

## Reese, Latasha

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**From:** Mona Karagozian <...>  
**Sent:** Monday, April 12, 2021 3:46 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Support for Zoning Amendment and Sweet Flower

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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April 2021

City of Pasadena  
[Correspondence@cityofpasadena.net](mailto:Correspondence@cityofpasadena.net)

Thank you for the opportunity to convey my support for the upcoming Public Hearing related to the Zoning Code Amendment to Cannabis Businesses. As a long time Pasadena resident, I support amending the ordinance to modify location requirements. By amending the regulation, we do not change the limit of more than six commercial cannabis retailers citywide. We allow for the top scoring applicants to proceed with the CUP process, opening more retail stores and generating more tax revenue for the City of Pasadena.

The Lake and Colorado location is a suitable location for a retail store. Please vote in favor of staff's recommendation to amend the Zoning Code on April 12, 2021 to decrease the distance between cannabis retailers from 1,000 feet to 450 feet and allow up to three dispensaries per council district. I would like to see Sweet Flower open its doors in Pasadena in the months ahead.

Sincerely,

Anait Oganessian

Pasadena CA 91104

**Reese, Latasha**

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**From:** SOSEH THOMASIAN ·  
**Sent:** Monday, April 12, 2021 4:01 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Support for Zoning change and Sweet Flower

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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April 2021

City of Pasadena

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Sincerely,

Annie Boyadjian

Pasadena CA 91107

**Reese, Latasha**

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**From:** Hazel Carrasco < >  
**Sent:** Monday, April 12, 2021 7:12 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Support of Zoning Code Amendment and Sweet Flower

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## Support of Zoning Code Amendment and Sweet Flower

April 12 2021

City of Pasadena  
[Correspondence@cityofpasadena.net](mailto:Correspondence@cityofpasadena.net)

Thank you for the opportunity to convey my support for the upcoming Public Hearing related to the Zoning Code Amendment to Cannabis Businesses. As a long time Pasadena resident, I support amending the ordinance to modify location requirements. By amending the regulation, we do not change the limit of more than six commercial cannabis retailers citywide. We allow for the top scoring applicants to proceed with the CUP process, opening more retail stores and generating more tax revenue for the City of Pasadena.

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Sincerely,

Hazel Carrasco

Pasadena CA 91106

**Reese, Latasha**

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**From:** Christine Noriega <[christine.noriega@cityofpasadena.net](mailto:christine.noriega@cityofpasadena.net)>  
**Sent:** Monday, April 12, 2021 7:48 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Support of Zoning Code Amendment and Sweet Flower

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## **Support of Zoning Code Amendment and Sweet Flower**

April 12 2021

City of Pasadena  
[Correspondence@cityofpasadena.net](mailto:Correspondence@cityofpasadena.net)

Thank you for the opportunity to convey my support for the upcoming Public Hearing related to the Zoning Code Amendment to Cannabis Businesses. As a long time Pasadena resident, I support amending the ordinance to modify location requirements. By amending the regulation, we do not change the limit of more than six commercial cannabis retailers citywide. We allow for the top scoring applicants to proceed with the CUP process, opening more retail stores and generating more tax revenue for the City of Pasadena.

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Sincerely,

Anait Oganessian

Pasadena CA 91104

**Reese, Latasha**

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**From:** Sira Rose  
**Sent:** Tuesday, April 13, 2021 6:19 PM  
**To:** PublicComment-AutoResponse  
**Subject:** letter of support for Sweet Flower and amending Zoning Code

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April 14, 2021

Dear City of Pasadena,

My name is Suzy Youssefian, long time resident of Pasadena and I advocate for the successful passing of the Zoning Code Amendment to C Businesses Regulations on Monday, April 12, 2021 in support of Sweet Flower.

I am in support of the modification to location requirements to allow up to three di per council district and decrease the distance between cs retailers from 1,000 feet in order to allow two of the size applicants to locate at their preferred locations. Specifically, I want to see Sweet Flower proceed with its CUP application for the Lake and Colorado location.

Staff's recommendation is a fair solution for the applicants and best scenario to generate more tax revenue for the City of Pasadena.

Please support the staff recommendation and vote in favor of amending the current ordinance.

Sincerely,

Suzy Youssefian

Pasadena CA 91107

**Reese, Latasha**

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**From:** John Kasparian  
**Sent:** Tuesday, April 13, 2021 6:52 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Re: Public Hearing Letter of Support

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Dear City Council Members,

My name is John Kasparian, owner of Round the Clock Cleaners on 36 N Lake Ave and property owner of 827 E. Colorado Blvd.

I have been a Pasadena resident for more than 38 years — first with my parents and now with my wife and children. Pasadena is not only my home but my place of worship, business and social adventures. I love Pasadena and want the very best for its residents, businesses and community.

I advocate for the successful passing of the Zoning Code Amendment to Cannabis Businesses Regulations on Monday, April 12, 2021. I am in support of the modification to location requirements to allow up to three dispensaries per council district and decreased distance between retailers.

This will generate tax revenue for the city, help develop community benefits and employ more Pasadena residents.

I have personally visited Sweet Flower's Downtown LA Arts District, Studio City and Melrose locations. Sweet Flower is locally owned with multiple Southern California locations. They are a reputable small business with great support staff, management and culture.

