size copies and four 11"X17" reductions, required if grading is greater than or equal to 50 cubic yards; clearly identify areas to be cut and filled)
- TOPOGRAPHIC MAP** (eight full size copies and four 11"X17" reductions, to be prepared at a contour interval of no greater than five feet.) The map must identify all portions of the lot with slopes of 15% or less, 15-50% and over 50%.
- LANDSCAPE PLAN** (eight full size copies and four 11"X17" reductions)
- CALCULATIONS** (eight copies, square footage, floor area ratio, average slope, etc.)
- CONSTRAINTS ANALYSIS** (eight copies in narrative form, describing any environmental conditions on the lot that impact placement of structures, e.g. riparian areas, wildlife corridors, protected trees, etc.)
- PRELIMINARY GEOTECHNICAL REPORT** (two copies, to identify and propose mitigation measures for any soils or geological problems that may affect site stability or structural integrity)
- HYDROLOGY REPORT** (two copies, to analyze the effects of water runoff, drainage, sustained landscape irrigation and increased groundwater on slope stability, and the potential effects of added groundwater on properties down slope; the Zoning Administrator may waive this requirement for projects where no or only minor alterations to the existing topography or
- VISUAL ANALYSIS** The Hillside Development Ordinance provides several options to meet the visual analysis requirements (e.g. models, photo simulations, etc.). Consult with a planner to determine the most appropriate visual analysis for the specific site and the number of copies required.

#### ADDITIONAL ITEMS:

In addition, the following items may be required by the Planner for submittal:

- CIRCULATION PLAN**
- LEASE AGREEMENT**
- OTHER ITEMS**
- SIGN INVENTORY**
- ESCROW TITLE PAPERS**

- STREET ELEVATION SKETCHES** (eight full size copies and four 11"X17" reductions)
- GRADING PLAN** (eight full size copies and four 11"X17" reductions, required if grading is greater than or equal to 50 cubic yards; clearly identify areas to be cut and filled)
- TOPOGRAPHIC MAP** (eight full size copies and four 11"X17" reductions, to be prepared at a contour interval of no greater than five feet.) The map must identify all portions of the lot with slopes of 15% or less, 15-50% and over 50%.
- LANDSCAPE PLAN** (eight full size copies and four 11"X17" reductions)
- CALCULATIONS** (eight copies, square footage, floor area ratio, average slope, etc.)
- CONSTRAINTS ANALYSIS** (eight copies in narrative form, describing any environmental conditions on the lot that impact placement of structures, e.g. riparian areas, wildlife corridors, protected trees, etc.)
- PRELIMINARY GEOTECHNICAL REPORT** (two copies, to identify and propose mitigation measures for any soils or geological problems that may affect site stability or structural integrity)
- HYDROLOGY REPORT** (two copies, to analyze the effects of water runoff, drainage, sustained landscape irrigation and increased groundwater on slope stability, and the potential effects of added groundwater on properties down slope; the Zoning Administrator may waive this requirement for projects where no or only minor alterations to the existing topography or drainage patterns are proposed or where the slope does not exceed 15 percent)



# Location Map Requirement

## Planning & Community Development Department



PASADENA PERMIT CENTER  
www.cityofpasadena.net/permitcenter

### Submittal Checklist for CONDITIONAL USE PERMIT: CANNABIS RETAILER

Only applicants that have written authorization from the City of Pasadena can submit an application. Applications will only be accepted in-person via an appointment as indicated in the authorization letter to submit. This checklist must be submitted with the Conditional Use Permit application. Incomplete applications cannot be processed.

#### SUBMITTAL REQUIREMENTS:

Listed below are the submittal requirements for the Conditional Use Permit (Cannabis Retailer):

- LOCATION MAP** (Two copies)
  - a) Identification of the applicable distance requirements as outlined in Section 17.50.066 D (5) "Location Requirements" of the Pasadena Municipal Code prepared by a licensed surveyor.
  - b) Identification of all land uses and zoning classifications for all properties within the applicable distance requirements as outlined in Section 17.50.066 D (5) "Location Requirements" of the Pasadena Municipal Code.

- MASTER APPLICATION** (eight copies)
  - a) Cover Sheet with Applicant Signature.
  - b) Environmental Assessment.
  - c) Tree Inventory.
  - d) Taxpayer Protection Act Disclosure Form.
- OWNERSHIP VERIFICATION** (one copy)
  - a) Copy of Grant Deed, Deed Trust or Title Report showing ownership.
  - b) Written Consent from property owner to authorize representative (if applicable).
  - c) Copy of a signed Lease Agreement for the subject property.
- PUBLIC HEARING NOTIFICATION PACKET** (two sets)
  - a) 500-foot Radius Map and Ownership List.
  - b) Affidavit.
  - c) Labels.
- LOCATION MAP** (Two copies)
  - a) Identification of the applicable distance requirements as outlined in Section 17.50.066 D (5) "Location Requirements" of the Pasadena Municipal Code prepared by a licensed surveyor.
  - b) Identification of all land uses and zoning classifications for all properties within the applicable distance requirements as outlined in Section 17.50.066 D (5) "Location Requirements" of the Pasadena Municipal Code.
- LOCATION AFFIDAVIT** (one copy)
- LIVE SCAN AUTHORIZATION** (one copy)
  - a) Each person listed as an owner, manager, supervisor, employee, or volunteer of the commercial cannabis business must submit fingerprints and other information deemed necessary for a background check by the City of Pasadena's Police Department.
- SITE PHOTOS** (two sets)
  - a) A minimum of four colored photos (varied angles) of the project site showing walls, trees and existing structures. The photos shall be numbered and keyed to the site plan.
- SITE PLANS** (fully dimensioned, eight full size copies and four 11"x17" reductions)



# Requirement for Licensed Surveyor

## Planning & Community Development Department

The CUP application requires the submittal of a location map which identifies the required distance separation radii of 600' and 1,000' and the identification of zones and uses within the properties located within the 600' radius. The location map must be prepared by a licensed surveyor.

- > There are *bona fide* business reasons for this requirement: it is a matter of state law. The work involved in identifying parcel boundaries must be done by a licensed land surveyor.
- > Precise measurements are required to ensure that the locations proposed meet the requirements as outlined in Section 17.50.066 D 5 of the Zoning Code. The most precise work is reliably prepared only by a licensed surveyor and state law mandates that anyone practicing land surveying MUST be licensed.
- > Pursuant to California Business and Professions Code Sections 8700-8805 (The Land Surveyors Act), provides that only licensed land surveyors can locate the property lines and boundaries of any parcel of land.
- > Section 8726 (c) defines land surveying as work performed by an individual that: "Locates, relocates, establishes, or retraces any property line or boundary of any parcel of land..."



# Board of Zoning Appeals Hearing

## Planning & Community Development Department

- On August 7<sup>th</sup>, the Board of Zoning Appeals conducted a public hearing on SweetFlower's appeal of the Planning Director Decision that SweetFlower Pasadena, LLC's "Conditional Use Permit: Cannabis Retailer" application is incomplete.
- The meeting was attended by representatives for the other top-scoring applicants. Except for the appellant, every other applicant that spoke uniformly noted that the requirement for measurements to be performed by a licensed surveyor was clearly understood.
- After considering public testimony, the Board of Zoning Appeals voted (4-1) to adopt the environmental determination and uphold the Director's decision.



# Appeal of BOZA Decision

Planning & Community Development Department

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PASADENA



# Conclusion

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- **Recommendation**

- > Adopt a determination that the proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines.
- > Uphold the Board of Zoning Appeals' decision that the Director's Decision that the June 12, 2019 CUP Cannabis Retailer application submitted by the appellant is incomplete and cannot be processed.



Planning & Community Development Department

**END**





# Appellant's Reasons for Appeal

## Planning & Community Development Department

1. The SweetFlower cannabis retailer conditional use permit application was compliant in all respects with the requirements of the PMC and regulations lawfully promulgated thereunder.

### RESPONSE:

- The matter at hand is not whether the appellant's application is compliant with the Municipal Code, but whether the appellant submitted all of the required information and documentation required in the *Conditional Use Permit: Cannabis Retailer* application.
- There is no requirement in State Law or the Pasadena Municipal Code stating that the contents of any permit application be outlined in the Municipal Code.
- Submittal requirements for any of the City's land use permit applications cannot be found within the P.M.C. Each city may require different submittals in land use applications, and those requirements can be set forth in each individual application.



# Appellant's Reasons for Appeal

## Planning & Community Development Department

2: The Department of Planning and Community Development Director (“Director of Planning”) has no authority to promulgate cannabis retailer conditional use permit regulations. Such authority is vested solely in the City Manager. Nevertheless, the Director of Planning has promulgated such regulations which have been applied in a manner detrimental to SweetFlower.

### RESPONSE:

- The narrow issue before the City Council is whether or not SweetFlower’s CUP application was complete.
- The application requirements, including the licensed survey requirements, were established by the Director pursuant to PMC 17.60.040 (d), referenced in the response to Claim #1.
- Pursuant to Section 5.78.190, cannabis rules, standards and regulations are administratively established by the City Manager, or his designee, and are effective upon publication on the City’s cannabis website.
  - > These rules and regulations were written by the Director under the direction, approval and concurrence of the City Manager, as his designee.