Please support the staff recommendation and vote in favor of amending the current ordinance.

Sincerely,

John Kasparian

Pasadena CA 91101

**Reese, Latasha**

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**From:** Gary Topalian  
**Sent:** Tuesday, April 13, 2021 8:21 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Support letter

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April 13 2021

Dear City Council Members,

Re: Support for Sweet Flower with the amendment of Zoning Code to Cannabis Regs

My family has resided in Pasadena in many years with residential and business interests in the area. I place my trust and hope in your hands to advocate for the successful passing of the Zoning Code Amendment to Cannabis Businesses Regulations on Monday, April 12, 2021 in support of Sweet Flower.

I am in support of the modification to location requirements to allow up to three dispensaries per council district and decrease the distance between cs retailers from 1,000 feet in order to allow two of the size applicants to locate at their preferred locations. Specifically, I want to see Sweet Flower proceed with its CUP application for the Lake and Colorado location.

Mairanoush Keshishian

Pasadena CA 91104

RECEIVED

2021 APR 14 AM 9:56

MARK  
CITY OF PASADENA

April 5, 2021

City of Pasadena  
Members of the City Council  
100 North Garfield Ave  
Pasadena, CA 91101

**Re: Support of Zoning Code Amendment to Cannabis Regulation**

Thank you for the opportunity to convey my support for the upcoming Public Hearing related to the Zoning Code Amendment to Cannabis Businesses.

As a long time Pasadena resident, I support amending the ordinance to modify location requirements. By amending the regulation, we do not change the limit of more than six commercial cannabis retailers citywide. Additionally, the Lake and Colorado location is a suitable location for a retail store location.

Please vote in favor of staff's recommendation to amend the Zoning Code on April 12, 2021<sup>st</sup> to decrease the distance between cannabis retailers from 1,000 feet to 450 feet and allow up to three dispensaries per council district. I would like to see Sweet Flower open its doors in Pasadena in the months ahead.

Sincerely,



Garo Kazandjian

Pasadena, CA 91107



RECEIVED

2021 APR 14 AM 9:56

CITY CLERK  
CITY OF PASADENA

April 5, 2021

Hon. Mayor Victor Gordo  
Members of the City Council  
City of Pasadena

**Re: Support of Zoning Code Amendment to Cannabis Regulation**

As a Pasadena resident, I write in support to amending the City's existing Cannabis Zoning Code to modify location requirements. This will allow for the winning applicants like Sweet Flower to proceed with their CUP.

By amending the regulation, we do not change the limit of more than six commercial cannabis retailers citywide. Additionally, the Lake and Colorado location is a suitable location for a retail store location.

Please vote in favor of staff's recommendation to amend the Zoning Code on April 12, 2021<sup>st</sup> to decrease the distance between cannabis retailers from 1,000 feet to 450 feet and allow up to three dispensaries per council district.

Sincerely,

Sam Sassounian

Pasadena CA 91107

Handwritten signature of Sam Sassounian in black ink, appearing as a stylized cursive script.

RECEIVED

2021 APR 14 AM 10:26

MARK  
CITY OF PASADENA

Dear Mayor Gordo and Council Members:

**Product of Los Angeles (POLA)** urges the Council to approve the proposed Zoning Code Amendment permitting up to three dispensaries per district and reducing the distance requirement between cannabis dispensaries from 1000 to 450 feet (while leaving distance buffers to all sensitive uses, such as schools, parks, etc., the same). Doing so promotes the functioning cannabis program that Pasadena residents desired and approved, and the jobs, tax revenues and community benefits that were long promised but, to date, under-delivered.

The current location restrictions allow at most four dispensaries. "Up to four" is not "Up to six." The voters wisely gave the city council the power to amend the ordinance to achieve the desired goal; **it is time now to do so.**

POLA is a brand that was founded in 2016 that centers on authentic Mexican flavors and culture. The founders grew up in Los Angeles and are driven by the opportunity to offer beautifully crafted edibles to a diverse community they were raised in and love. It is in this spirit that POLA offers its unbridled support to Sweet Flower. We believe that Sweet Flower truly represents and supports the very diversity that creates the unique and beautiful city of Los Angeles. This includes specific actions experienced directly by us:

- Inviting us into their store to represent a portion of their edible assortment.
- Including us all neighborhood / community events that they participate in.
- Allow us to not only share our edibles but our story and the story of our culture within the larger culture of Los Angeles.
- Always being a responsible and professional business that takes care of all their partners in the communities that they serve, without exception or delay.

We understand that Sweet Flower, a top six applicant, stands ready to establish its store in the Playhouse District near the corner of Lake and Colorado. From our work together, we know that Sweet flower, an independently owned local business, is a best-in-class operator that employs locally and gives back to the communities it serves, and specifically the Black and Brown communities that have been most negatively impacted by the war on drugs. For example, Sweet Flower's management serve on the Boards of Cannabis for Black Lives and the Black Cooperative Investment Fund, among other non-profits focusing on issues of minority impact and empowerment.

**POLA** urges the council to approve the proposed Zoning Code Amendment permitting up to three dispensaries per district and reducing the distance requirement between cannabis dispensaries from 1000 to 450 feet.