# Cannabis Rules & Regulations

## Planning & Community Development Department

### City of Pasadena

In addition to those already present on the City's Marijuana Regulations webpage, the following rules and regulations are promulgated pursuant to Section 5.78.190 of the "Commercial Cannabis Activity Ordinance" as of June 20, 2019.

#### CONDITIONAL USE PERMIT: CANNABIS RETAILER

##### RULES AND REGULATIONS

- I. **Applicability.** The following rules and regulations apply to the processing of land use entitlements required for commercial cannabis businesses pursuant to Section 5.78 of the Pasadena Municipal Code.
  - A. Only the top-ranking applicants notified pursuant to PMC Section 5.78.080. can submit an application for a Conditional Use Permit: Cannabis Retailer to the Planning and Community Development Department.
- II. **Conditional Use Permit Application Acceptance.**
  - A. Only the first COMPLETE application submitted within a council district will be processed.
    - i. Subsequent additional complete applications received within the same council district will be held in the order received; an application is not considered received until it is complete.



# Cannabis Rules & Regulations

Planning & Community Development Department

## City of Pasadena

The rules and regulations promulgated pursuant to Section 5.78.190 of the "Commercial Cannabis Activity Ordinance" are hereby amended as follows as of June 27, 2019:

### CONDITIONAL USE PERMIT: CANNABIS RETAILER

#### RULES AND REGULATIONS

- VII.** For purposes of establishing compliance with Section 17.050.066 D, the City shall consider the locations identified in all complete and code compliant applications in the order received.
- VIII.** An application with a proposed location that is not code compliant will not be processed and will remain on hold until withdrawn by the applicant or able to proceed because the location becomes code compliant. Applications that do not have a code compliant location will not be considered when determining the allowed locations for other applications as established in section 17.050.066 D.
- IX.** The City will process only one application per applicant at a time. Multiple applications by the same applicant will not be considered.



# Section 5.78.190

## Planning & Community Development Department

### **Section 5.78.190 states:**

- A. *In addition to any regulations adopted by the city council, the city manager or his/her designee is authorized to administratively establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis permits, the ongoing operation of commercial cannabis businesses and the city's oversight of the businesses, or concerning any other subject determined to be necessary to carry out the purposes of this chapter.*
- B. *Regulations shall be published on the city's website.*
- C. *Regulations promulgated by the city manager shall become effective upon the date of publication on the city's website. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including, but not limited to, any rules, regulations or standards adopted by the city manager or his/her designee.*

At the BOZA appeal hearing, the appellant requested written documentation showing that Director Reyes had been designated by the City Manager to act on his behalf to promulgate the Cannabis Rules and Regulations, and further claimed that without written documentation proving the designation, that the Rules and Regulations published on the City website were not effective.

The City Manager's decision to designate subordinate staff to act on his behalf, in any capacity pursuant to the Pasadena Municipal Code, is an administrative decision which does not involve a written order.



# Appellant's Reasons for Appeal

## Planning & Community Development Department

3: The Department of Planning and Community Development violated the due process rights of SweetFlower by changing the standards for determining completeness of cannabis retailer conditional use permit applications a number of times following the opening of the application process and has not published clear, definitive requirements for such determinations.

### RESPONSE:

- The standard for determining completeness of any zoning application is stipulated in Section 17.60.040 F:

#### **Section 17.60.040 F states:**

*Filing date. The filing date of an application shall be **the date on which the Department receives the last submission, map, plan, or other material required as a part of that application** by Subsection A., in compliance with Section 17.60.060 (Initial Application Review) and deemed complete by the Director.*



# Appellant's Reasons for Appeal

## Planning & Community Development Department

- Pursuant to the aforementioned code, all materials required by the application must be submitted in order for an application to be considered 'complete'.
- For this *Conditional Use Permit: Cannabis Retailer* application, a 'complete application' entails submission of all documentation and information required in pages 1 through 3 of the application.
- Page 1 of the application includes the requirement for a location map prepared by a licensed surveyor. Such requirement was repeatedly communicated to all top applicants on various occasions both in writing and in person:
  1. It was indicated verbally at the application workshop of June 12, 2019
  2. In writing via the CUP application that was hand distributed at the June 12, 2019 application workshop and also emailed that same afternoon.
  3. In writing via email correspondence from the City to all top applicants, including the appellant, on June 13, 2019.



# Appellant's Reasons for Appeal

## Planning & Community Development Department

- The City uniformly requires that the location maps are signed and stamped by a licensed surveyor and also include a general statement affirming, at minimum, that the 600' and 1000' radii have been prepared by the undersigned licensed surveyor.
  - > Variations in the surveyor's statements have been accepted to the extent that the methodology used by the surveyor to map the location of the radii is included within the location map documentation and consistent with best practices.
- Pursuant to the Business and Professions Code Section 8764.5, the required statement may also indicate that the map was '*prepared under the direction of*' the undersigning surveyor.
- As specified at the June 12, 2019 application workshop, the accuracy of the map, including the radii, the methodology used to create the radii and the land use/zoning information, is subject to review and verification by the City during the CUP review process for those applications that have been determined to be 'complete'.



# Appellant's Reasons for Appeal

## Planning & Community Development Department

- At the August 7, 2019 BOZA hearing, the appellant made several references to an email from City staff which he claimed was in support of the applicability of a '*complete in good faith standard*'.
- The appellant asserted that this email supports their claim that the 'complete in good faith standard' would be applied and that applicants would be given the opportunity to rectify application deficiencies before a determination is made by the City regarding their CUP submission.
  1. The applications will be reviewed in the order that they are uploaded onto OneDrive. You will receive an email confirming receipt of your submission. The email will tell you where your application stands in the queue. For example, if you are the 3<sup>rd</sup> applicant to submit you will receive an email indicating that your application is 3<sup>rd</sup> in line for review. Do not make any changes to the file after it is uploaded as this will void your application and you will be required to re-submit. Submission of an incomplete application will not 'hold your place' in line. If your application is incomplete, an appointment will not be issued and your application will be taken out of the queue. As indicated in today's meeting, we expect all applicants to submit their best application at the time that the appointment is requested with the full body of information you want included for the CUP.
- To discourage these incomplete filings and significant revisions, the City clearly explained that applications that do not contain the required submittal materials will not be considered complete and that revisions will be processed based upon the date and time of the last document submitted.



# Appellant's Reasons for Appeal

## Planning & Community Development Department

4: The Department of Planning and Community Development violated the due process rights of SweetFlower by failing consistently to fairly apply the requirements of the Pasadena Municipal Code (and ultra vires regulations) for determinations of completeness of cannabis retailer conditional use permits.

### RESPONSE:

Similar to any other land use permit, verification of compliance with City codes is a distinct process which is secondary from the determination as to whether an application submission is complete.

City staff explained at the June 12, 2019 application workshop that the initial review for application completeness would be based upon whether the submitted application contained all of the required documentation specified in the CUP application. This standard is supported by supported by Section 17.60.040 F, cited in response to Claim #3.



# Appellant's Reasons for Appeal

## Planning & Community Development Department

As previously stated, with respect to the requirement for a land use map prepared by a licensed surveyor:

- The City has uniformly required that the location maps are signed and stamped by a licensed surveyor and also include a general statement affirming, at minimum, that the 600' and 1000' radii have been prepared by the undersigned licensed surveyor.
- Variations in the surveyor's statements have been accepted to the extent that the methodology used by the surveyor to map the location of the radii is included within the location map documentation.
- Pursuant to the Business and Professions Code Section 8764.5, the required statement may also indicate that the map was 'prepared under the direction of' the undersigning land surveyor.
- Accuracy of the map, including the radii, the methodology used to create the radii and the land use/zoning information, is subject to review and verification by the City during the CUP review process for those applications that have been determined to be 'complete'.



# Commercial Cannabis Webpage

## Planning & Community Development Department

- Dedicated website
- Endeavoring to post virtually all related materials
- High level of scrutiny
- Staff has been overwhelmed with the number of PRA requests
- Hundreds of thousands of pages of document production with some responses generating two or three new requests per day.
- We have hired extra staff to assist.
- City Attorney's Office has hired outside counsel to assist

**CORRESPONDENCE PERTAINING TO CANNABIS APPLICANT SELECTION**

**UPDATED July 25, 2019** – The following correspondence has been submitted to the City:

1. Letter from Green Thumb Industries regarding Integral Associates Dena, LLC dated June 6, 2019
2. Letter from The Brick & Rose, LLC dated June 17th, 2019
3. Position Statement from WOW Health & Wellness, LLC
4. Letter from The Atrium Group, LLC dated June 19, 2019
5. Letter from Sweetflower Pasadena, LLC received June 19, 2019
6. Letter from The Brick & Rose, LLC dated June 23, 2019
7. Email from WOW Health & Wellness dated June 26, 2019
8. Email from The Atrium Group, LLC dated June 28, 2019
9. Email from The Atrium Group, LLC dated July 1, 2019
10. Email from Damian Martin for WOW Health & Wellness dated June 30, 2019
11. Letters from Christopher Sutton for The Atrium Group dated July 8th and July 12, 2019
12. Email from Damian Martin for WOW Health & Wellness dated July 15, 2019
13. Letter from Harvest of Pasadena dated July 10, 2019
14. Email from Christopher Sutton for The Atrium Group dated July 3, 2019
15. Email from Christopher Sutton for The Atrium Group dated July 19, 2019
16. Letter from Christopher Sutton for The Atrium Group dated July 23, 2019

**UPDATED July 12, 2019** – The following are the City's correspondence to the applicants:

1. Letter from City Manager Steve Mermell in response to The Brick & Rose, LLC dated June 20, 2019
2. Letter from City Manager Steve Mermell in response to WOW Health & Wellness, LLC dated June 20, 2019
3. Letter from City Manager Steve Mermell in response to Harvest of Pasadena dated June 25, 2019
4. Letter from City Attorney in response to WOW Health Wellness LLC dated June 28, 2019
5. Letter from Assistant City Manager Julie Gutierrez in Response to The Atrium Group July 2, 2019
6. Letter to SweetFlower in Response to Appeal Request July 12, 2019
7. Letter to The Atrium Group LLC in Response to Appeal Request July 12, 2019
8. Letter to The Atrium Group LLC in Response to Appeal Request Pertaining to Harvest of Pasadena July 12, 2019

**OTHER CORRESPONDENCE RECEIVED BEGINNING JUNE 5, 2019**

**Updated August 5, 2019** – Refer to the emails linked below:

1. RE Public Records Act Request for Application – City of Pasadena
2. City of Pasadena Public Records Request Harvest Resp Letter
3. Re Commercial Cannabis Application Selection Results for Retailers
4. RE Instructions for Preliminary Submission of CUP for Cannabis Retailer 5
5. RE Instructions for Preliminary Submission of CUP for Cannabis Retailer 4
6. RE Instructions for Preliminary Submission of CUP for Cannabis Retailer 3
7. Re Harvest License holder
8. RE 3219 E Colorado Blvd, Pasadena
9. RE Instructions for Preliminary Submission of CUP for Cannabis Retailer 2
10. RE Arcade Miniature Golf Cannabis Lounge License Request
11. RE Instructions for Preliminary Submission of CUP for Cannabis Retailer
12. RE Approved Licensee
13. District 7 Futures Academy
14. Re Commercial Cannabis Space

- Nevertheless, there are still complaints and accusations about the processing of the requests which are irrelevant to the narrow issue before the City Council.
- Part of the expected territory given the limited number of permits and available locations.



# Application Procedures

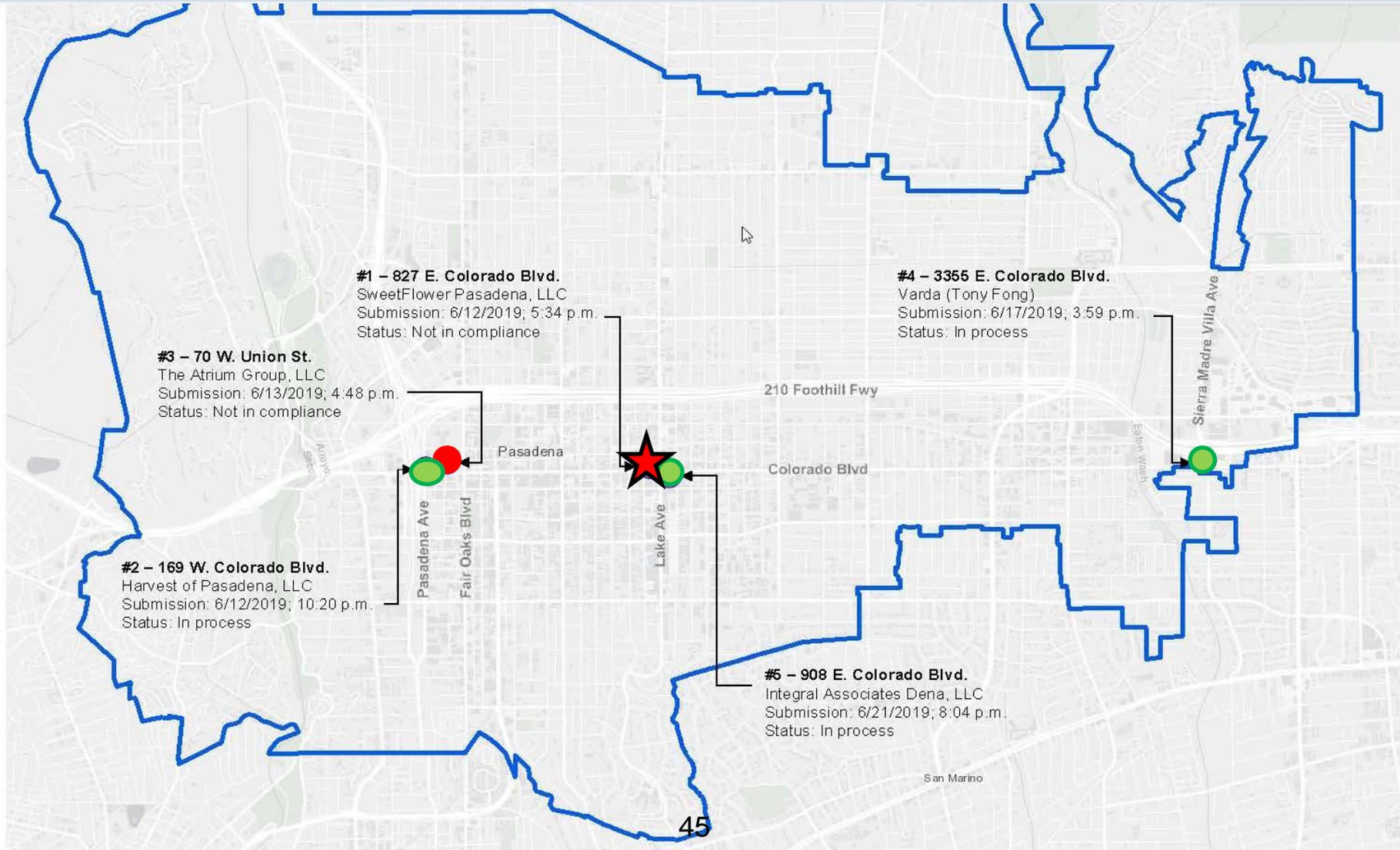
## Planning & Community Development Department

- City utilized a **merit-based approach** to selecting which applicants will receive the cannabis permits.
  - Applicants did not need to have secured a physical location to submit the Cannabis Operator application
- Pursuant to P.M.C. 5.78.070 & 5.78.080 A-E:
  - The permittee selection process consisted of a “screening application”
  - Review and scoring of the applications by a third-party selection committee utilizing review criteria established by the City.



# Proposed CUP Locations

Planning & Community Development Department





# Cannabis Retailer CUP

## Planning & Community Development Department

- The *Conditional Use Permit: Cannabis Retailer* is a new land use and has a new application that includes several additional requirements for supplemental documentation that are specific to the cannabis retail use.
- The CUP application for cannabis retailers is not the same as the standard application that is utilized for other uses which require a conditional use permit.
- There is no requirement in state law or in the PMC that requires that application contents be set forth therein – cities across the state set forth submission requirements in the specific application at issue.



# Second Submittal

## Planning & Community Development Department

### • June 27, 2019:

Appellant submitted a new application for the same location with a revised location survey map, but the statement from the surveyor stated the map had been “*reviewed by*” the surveyor, not “*prepared by*” as required in the application. “Reviewed by” is inadequate as it does not carry the dependability and liability equivalent of “prepared by”.