**Albert Valdovinos**

**Founder & CEO**

## Reese, Latasha

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**From:** Tamar Norikian  
**Sent:** Wednesday, April 14, 2021 10:36 AM  
**To:** PublicComment-AutoResponse  
**Subject:** Support Sweet Flower and Zoning Code Change

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April 8, 2021

City of Pasadena

Members of the City Council

Re: Support of Zoning Code Amendment to Cannabis Regulation

Thank you for the opportunity to convey my support for the upcoming Public Hearing related to the Zoning Code Amendment to Cannabis Businesses. As a long time Pasadena resident, I support amending the ordinance to modify location requirements. By amending the regulation, we do not change the limit of more than six commercial cannabis retailers citywide. We allow for the top scoring applicants to proceed with the CUP process, opening more retail stores and generating more tax revenue for the City of Pasadena.

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Tamar Sarkissian

Pasadena, CA 91107

**Reese, Latasha**

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**From:** Kathy phb  
**Sent:** Wednesday, April 14, 2021 12:40 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Fwd: From pattyl

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April 14, 2021

Dear City Council Members,

Re: Support for Sweet Flower with the amendment of Zoning Code to Cannabis Regs

My name is Asdvid Kevjalian, long time resident of Pasadena and I advocate for the successful passing of the Zoning Code Amendment to Cannabis Businesses Regulations on Monday, April 19 2021 in support of Sweet Flower.

Staff's recommendation is a fair solution for the applicants and best scenario to generate more tax revenue for the City of Pasadena.

Please support the staff recommendation and vote in favor of amending the current ordinance. I'm excited to see Sweet Flower as a retailer in Pasadena.

Thank You,

Asdvid Kevjalian

Pasadena CA 91104

**Reese, Latasha**

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**From:** Ming Fong >  
**Sent:** Wednesday, April 14, 2021 1:30 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Zoning Code Amendment to Cannabis Businesses

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Hi,  
My name is Ming and I'm a resident at 430 N Holliston Avenue in Pasadena. I have received notice that Pasadena is planning to allow more dispensaries in every district. I don't think we need anymore dispensaries in the city of Pasadena. I've been to the 2 new ones that opened and the wait time was minimal. I think having 1 dispensary per district is more than enough in the City of Pasadena. I'm afraid adding more dispensaries in every district will add more unnecessary attention from neighboring cities. Maybe we can potentially revisit this idea in the future when the current dispensaries can't fulfill the needs of the demand.

Thank you for your time.

RECEIVED

Dear Mayor Gordo and Council Members:

2021 APR 15 AM 11: 23

Albert Einstone's urges the Council to approve the proposed Zoning Code Amendment permitting up to three dispensaries per district and reducing the distance requirement between cannabis dispensaries from 1000 to 450 feet (while leaving distance buffers to all sensitive uses, such as schools, parks, etc., the same). Doing so promotes the functioning cannabis program that Pasadena residents desired and approved, and the jobs, tax revenues and community benefits that were long promised but, to date, under-delivered.

The current location restrictions allow at most four dispensaries. "Up to four" is not "Up to six." The voters wisely gave the city council the power to amend the ordinance to achieve the desired goal; it is time now to do so.

Albert Einstone's is a California-based distribution, cultivation and manufacturing company that produces, develops and distributes products. We deliver a completely controlled, vertically integrated marijuana experience. Product design and development is approached like a true science, ensuring customers get the same, phenomenal experience every single time. Equipped with a state-of-the-art organic, indoor cultivation facility, manufacturing lab and expansive distribution network, our goal is to establish a new standard in the cannabis space. Albert Einstone's is the parent company behind the brands El Blunto and Stoneade, which have been broadly celebrated and are available throughout California. We have worked intimately with Sweet Flower since the early stages of legalization and we hold them as one of our most valued partners. Their professionalism, care for the community, and top-tier product offerings set them apart from the pack. They are truly a model for the industry.

We understand that Sweet Flower, a top six applicant, stands ready to establish its store in the Playhouse District near the corner of Lake and Colorado. From our work together, we know that Sweet flower, an independently owned local business, is a best-in-class operator that employs locally and gives back to the communities it serves, and specifically the Black and Brown communities that have been most negatively impacted by the war on drugs. For example, Sweet Flower's management serve on the Boards of Cannabis for Black Lives and the Black Cooperative Investment Fund, among other non-profits focusing on issues of minority impact and empowerment.

Albert Einstone's urges the council to approve the proposed Zoning Code Amendment permitting up to three dispensaries per district and reducing the distance requirement between cannabis dispensaries from 1000 to 450 feet.

Sincerely,



CEO

Albert Einstone's LLC

# Glaser Weil

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2021 APR 15 AM 11:23

CITY OF PASADENA  
OFFICE OF THE CITY CLERK

10250 Constellation Blvd.  
19th Floor  
Los Angeles, CA 90067  
310.553.3000 TEL  
310.556.2920 FAX

Aaron P. Allan

**Direct Dial**  
310.282.6279

**Direct Fax**  
310.785.3579

**Email**  
aallan@glaserweil.com

April 15, 2021

## VIA E-MAIL AND FIRST CLASS MAIL

Mayor Victor M. Gordo and City  
Councilmembers  
Pasadena City Council  
100 North Garfield Avenue, Room S228  
Pasadena CA 91109

*correspondence@cityofpasadena.net*

Re: Proposed Zoning Code Amendments to City Cannabis Regulations Regarding  
Retail Locations  
Public Hearing Scheduled, April 19, 2021

Honorable Mayor and Councilmembers:

This law firm represents MME Pasadena Retail, Inc. (“MedMen”) in connection with its pending retail cannabis license and associated litigation. We write in opposition to the proposal before you to amend the existing City of Pasadena ordinance which currently places location restrictions for licensed cannabis retailers.

This proposed amendment is inequitable to the people of Pasadena and to all licensed and pending cannabis retailers in the City. Moreover, the proposed amendment would be especially prejudicial to MedMen and to other similarly situated cannabis license applicants because it would change the rules which supplied the basis upon which applications were submitted, real estate was obtained, and conditional use permits (“CUPs”) were pursued, to now allow direct competition against approved licensees within their respective Council Districts.

The proposal to amend the existing cannabis ordinance to allow up to three retail locations in each Council District and to reduce the separation between retailers from 1,000 feet to 450 feet is contrary to the intent of Measure CC which promised to avoid any concentration of retailers in one area. It is also prejudicial to the investment backed expectations of the licensed cannabis retailers who participated in the City’s selection process for cannabis licenses. In fact, when this proposed amendment was

first considered by the Planning Commission in 2019 it was flatly rejected. When this proposal was again considered by the City Council in 2019, it was tabled and faced vocal opposition from many groups.

Among the very few voices in favor of this proposal are two retailers who have not been able to secure leases or CUPs for compliant locations under the existing ordinance. In contrast, MedMen was selected as one of the six top scoring applicants in the City selection process, secured a compliant location in Council District 6, and completed all application requirements for the CUP land use approval. On the eve of MedMen's CUP hearing, after a long and extensive CUP application process, the City took the initial steps to revoke MedMen's selection based on misleading allegations made by a competitor, SweetFlower Pasadena, LLC. Medmen's pending litigation against the City will resolve whether that revocation of MedMen's selection was permissible, or whether MedMen's license and CUP should instead move forward.

In the meantime, we believe that the competitor which prompted the issue which necessitated MedMen's lawsuit still has no compliant and approved location, and is apparently pushing this amendment to allow it to move forward in Council Districts already secured by MedMen and the other top scoring and compliant retailers. Adoption of this proposed amendment would, for example, allow a competitor to secure a location and a CUP in Council District 6 merely 450 feet from MedMen's location, while MedMen's litigation remains pending. This would be highly prejudicial to MedMen, and against the express representations made to us by your City Attorney that no further applications would be accepted in our district while our litigation is pending. The amendment is not only prejudicial to MedMen but also to all other licensees, and contrary to the rules in place at the time of selection, possibly resulting in the need for injunctive relief against the City and/or further litigation to challenge the City's adoption of the amendment itself.

Each of the selected licensees has expended time and considerable resources based on the rules in effect at the time of selection, and it is unfair and unlawful to change those rules at this time, especially while some licenses are still in dispute and being resolved by the judicial process.

We urge you to vote down this proposal and continue with the process as originally approved by the voters and relied upon by the retail applicants.



Pasadena City Council  
April 15, 2021  
Page 3

Sincerely yours,

A handwritten signature in black ink, appearing to read 'A. Allan', written over a horizontal line.

AARON P. ALLAN  
of GLASER WEIL FINK HOWARD AVCHEN & SHAPIRO LLP

APA:sa

RECEIVED

2021 APR 15 PM 12:41

CITY OF PASADENA  
CITY CLERK

**CARLSON & NICHOLAS, LLP**  
**Attorneys at Law**

Scott Carlson, Partner  
Frank Nicholas, Partner  
Richard McDonald, Of Counsel

[www.carlsonnicholas.com](http://www.carlsonnicholas.com)

301 E. Colorado Boulevard  
Suite No. 320  
Pasadena, California 91101  
(626) 356-4801

Scott@carlsonnicholas.com  
Frank@carlsonnicholas.com  
RMcDonald@carlsonnicholas.com

**VIA E-MAIL**

April 15, 2021

Mayor Victor M. Gordo  
Vice-Mayor Andy Wilson  
Hon. City Councilmembers Hampton, Kennedy, Madison, Masuda, Rivas, and Williams  
City Council of and for the City of Pasadena  
100 North Garfield Avenue  
Pasadena, California 91109

Re: Proposed Zoning Code Amendments to Cannabis Businesses Regulations.

Dear Mayor and Honorable Members of the City Council:

Your April 19, 2021 Agenda includes proposed amendments to the City's existing Cannabis Businesses Regulations that modify the distance separation requirements approved by the voters in Section 17.50.066 of the Zoning Code. The proposed amendments would change the current distance separation requirements from (a) one dispensary per City Council District and no less than 1,000 feet apart from another dispensary to (b) three dispensaries per City Council District and only 450 feet apart. This amendment would drastically change the distance separation rules and requirements upon which cannabis licensees relied in good faith when making the decision to participate in the City's rigorous selection process, to invest in locations that meet the existing regulations' criteria, and to participate in the community land-use process. To change the rules now to allow competitors within 450 feet of these secured locations is unfair, subject to legal challenge, and contrary to the intent of Measure CC which was designed to avoid concentration by requiring dispensaries to be spread throughout the City.