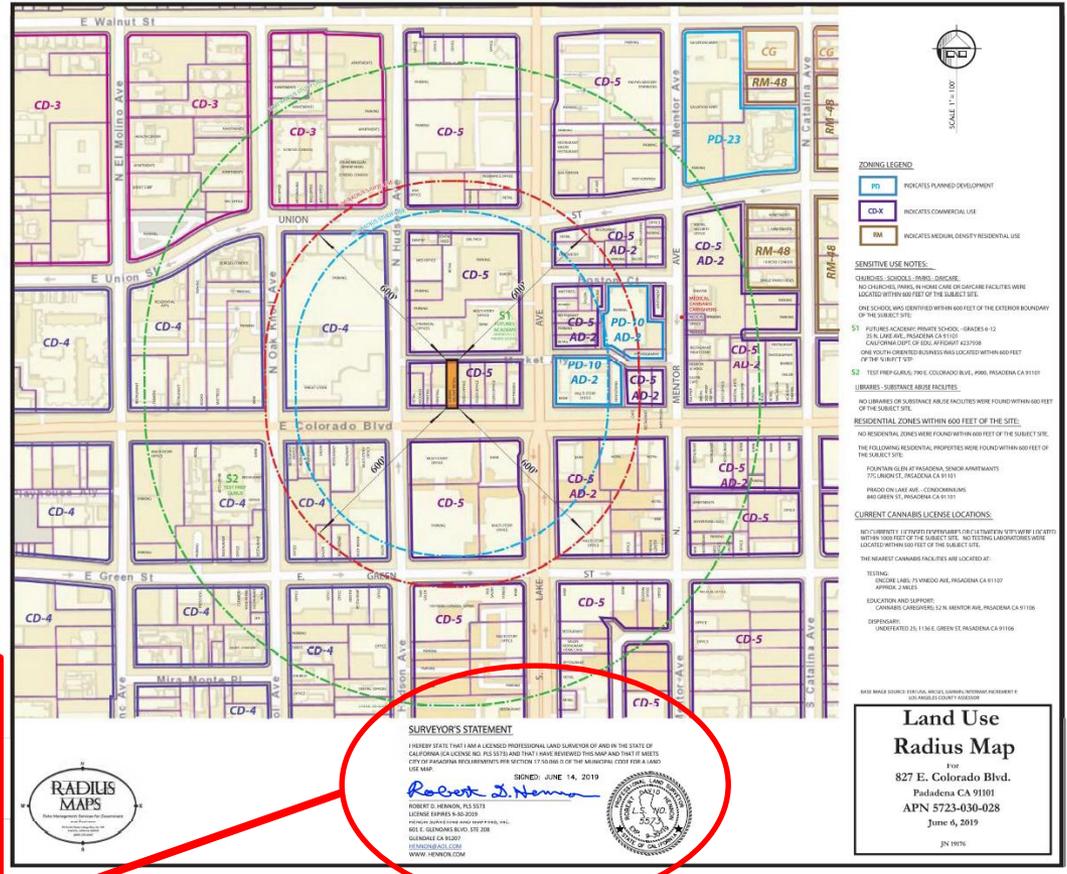
#### SURVEYOR'S STATEMENT

I HEREBY STATE THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR OF AND IN THE STATE OF CALIFORNIA (CA LICENSE NO. PLS 5573) AND THAT I HAVE REVIEWED THIS MAP AND THAT IT MEETS CITY OF PASADENA REQUIREMENTS PER SECTION 17.50.066 D OF THE MUNICIPAL CODE FOR A LAND USE MAP.

SIGNED: JUNE 14, 2019

*Robert D. Hennon*

ROBERT D. HENNON, PLS 5573  
LICENSE EXPIRES 9-30-2019  
HENNON SURVEYING AND MAPPING, INC.  
601 E. GLENOAKS BLVD. STE 208  
GLENDALE CA 91207  
HENNON@AOL.COM  
WWW.HENNON.COM





# Third Submittal

## Planning & Community Development Department

- July 3, 2019:**

Acknowledging their error, Appellant submitted a third application for the same location with a new (third) location map. The City issued a status letter to the appellant on July 9, 2019 indicating that their application will not be processed because it is now the third complete application received for Council District 3.

We hereby certify that the distances as represented in the Sensitive Use Study are accurate both in radius and identification. We further certify that the distances to the nearest cannabis facilities, from addresses stated within the Sensitive Use Study, are accurate.



Michael J. Knapton, PLS No. 8012  
Registered California Professional Land Surveyor



Attachments: Sensitive Use Study

**Kimley»Horn**

July 3, 2019

*Attn: City of Pasadena, Licensing*

City of Pasadena  
100 North Garfield Avenue  
Pasadena, CA 91101

Re: Distance Certification Letter for proposed cannabis site located at 827 E. Colorado Blvd., Pasadena, CA 91101. APN 5723-030-028

The surveyor listed below has performed measurements of the subject site in relation to sensitive uses in accordance with land use information provided in the enclosed Sensitive Use Study prepared by Radius Maps, JN 19176, dated June 10, 2019. With respect to business licenses and sensitive land use determination, we defer to said study.

Utilizing scaled, high-resolution ortho-imagery, we have measured the radius rings (500', 600' & 1,000') from all corners of the subject parcel. We have reviewed the location of structures and the land use areas identified and concur with the results of the Sensitive Use Study.

We hereby certify that the distances as represented in the Sensitive Use Study are accurate both in radius and identification. We further certify that the distances to the nearest cannabis facilities, from addresses stated within the Sensitive Use Study, are accurate.



Michael J. Knapton, PLS No. 8012  
Registered California Professional Land Surveyor

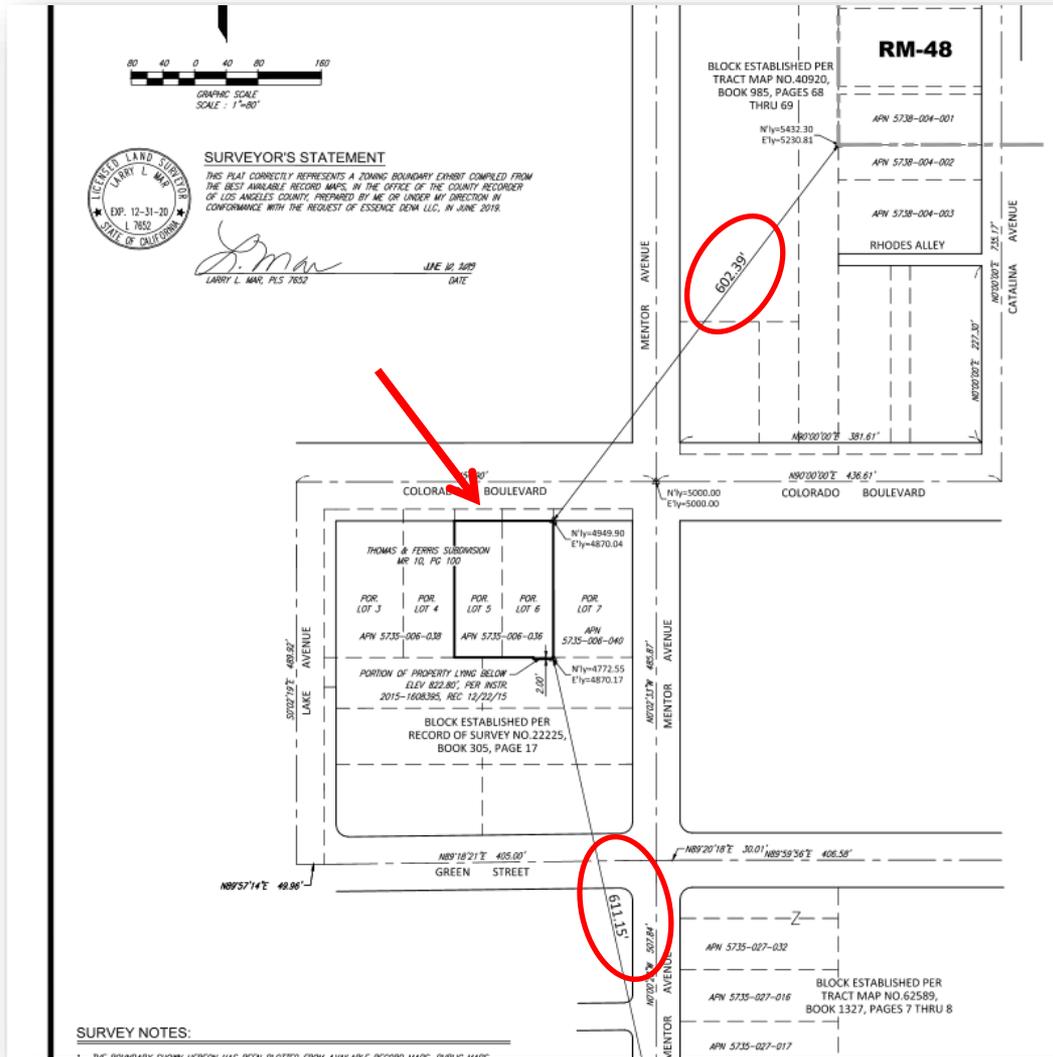


Attachments: Sensitive Use Study



# Location Map – Integral Associates Dena, LLC

Planning & Community Development Department



ASADENA





# Location Requirements

## Planning & Community Development Department

**Location Requirements.** Cannabis retailers shall be permitted in only the CO, CL, CG, CD, and IG zoning districts and shall be subject to the following requirements:

- A. No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer or cultivation site, or within 500 feet of any testing laboratory;
- B. No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone;
- C. No retailer shall be established or located within a mixed-use development project containing a residential use component;
- D. No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any childcare center, in-home (family day care home), youth-oriented facility, church or faith congregation, or substance abuse center;
- E. No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, library, or K-12 school;
- F. Retailers shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in the Pasadena Municipal Code.



# Location Map – Harvest of Pasadena, LLC

## Planning & Community Development Department



June 12, 2019

Attn: City of Pasadena, Licensing

City of Pasadena  
100 North Garfield Avenue  
Pasadena, CA 91101

Re: Distance Certification Letter for proposed cannabis site located at 169 W. Colorado Blvd., Pasadena, CA 91105. APN 5713-004-016

The surveyor listed below has performed measurements of the subject site in relation to sensitive uses in accordance with land use information provided in the enclosed Sensitive Use Study prepared by Radius Maps, JN 19184, dated June 11, 2019. With respect to business licenses and sensitive land use determination, we defer to said study.