Letter to City Council  
City of Pasadena  
April 15, 2021

The proposed amendments are, therefore, opposed by Harvest of Pasadena, LLC, Integral Associates Dena, LLC, and MME Pasadena Retail, Inc., with the latter entity writing separately to voice its opposition to the proposed amendments. All of us have secured a location that complies with the City's existing cannabis regulations and have relied in good-faith on the City's rules and regulations (and Staff's interpretations thereof) while committing substantial resources to comply with them. All of us believe that the proposed amendments are at best unnecessary, and at worst a serious breach of the public's trust when the voters approved Measure CC and DD. Harvest and Integral oppose the proposed amendments for the following seven reasons.

*First*, this is the second time this proposal is being made. The first was on November 25, 2019, when the City Council unanimously expressed serious concerns and opposition, as well as requested additional analyses evaluating "the impacts on the City and the cannabis market" after three cannabis retailers were "operational." *See*, Exhibit A. Prior to that, on November 13, 2019, the Planning Commission voted 6 – 1 that there be "no change" to the existing regulations at all. *See*, Exhibit B. Nothing has changed since then. No additional analyses have been done, no additional options have been considered, and no evaluation of the impacts has been conducted as requested. Three cannabis retailers also have not become operational. To consider this amendment without any compelling reason or evidence that the amendment is necessary is unjustified, unwarranted, unnecessary and at best premature.

*Second*, this proposal was made in 2019 as "a byproduct of litigation" that was threatened by one of the six finalists, i.e., SweetFlower Pasadena, LLC ("SweetFlower"). Specifically, after the City Council denied its appeal, SweetFlower threatened to challenge the City in court over its "deemed incomplete" determination of Sweet Flower's application for a conditional use permit ("CUP"). To avoid that, staff recommended the proposed amendments, which were specifically written to benefit SweetFlower and only SweetFlower. After the City Council rejected the proposed amendments, SweetFlower filed its lawsuit against the City. *See*, LASC Case No. 20STCP00038. However, on March 10, 2021, Judgment was entered against SweetFlower and in favor of the City. As such, there is no new risk of litigation; although, there is a substantial risk should the proposed amendments be adopted. While SweetFlower may appeal the Judgment, as it has announced it intends to do, the odds of a reversal are very low

Letter to City Council  
City of Pasadena  
April 15, 2021

given the breadth and scope of the trial court's ruling.<sup>1</sup> The proposed amendments are thus no longer justified, warranted, or needed to avoid litigation with SweetFlower.

*Third*, given the Judgment against SweetFlower, Atrium is firmly in second place for the next store in District 3. The proposed 450 foot buffer, however, only benefits SweetFlower because Atrium is approximately 350 feet from Harvest's location. Why favor SweetFlower, which the Court ruled against because it did not follow the proper procedures, over Atrium which did? SweetFlower's threat of litigation has been removed and the goal of avoiding its lawsuit, which motivated the 2019 proposal, is no longer relevant, nor serves any purpose.

*Fourth*, the proposed amendments would result in three cannabis dispensaries in Council District 3, which means that *50% of all cannabis dispensaries in the City would be located in Council District 3*. This over-concentration is contrary to the representations the City Council and City Attorney made to the voters when presenting Measures CC and DD. *See*, Exhibits C and D. Allowing three dispensaries in the time-honored and carefully planned Old Town Pasadena would be the exact opposite of what was represented about taking a "cautious approach" so that the City's neighborhoods are well-protected. In adopting Measures CC and DD, the residents of Pasadena and the City Council established a strong, clear, and consistent public policy against the concentration of dispensaries in any one district. This public policy was implemented through the adoption of the cap of one dispensary per Council District, alongside the establishment of a 1,000-foot separation requirement between dispensaries. As the Planning Commission determined, allowing up to three cannabis dispensaries per Council District and reducing that distance is contrary to and frustrates the will of the voters as expressed in Measures CC and DD and the expressed policy of the City Council. The very

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1. The Judgment also undermines SweetFlower's other actions as it shows it is not a "beneficially interested" party entitled to seek a writ of mandate. Cal. Civ. Proc. Code § 1086. The beneficial interest requirement applies to administrative mandamus proceedings and eliminates SweetFlower's standing. *Rialto Citizens for Responsible Growth v. City of Rialto*, 208 Cal. App. 4th 899, 913 (2012).

Letter to City Council  
City of Pasadena  
April 15, 2021

purposes of the initiative process, exemplified by voter adoption of Measures CC and DD and the planning process would be undermined by adoption of the proposed amendments.

*Fifth*, the drastic step of allowing three dispensaries in a Council District is not necessary in order to allow all six of the highest-rated applicants to operate within the City. At present, there are no dispensaries trying to locate in Council Districts 1, 2, and 5. We believe the potential for dispensaries in those Council Districts must be thoroughly evaluated before the Council considers any amendments that result in over-concentration.<sup>2</sup> Until an analysis is undertaken to study the possible impacts of the proposed amendments, their adoption would be destructive of the voters' will as expressed in their approval of Measures CC and DD.

*Sixth*, the proposed amendments raise serious CEQA issues. Specifically, a recent California Supreme Court case determined that any amendment to zoning regulations that could impact the location of cannabis facilities may constitute a "project" and require CEQA review. *See Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal. 5<sup>th</sup> 1171. A summary of the case is attached for your review. *See*, Exhibit E. The common sense and existing facilities exemptions suggested by staff also do not apply as a matter of law. "The key consideration is whether the project involves negligible or no expansion of an existing use." (Guidelines, § 15301). The regulatory phrase "existing use" refers to operations that have begun and are ongoing. Where a facility has not been completed and is not operational, there is no existing use triggering the exemption. *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4<sup>th</sup> 971 (change from a utility-owned, non-consumptive hydroelectric project to one that includes massive consumptive use removes the project from the scope of the existing facilities exemption). The commonsense exemption is no different. The public

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2. For example, State law does not designate churches as sensitive receptors, and removing churches from the City's buffer requirements may allow additional locations in other Council Districts. Similarly, allowing mixed-use locations where many other retailers are allowed would open more locations within Districts 1, 2, and 5.

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agency has “the burden to elucidate the facts that justifies its invocation of CEQA’s commonsense exemption” by proving there is no possibility the activity may have a significant effect on the environment. *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 387. <sup>3</sup>

***Seventh, and finally,*** the proposed amendments would perpetrate an injustice upon these opposing parties by jeopardizing the very substantial financial and economic investments they made in reliance on the City’s commitment -- embodied in the voters’ adoption of Measures CC and DD -- to limit the number of dispensaries to one for each Council District. One legal doctrine that provides protection to these opposing parties and their financial and economic investments is the doctrine of equitable estoppel, which applies to public agencies such as the City.

The purpose of the doctrine is to prevent an “injustice which would result from a failure to uphold an estoppel....” *HPT IH G –2 Properties Trust v. City of Anaheim* (2015) 243 Cal.App.4th 188 (“*HPT*”).<sup>4</sup> Applied here, the City of Pasadena was well aware that Opposing parties each invested up to several million dollars in participating in the City promulgated

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3. Allowing up to three cannabis dispensaries in a Council District and in closer proximity than 1,000-foot inevitably creates a potential for significant environmental impacts, including increased traffic from customers driving to dispensaries, noise, and changed patterns of urban development in the City. The City must conduct a thorough environmental impact report on the potential significant environment impacts before making such a substantive, fundamental change.

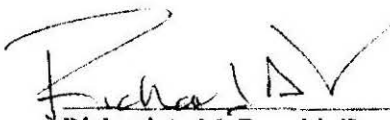
4. *HPT* is instructive on the protection the courts provide parties who act in reliance on public agency representations and actions. There, *HPT* obtained a conditional use permit from the City of Anaheim for the construction of a resort hotel. As a condition to the permit, the City required the hotel to be downsized to accommodate an overpass to be constructed by the City. The City agreed to provide a parking structure to accommodate the hotel’s parking needs arising from the reduced size of the hotel footprint due to the overpass. After *HPT* incurred substantial expense in reliance on the permit and the City’s commitment to construct the parking structure, the City refused to abide by its commitment. The Court determined that the City was estopped – barred or precluded – from refusing to perform its promise. In so doing, the Court emphasized that “equitable estoppel is founded on concepts of equity and fair dealing.” *HPT* at 201.

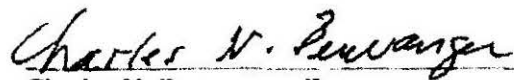
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dispensary permit process with an understanding that their investments would ultimately be protected from additional dispensary permittees within their district. Such investments include, but are not limited to, the acquisition of property interests for dispensary use, the provision of social equity benefits to the City, the design and in several instances actual construction and completion of a dispensary, and other such expenses, all incurred in reliance on Measures CC and DD's limitation of dispensaries to one per council district and 1,000 feet apart. The elements of estoppel apply to preclude the City from changing the rules now.

In conclusion, we are opposed to the proposed amendments. We urge the City Council to reject these unnecessary changes to the cannabis regulations under which we have been selected and intend to operate successfully for the benefit of the people of the City of Pasadena. Any future changes to the ordinance should be the result of extensive consideration of the impacts - environmental, economic, and land use - and after full implementation of the existing ordinance

Thank you for your time and careful consideration of this matter.

  
Richard A. McDonald, Esq.  
Of Counsel, Carlson & Nicholas, LLP  
Attorneys for Integral Associates Dena, LLC

  
Charles V. Berwanger, Esq.  
Gordon & Rees  
Attorneys for Harvest of Pasadena, LLC

Cc (via email):

Steven Mermell, City Manager  
Michele Beal Bagneris, City Attorney  
Theresa E. Fuentes, Assistant City Attorney  
David Reyes, Director of Planning and Community Development  
Jennifer Paige, Deputy Planning Director  
Guille Nunez, Management Analyst

# **EXHIBIT A**



Amend the FY 2020 Operating Budget and authorize the appropriation of General Fund fund balance in the amount of \$5.0 million and transfer said funds to the General Liability Fund. (Budget Amendment No. 2020-19)

City Manager Mermell and Matt Hawkesworth, Director of Finance, provided a PowerPoint presentation on the item, and jointly, responded to questions.