Utilizing scaled, high-resolution ortho-imagery, we have measured the radius rings (500', 600' & 1,000') from all corners of the subject parcel. We have reviewed the location of structures and the land use areas identified and concur with the results of the Sensitive Use Study.

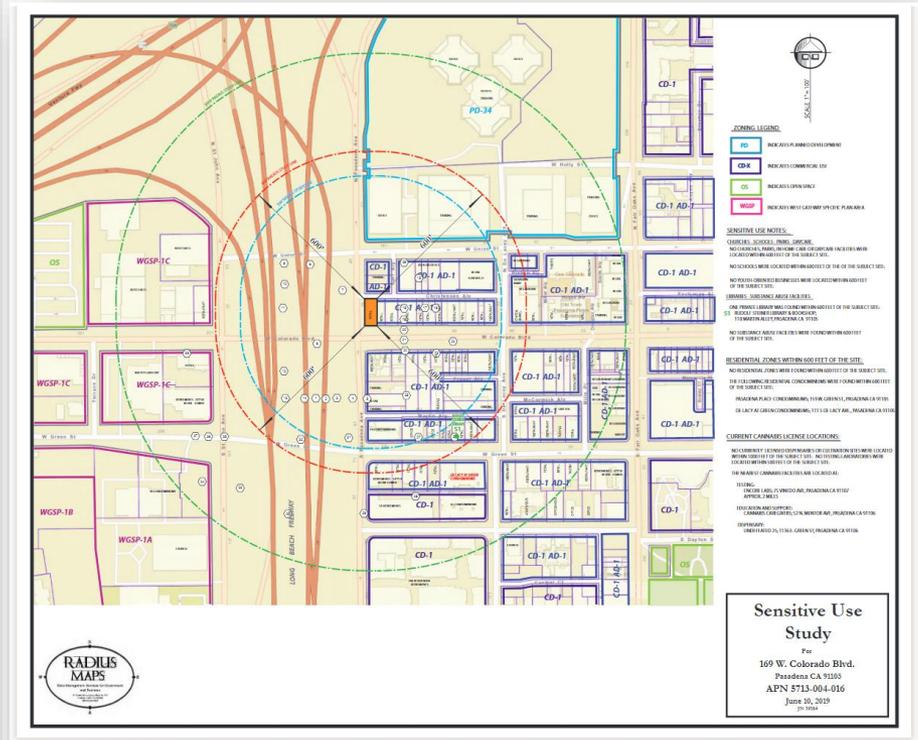
We hereby certify that the distances as represented in the Sensitive Use Study are accurate both in radius and identification. We further certify that the distances to the nearest cannabis facilities, from addresses stated within the Sensitive Use Study, are accurate.

Michael J. Knapton, PLS No. 8012  
Registered California Professional Land Surveyor



Attachments: Sensitive Use Study

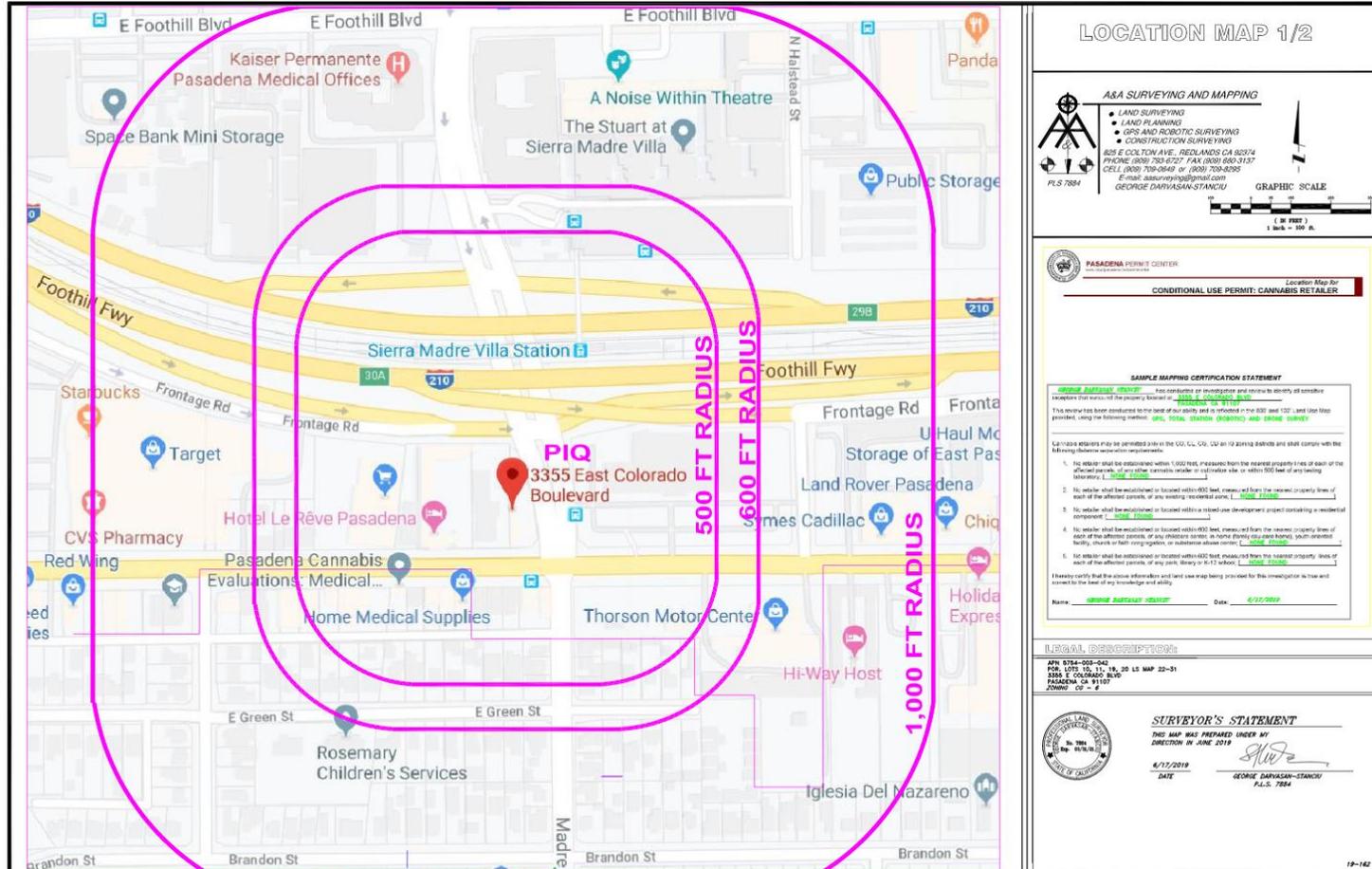
■ Suite 2050  
660 South Figueroa  
Los Angeles, California  
90017





# Location Map – Varda (Tony Fong)

Planning & Community Development Department



**LOCATION MAP 1/2**

**A&A SURVEYING AND MAPPING**

- LAND SURVEYING
- LAND PLANNING
- GPS AND ROBOTIC SURVEYING
- CONSTRUCTION SURVEYING

838 E COLTON AVE, REDLANDS CA 92374  
 PHONE (909) 793-6727 FAX (909) 860-3137  
 CELL (909) 700-0464 or (909) 700-8205  
 E-mail: aasurveying@gmail.com  
 GEORGE DAVIHASAN-STANCIU  
 P.L.S. 7884

**GRAPHIC SCALE**  
 1 inch = 100 ft.

**PASADENA PERMIT CENTER**  
 Location Map for  
**CONDITIONAL USE PERMIT: CANNABIS RETAILER**

**SAMPLE MAPPING CERTIFICATION STATEMENT**

**GEORGE DAVIHASAN-STANCIU** has conducted an investigation and review to identify all existing boundaries that enclose the property located at **3355 E. COLORADO BOULEVARD PASADENA CA 91107**. This review has been conducted to the best of our ability and is intended to show 100' and 100' land line boundaries, using the following method: **GPS, TOTAL STATION (DSCENING) AND DRONE SURVEY**.

- No matter what the established or located within 1,000 feet, measured from the nearest property lines of each of the adjacent parcels of any other persons, whether or not the site is within 500 feet of any existing laboratory. **L. 1000' 1000'**
- No matter what the established or located within 600 feet, measured from the nearest property lines of each of the adjacent parcels of any existing recorded zones. **L. 1000' 1000'**
- No matter what the established or located within a subject-use development project containing a residential component. **L. 1000' 1000'**
- No matter what the established or located within 600 feet, measured from the nearest property lines of each of the adjacent parcels of any existing services, or home (private city park homes), public-oriented facility, church or faith-based organization, or religious-alcohol service. **L. 1000' 1000'**
- No matter what the established or located within 600 feet, measured from the nearest property lines of each of the adjacent parcels of any public library or library. **L. 1000' 1000'**

I hereby certify that the above information and text was prepared in accordance with the investigation to the best of my knowledge and ability.