Councilmember Madison requested a copy of the City's Budget in Brief memo for fiscal year 2020.

Councilmember Gordo requested an update on the hiring of an additional Park Safety Specialist, as well as the top down review of the Police Department that staff was undertaking to determine if additional positions could be achieved with existing resources.

Following discussion, it was moved by Councilmember Wilson, seconded by Vice Mayor Hampton, to approve the staff recommendation. (Motion unanimously carried) (Absent: Councilmember McAustin)

## PUBLIC HEARING

### PUBLIC HEARING: PROPOSED ZONING CODE AMENDMENTS TO THE CITY'S CANNABIS REGULATIONS

Recommendation: It is recommended that the City Council:

- (1) Find that the actions proposed in the agenda report are exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3), Common Sense Exemption; and 15301 (Existing Facilities); there are no features that distinguish this action from others in the exempt class, and there are no unique circumstances; and
- (2) Direct the City Attorney's Office to prepare an ordinance to amend the Zoning Code to adopt the proposed City cannabis regulations with the findings as contained in attachment A of the agenda report.

The City Clerk reported that the public hearing notice was published in the Pasadena Star News on November 15, 2019; and that 1 letter in favor of the staff recommendation, 41 letters in opposition to the staff recommendation, and 1 letter providing comment was received by the City Clerk's Office, which were distributed to the City Council, posted online, and made part of the public hearing record.

City Manager Mermell and David Reyes, Director of Planning, jointly presented a PowerPoint presentation on the item, and responded to questions. Michele Beal Bagneris, City Attorney/City

Prosecutor, responded to questions related to the language in Measure CC, pending litigation related to the City's cannabis ordinance, the City's cannabis permitting process, and pending public records request. Jennifer Paige, Deputy Director of Planning, responded to questions related to the proposed amendment to the Zoning Code regulations for cannabis retailers, and signage regulations.

Councilmember Kennedy expressed serious reservations with staff's proposed revisions to the Zoning Code that would allow up to 3 cannabis operators in any one Council District.

Councilmember Masuda stated his strong preference to maintain the current regulation of only one cannabis retail operator per Council District, as written in Measure CC.

Councilmember Wilson stated his concern that the proposed changes would result in an overconcentration of cannabis operators, noting the importance of the distance requirements between such uses within the City. He also expressed concerns with the possibility of a resurgent number of illegal cannabis operators returning to the City.

Councilmember Madison stated his opposition to a proposed cannabis retail store at the "gateway" to Old Pasadena; and spoke in support of City staff whose integrity was questioned by applicants and/or their representatives during this process.

Councilmember Gordo expressed concerns with the City's retail cannabis permitting process; the proposed recommendations that are being recommended to resolve pending litigation; and unforeseen impacts that may develop by amending the City's Zoning Code to allow additional cannabis operators. He stated that the only reason to amend the City's Zoning Code related to retail cannabis should be to meet the will of the voters, in a responsible manner. He spoke on the importance of the separation requirements, which he believes contributed greatly to the adoption of Measure CC; and asked staff to confirm that language in the Zoning Code clearly states that no retailer shall be established or located within 600 feet, measured from the nearest parcel/property lines of the closest affected residential parcel. Mr. Gordo stated that if staff is going to amend the Zoning Code, then staff must ensure that residents are provided with a clear map that displays current and future cannabis retailers that may be permitted.

In response to Councilmember Gordo concern that staff is proposing the staff recommendation due to litigation, Michele Beal Bagneris, City Attorney/City Prosecutor, respond that staff recommendation is a byproduct of litigation, and that legislative action is distinct from the litigation.

The following individuals spoke in opposition to the staff recommendation and/or provided comments on various aspects of the staff recommendation:

Megan Foker, Livable Pasadena  
Armando Herman, residence not stated  
Valerie Leiva, Pasadena resident  
Tami McGovern, Pasadena resident  
Jane Laudeman, Pasadena resident  
Richard A. McDonald, Pasadena resident  
Wayne from Encino, residence not stated  
Kelley Fitzgerald Holmes, Pasadena resident  
Rosemarie Goulden, Pasadena resident  
Jessica Gutierrez, Pasadena resident  
Erika Foy, representing Protect Pasadena Kids  
Mike Greenspan, residence not stated  
Jason Lyon, Pasadena resident

The following individuals spoke in favor of the staff recommendation and/or provided comments on various aspects of the staff recommendation:

Timothy Dodd, Sweet Flower  
McGara Bautista, Sweet Flower  
Pattyl Kasparian, Pasadena resident  
Ashley Browder, with Margolin & Lawrence  
Chris Berman, The Atrium Group

Councilmember Wilson spoke on the need for additional analysis, and stated his preference to wait until the approved retail cannabis operators begin operating in order to better evaluate the impacts of retail cannabis. He suggested that the City Council and staff could revisit this discussion in the future once the approved cannabis retail shops are operating.

The Mayor echoed Councilmember Wilson's suggestion to move forward without amendments, which would allow the City to demonstrate to the voters that the City is on the path to permitting legal cannabis operators; and stated his opposition to the staff recommendation.

Councilmember Gordo echoed Mr. Wilson's comments and stated that for the purpose of resolving litigation, if zoning code amendments are necessary, staff should provide an analysis and return to the City Council at a future meeting with proposed amendments.