Name: **GEORGE DAVIHASAN-STANCIU** Date: **6/17/2019**

**LEGAL DESCRIPTION:**  
 APN 0764-003-042  
 3355 E. COLORADO BLVD, 30 13 MAP 22-31  
 3355 E. COLORADO BLVD  
 PASADENA CA 91107  
 ZONING: CU - 8

**SURVEYOR'S STATEMENT**  
 THIS MAP WAS PREPARED UNDER MY  
 SUPERVISION IN JUNE 2019

6/17/2019  
 DATE

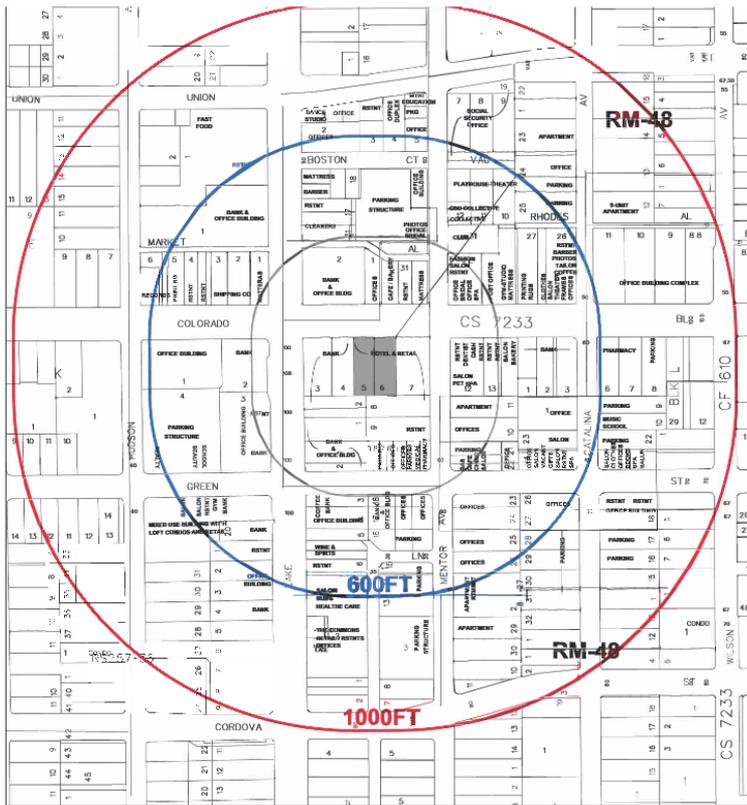
**GEORGE DAVIHASAN-STANCIU**  
 P.L.S. 7884

19-162



# Location Map – Integral Associates Dena, LLC

## Planning & Community Development Department



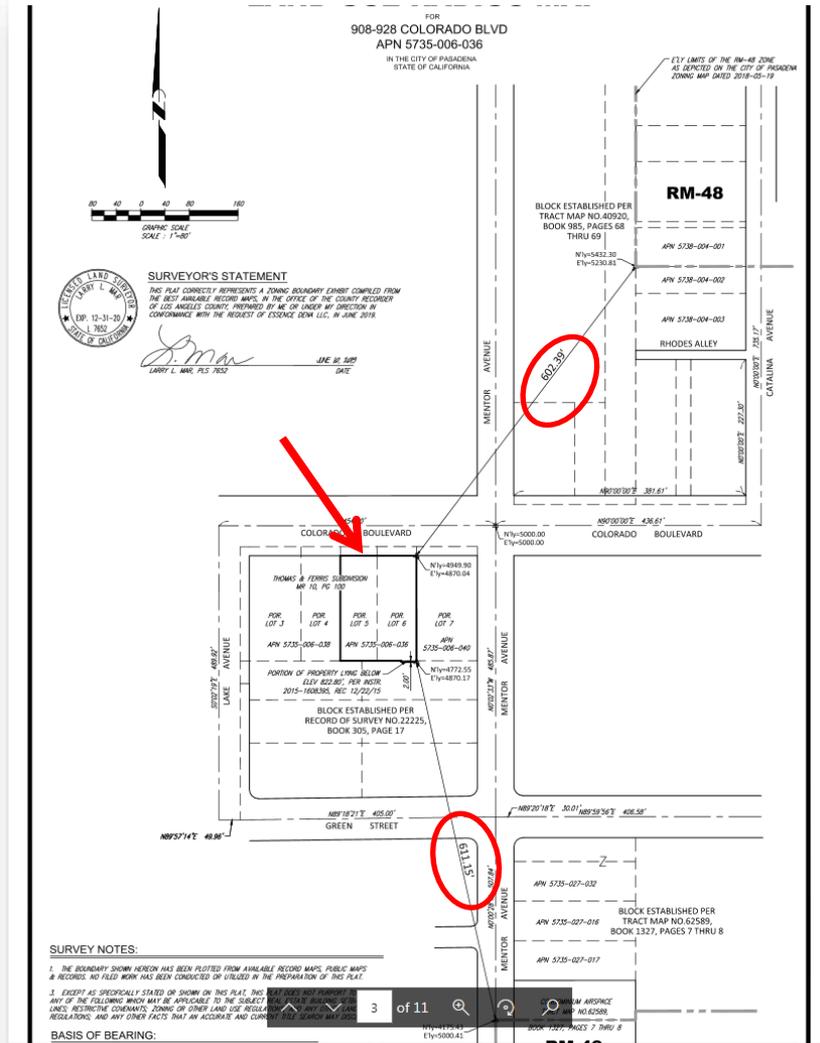
**600 FT. & 1000 FT. RADIUS MAP**  
908 E. COLORADO BLVD.

City of Pasadena  
City Mapping Service  
14649 Archwood Dr, Suite 301  
Van Nuys, California 91410  
Phone: (818) 800-0000 Fax: (818) 800-0001  
cmapping@pasadena.com



600 FT & 1000 FT LIME ONLY

CASE NO:  
DATE: 01-07-19  
SCALE: 1" = 220'  
QMS 19-097



**SURVEY NOTES:**

1. THE BOUNDARY SHOWN HEREON HAS BEEN PLOTTED FROM AVAILABLE RECORD MAPS, PUBLIC MAPS & RECORDS. NO FIELD WORK HAS BEEN CONDUCTED OR UTILIZED IN THE PREPARATION OF THIS PLAT.
2. EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE SUBJECT PROPERTY OR ANY ADJACENT PROPERTIES TO VERIFY THE ACCURACY OF THE BOUNDARIES, RESTRICTIVE COVENANTS, ZONING OR OTHER LAND USE REGULATIONS, AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT FIELD SURVEY WOULD REVEAL.

3 of 11

BASIS OF BEARING:

EV=5000.01



# Location Map – The Atrium Group, LLC

## Planning & Community Development Department

### RADIUS MAP CERTIFICATION STATEMENT CITY OF PASADENA

EZR Surveying LLC has conducted a research investigation and review to identify all the sensitive receptors that surround the property located at 70 W UNION ST, PASADENA, CA.

This review has been conducted to the best of our ability and is reflected in the 600' & 1000' Land Use Map provided, utilizing the following methods:

- A physical inspection of each parcel of land within a 600 foot radius of the site to identify the specific land uses
- Internet research using various databases, such as Google Earth

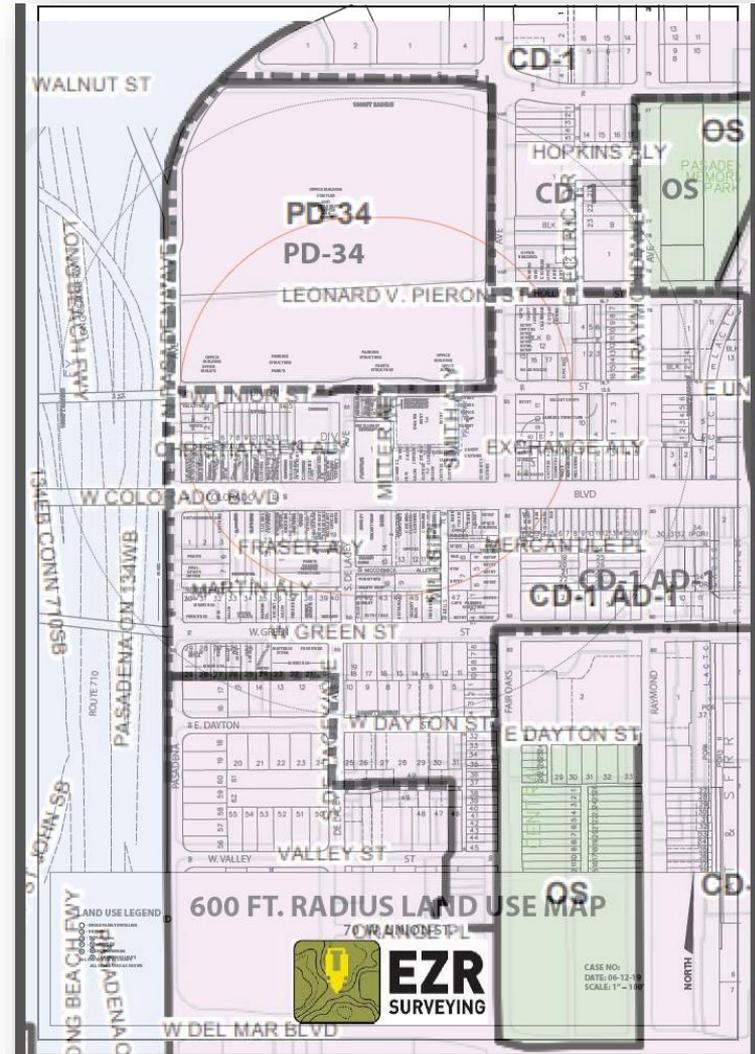
Cannabis retailers shall be permitted in only the CO, CL, CG, CD and IG zoning districts and shall be subject to the following requirements:

- No retailer shall be established or located within 1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer or cultivation site, or within 500 feet of any testing laboratory; **NONE WERE EVIDENT**
- No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone; **NONE WERE EVIDENT**
- No retailer shall be established or located within a mixed-use development project containing a residential use component; **NONE WERE EVIDENT**
- No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any childcare center, in-home (family of day care home), youth-oriented facility, church or faith congregation, or substance abuse center; **NONE WERE EVIDENT**
- No retailer shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, library, or K-12 school; **NONE WERE EVIDENT**
- Retailers shall be required to comply with all zoning, land use and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in the Pasadena Municipal Code. **NONE WERE EVIDENT**

We hereby certify that the above information and Land Use Map being provided for this investigation is correct and true to the best of our knowledge and ability

6/13/2019  
Date

Ethan Z. Remington, P.L.S.





# Atrium – CUP Application Resubmitted

Planning & Community Development Department

Atrium resubmitted  
their CUP application  
on June 13, 2019

File Message Tell me what you want to do...

Fri 6/14/2019 7:43 AM

 Chris Berman <bermanc1976@gmail.com>  
Re: The Atrium Group, LLC - Update to Cannabis Conditional Use Permit Application

To  Nunez, Guille

Cc  Dean Bornstein;  Jim Townsend;  dragon@raigfryandassociates.com

**i** You replied to this message on 6/14/2019 7:43 AM.

Action Items Bing Maps + Get more apps

The only change we made was to have our radius map created and stamped by a licensed land surveyor per the Pasadena CUP requirements.

Best,  
Chris

On Fri, Jun 14, 2019 at 7:34 AM Nunez, Guille <[gnunez@cityofpasadena.net](mailto:gnunez@cityofpasadena.net)> wrote:

Good morning Mr. Mondragon,

Thank you. Can you please tell me what has changed from the first submission to this one? Your application is still 3<sup>rd</sup> in line for review.

Regards,

**Guille Nuñez** | Management Analyst IV (Concierge)  
Hale Building, [175 N. Garfield Avenue](#) | [Pasadena, CA 91101](#)  
[gnunez@cityofpasadena.net](mailto:gnunez@cityofpasadena.net) | [O] 626-744-7634

 CITY OF PASADENA



# Review Criteria

## Planning & Community Development Department

CITY OF PASADENA – COMMERCIAL CANNABIS PERMIT APPLICATION REVIEW CRITERIA (EXHIBIT A)

SCREENING APPLICATION TOTAL POTENTIAL POINTS	1575	1575	1200
<b>SECTION 1: QUALIFICATIONS OF OWNERS/ OPERATORS (Potential Points)</b>	<b>750</b>	<b>750</b>	<b>400</b>
<i>Special business or professional qualifications and experience, or licenses of the owners and/or operators that would add to the quality of service that would be provided, e.g., scientific or health care fields for medicinal cannabis, or related agricultural experience for cultivators.</i>	Retailer	Cultivation Site	Testing Laboratory
Experience - Demonstrate the business OWNER'S experience in owning, managing and operating the type of cannabis business for which the license is being sought. For the purposes of this section, OWNER means the State definition of owner in the State Business and Professions Code 26001 AND all persons, companies, or entities that will be directing, controlling, and/or managing the day-to-day operations of the business. Evidence that prior experience was from legally permitted activities.	0-450	0-450	0-200
Cannabis Industry Knowledge - Overall knowledge of the cannabis industry (as demonstrated throughout the screening application), including identification of how industry best practices and state regulations have been incorporated in existing/prior legal business outside the City of Pasadena.	0-250	0-250	0-100
Ownership Team - Describe the involvement of the ownership team in day-to-day operation of the business. "Owner" is defined based on the State definition of owner; see State Business and Professions Code 26001.	0-50	0-50	0-100
<b>SECTION 2: BUSINESS PLAN (Potential Points)</b>	<b>525</b>	<b>525</b>	<b>500</b>
<b>Sub-Section 2A: OPERATIONS</b> <i>Standard operating procedures; finances; employee training.</i>	Retailer	Cultivation Site	Testing Laboratory
Standard Operating Procedures (SOP) - Overall quality and detail of the proposed operating procedures for ALL aspects of the proposed business, including the extent to which the applicant incorporated industry best practices into the operating procedures. Additionally, did the applicant show specific examples of where the practices they included have worked before?	0-80	0-80	0-80
Financial Plan - Financial plan and/or budget to start-up and operate the business(e.g., business pro forma, cash flow, accounting procedures).	0-50	0-50	0-50
Funding/Proof of Capitalization - Demonstration or identification of access to operational capital and/or on-going line of credit once business is operational.	0-30	0-30	0-30
Records Software - Standard operating procedures include electronic tracking and storage of required records of sales, delivery manifests, and inventory.	0-10	0-10	0-10
Track-and-Trace - Standard operating procedures include detailed California Cannabis Track-and-Trace (CCTT) procedures as outlined by the State.	0-10	0-10	0-10
State Testing Requirements - Standard operating procedures include plans and procedures for how all cannabis products on the premises or held by the applicant have met the testing requirements as defined by the State.	0-10	0-10	0-10
Employee Training - Quality of proposed employee training, for example, training on differences in products, potency of products, customer service, and/or laws governing personal use.	0-20	0-20	0-20
Customer Education - Quality and detail of plan for educating customers regarding cannabis products, including the potency and effects of products, as well as variety.	0-20	0-20	0-20
Marketing - Detail of the key aspects of the marketing strategy that would be generated and incorporated into the marketing plan.	0-20	0-20	0-20
<b>Sub-Section 2B: COMMUNITY BENEFITS</b> <i>Benefits the business will provide to the Pasadena community and its ability to serve Pasadena.</i>	Retailer	Cultivation Site	Testing Laboratory

The business will further the City Council's goal to support and promote the quality of life and local economy through a community engagement plan that demonstrates an understanding of the community, its values and unique aspects, and how the business will integrate into the community. The plan will address:			
1. How the business seeks to ensure that persons most harmed by cannabis criminalization and poverty through a share in the ownership, management, employment or other benefits resulting in high quality, well-paying jobs and/or other benefits.	0-250	0-250	0-250
2. How the business includes work with local non-profits and other community groups such as youth development and educational programs. Pasadena non-profits (or those that serve Pasadena) are preferred.			
3. How the business includes partnerships with existing Pasadena businesses (e.g., procurement of goods and services from local businesses).			
<b>Sub-Section 2C: PRODUCT OFFERINGS</b> <i>Quality and variety of cannabis strains and derivative product offerings.</i>	Retailer	Cultivation Site	Testing Laboratory
Product Procurement - Detail of procurement plan, such as due diligence performed prior to executing purchase contracts and quality control of incoming products.	0-25	0-25	-
<b>SECTION 3: NEIGHBORHOOD COMPATIBILITY &amp; ENHANCEMENT (Potential Points)</b>	<b>150</b>	<b>150</b>	<b>150</b>
<i>How the business will fit into the community and the extent to which proposed operation will enhance the neighborhood.</i>	Retailer	Cultivation Site	Testing Laboratory
Exterior Design Concept - Quality and detail of a contextual exterior design which reflects the best of the City's architectural traditions, the use of quality materials and the level of investment that can be expected for the architecture, landscaping, signage, lighting, entry experience, parking, etc. If an applicant anticipates locating in a specific neighborhood in the City, a description and examples of how the business would enhance the exterior of the building is encouraged.	0-40 0-40	0-40	0-40
Design Concept Integration - Quality of fit within the city (integration into existing urban fabric and architectural landscape). If the applicant anticipates locating in a specific neighborhood in the city, a description of how the business would fit into that neighborhood is encouraged; however, this is not required.	0-30 0-30	0-30	0-30
Integration of Security Measures - Quality and detail of applicant's plan to integrate security enhancements into the physical design/concept, so as not to be overly noticeable by customers or the public.	0-30	0-30	0-30
Air Quality/Odor Control - Quality of ventilation and air purification system, including demonstrated effectiveness (may include examples of where a similar system has worked effectively).	0-50	0-50	0-50
<b>SECTION 4: SECURITY PLAN (Potential Points)</b>	<b>150</b>	<b>150</b>	<b>150</b>
<b>Safety and Security Program</b> <i>(*Security plans will not be made public.)</i>	Retailer	Cultivation Site	Testing Laboratory
Security Experience - Security experience of individual/firm designing the security plan. Individual/firm should be identified and experience described. If delivery services are proposed with a retail application, include information on the quality of delivery driver security and safety procedures, including driver education related to potential hazards.	0-20	0-20	0-20
Background Checks - Applicant plans to use background checks in the employee hiring process.	0-10	0-10	0-10
Employee Safety Education - Quality of employee safety education plan, including training regarding product handling, burglary protocols, robbery protocols, and other potential hazards of the cannabis business.	0-20	0-20	0-20
Employee Theft Reduction Measures - Quality and extensiveness of employee theft reduction measures, including audits and check in/out.	0-10	0-10	0-10



# Review Criteria

## Planning & Community Development Department

<u>Cash Management Plan</u> - Quality and detail of cash management plan, including cash counting/reconciliation procedures, cash storage, cash transport, deposit into a banking institution (if any), and employee training.	0-20	0-20	0-20
<u>Product Access Protocols</u> - Business plan details a separate check-in area where identification is checked to ensure that only qualified employees gain access to where cannabis products are stored.	0-10	0-10	0-10
<u>Product Deliveries</u> - Quality of plan for securing product deliveries to the business (i.e. from delivery vehicles to building).	0-20	0-20	0-20
<u>Security Guards</u> - Quality of the anticipated security guard plan for the business, including number of guards, hours, protocols, and day-to-day procedures/operations.	0-20	0-20	0-20
<u>Video Camera Surveillance</u> - Security plan includes video camera surveillance. Additionally, overall quality of the applicant's plan to use cameras, including number of cameras, locations, resolution, and how long footage is saved.	0-10	0-10	0-10
<u>Armored Vehicle</u> - Daily armored vehicle pick-up of cash deposits.	0-10	0-10	0-10



# CUP Application

## Planning & Community Development Department

- By June 13<sup>th</sup> the City received CUP applications from three of the six top-scoring applicants.
- By June 21<sup>st</sup>, five of the top-scoring applicants had submitted applications.
- Only three applications have been submitted that comply with all distance requirements and contain all information specified in the application packet:

<b><u>Applicant</u></b>	<b><u>Location</u></b>	<b><u>Council District</u></b>
Harvest of Pasadena, LLC	169 W. Colorado Blvd	3
Tony Fong	3355 E. Colorado Blvd	4
Integral Associates Dena, LLC	908 E Colorado Blvd	7

- Atrium Group, LLC (70 W. Union) and SweetFlower Pasadena, LLC (827 E. Colorado) have also submitted applications for locations within Council District 3; however, those applications are not being processed.
- Based on staff's initial evaluation of available sites (as was shown on the Draft Map) it appears there are fewer than six potentially compliant locations.



- **Recommendation**

- > Adopt a determination that the proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines.
- > Uphold the Board of Zoning Appeals' decision that the Director's Decision that the June 12, 2019 CUP Cannabis Retailer application submitted by the appellant is incomplete and cannot be processed.



# Permittee Selection

## Planning & Community Development Department

- This cannabis operator application and review criteria were structured to ensure that the top-scoring candidates are:
  - > Technically experienced to meet the demands of this highly regulated industry;
  - > Well capitalized to be able to deliver on commitments after a demanding land use planning process and costly site acquisition and improvements;
  - > In a position to design a dispensary that blends with the neighborhood and meets Pasadena's strict security and safety expectations;
  - > Able to hire and train sufficient staff to operate in a professional manner, and, importantly, committed to a community benefits plan that provides tangible benefits and contributions to the community.



# CUP Applications Submitted

Planning & Community Development Department

	<b>Applicant</b>	<b>Date</b>	<b>Time Submitted</b>	<b>Proposed Location</b>	<b>Council District</b>
1.	SweetFlower Pasadena, LLC	June 12,2019	5:34 p.m.	827 E Colorado Blvd	3
2.	Harvest of Pasadena, LLC	June 12,2019	10:20 p.m.	169 W Colorado Blvd	3
3.	The Atrium Group, LLC	June 12, 2019	10:56 p.m.	70 W Union	3



# Questions From Top Applicants

## Planning & Community Development Department

- Response sent via email on June 13<sup>th</sup> to the 12 representatives that attended the application workshop in response to a question asked by applicant Tony Fong:

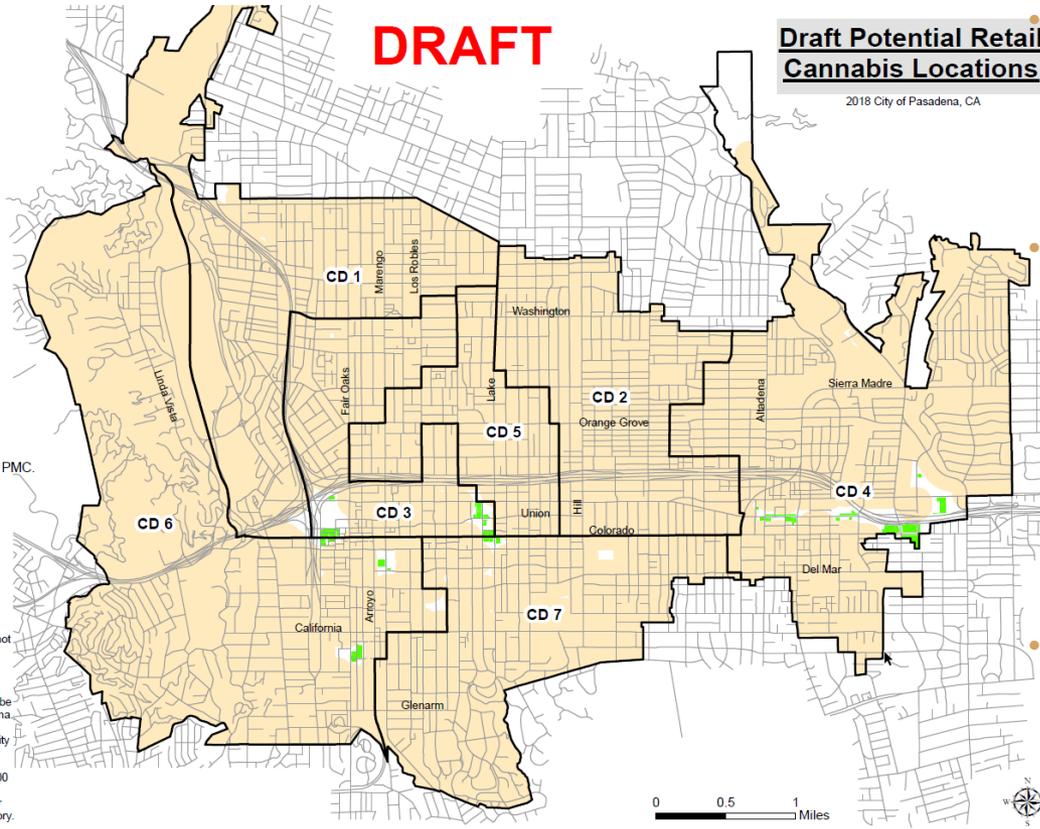
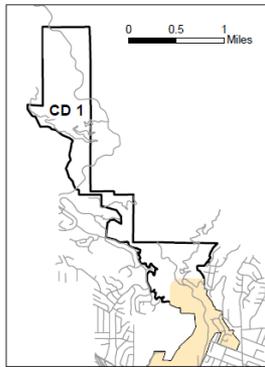
*7. I called a few licensed surveyor to start the "location map" section, and they said they do not do these types of work. They asked me to call mapping companies to do this job. I will like to confirm with you if we should have a mapping companies to work on this or should I continue to look for a licensed surveyor to work on the "location map" section.*

**ANSWER:** *As indicated on the Conditional Use Permit submittal checklist (page 1, Location Map), the radius map must be prepared by a licensed surveyor. The addresses and identification of uses can be prepared by a mapping service company.*



# Draft Cannabis Map

Planning & Community Development Department



This is a **DRAFT MAP**. Any proposed location will need to be analyzed to ensure it meets all required distance separation requirements per Section 17.50.066 of the PMC.

**Legend**

- Potential Sites (Verification required)
- Sensitive Use Areas

\* This map DOES NOT include mixed-use parcels with residential uses or youth-oriented facilities.  
\* The data used to create this map is limited and may not be comprehensive.

- Limitations on locations and the number of retailers:**
1. No more than six (6) retailers may operate within the City at any time and no more than six (6) permits shall be issued for retailers to operate within the City of Pasadena.
  2. No more than one (1) retailer may operate within a city council district at one time.
  3. No retailer shall be established or located within 1,000 feet measured from the nearest property lines of each of the affected parcels, of any other cannabis retailer or cultivation site, or within 500 feet of any testing laboratory.

A Draft Map was prepared and shared with the public in December 2018.

Map includes various caveats including a statement that the Map was draft and any proposed location would need to demonstrate compliance with established rules.

The Draft Map identified fewer than six potentially compliant locations. It is possible that more compliant locations exist, but this is not probable.