Councilmember Masuda voiced support for tabling the item, to be revisited at a future meeting.

Councilmember Gordo left the dais at 10:23 p.m.

Councilmember Madison expressed concerns with the City cannabis regulations that only allow legal cannabis operators in three of the six Council Districts.

Councilmember Kennedy spoke in favor of resolving existing litigation, but not at the expense of the number of operators that would be concentrated in Council District 3. He requested that when the discussion on the item returns to the City Council, staff provide options to judiciously resolve the litigation.

Motion:

Following discussion, it was moved by Vice Mayor Hampton, seconded by Councilmember Masuda, to close the public hearing. (Motion unanimously carried) (Absent: Councilmembers Gordo, McAustin)

Councilmember Gordo returned to the dais at 10:27 p.m.

Vice Mayor Hampton spoke on the need to move forward with a path to allow six cannabis retailers in the City, and to avoid the possibility of an increase of illegal cannabis retailers in the City.

Motion:

Following further discussion, it was moved by Councilmember Wilson, seconded by Councilmember Masuda, to table the item. (Absent: Councilmember McAustin)

Following further discussion, on order of the Mayor and consensus of the City Council, staff was asked to revisit the discussion on the City's cannabis regulations once three cannabis retailers are operational so that staff can evaluate the impacts on the City and the cannabis market.

**PUBLIC COMMENT ON  
REGULAR BUSINESS ITEMS**

The following individuals spoke on multiple regular business items:

Armando Herman, residence not stated  
Wayne from Encino, residence not stated

**REPORTS AND COMMENTS  
FROM COUNCIL  
COMMITTEES**

**APPROVAL OF THE KEY BUSINESS TERMS OF AN AFFORDABLE HOUSING LOAN AGREEMENT WITH THE SALVATION ARMY AND A BUDGET AMENDMENT FOR FUNDING IN AN AMOUNT NOT-TO-EXCEED \$1,000,000 FOR**

# **EXHIBIT B**



**MINUTES**  
**PLANNING COMMISSION**  
**Wednesday November 13, 2019**  
**Regular Meeting at 6:30 p.m.**  
**City Hall, Council Chambers - Room S249**  
**100 N. Garfield Avenue, Pasadena 91101**

1. **ROLL CALL** – Chair Coher called the meeting to order at 6:30 p.m.  
**PRESENT** – Commissioners Williams, Nanney, Barar, Coppess, Olivas, Lyon, Miller and Chair Coher  
**Excused Absent:** Commissioner Wendler  
**Staff:** Jennifer Paige, Theresa Fuentes, David Sanchez, Andre Sahakian and Patrisia De La Torre
2. **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA - NONE**
3. **DIRECTORS REPORT**  
Jennifer Paige welcomed Boy Scout Troop 355, who attended tonight's meeting for their Citizenship in the Community Badge.
4. **APPROVAL OF MINUTES**
  - October 9, 2019 – Commissioner Barar moved approval of the October 9, 2019 minutes. Commissioner Coppess seconded. Minutes approved 7-0. Commissioner Miller abstained.

**\*Chair Coher informed the Commission and the public that item 5A would be continued to a future date and that a new public notice will be issued.**

**5. PUBLIC HEARINGS**

**A. Zoning Code Amendment – Playhouse District Parking Requirements**

Staff will present analysis and recommendations for an ordinance to reduce parking requirements for restaurant and entertainment uses in the CD-4 (Pasadena Playhouse) Zoning district.

It is recommended that the Planning Commission:

- 1) Find that the Zoning Code Amendments are exempt from the California Environmental Quality Act because they qualify for Categorical Exemption pursuant to Section 15305 (Class 5 – Minor Alterations in Land Use Limitations), and there are no features that distinguish this project from others in the exempt class; therefore there are no unusual circumstances;
- 2) Adopt the required findings for the Zoning Code Amendments (Attachment A); and
- 3) Recommend that the City Council approve the Zoning Code Amendments as presented to the Planning Commission.

**Case Manager:** Andre Sahakian

**(CONTINUE TO A FUTURE DATE- ITEM WILL BE RE-NOTICED)**

**B. Zoning Code Amendments: Updating Regulations for Single-Room Occupancy Uses**

Staff presented analysis and recommendations for an ordinance to increase the maximum unit size for Single-Room Occupancy uses, and to allow the use in the CD-1 through CD-6 Zoning Districts without a conditional use permit.

It was recommended that the Planning Commission:

- 1) Find that the Zoning Code Amendments are exempt from the California Environmental Quality Act because they qualify for Categorical Exemption pursuant to Section 15305 (Class 5 – Minor Alterations in Land Use Limitations), and there are no features that

distinguish this project from others in the exempt class; therefore there are no unusual circumstances;

- 2) Adopt the required findings for the Zoning Code Amendments (Attachment A); and
- 3) Recommend that the City Council approve the Zoning Code Amendments as presented to the Planning Commission.

**Case Manager:** Andre Sahakian

**Public Comment:**

There were no public comments received.

**Motion:**

Commissioner Miller moved approval of staff's recommendations and additionally to eliminate the minimum parking requirement. Commissioner Williams seconded. Motion approved 6-2.

**C. Zoning Code Amendments: Cannabis Regulations**

Staff presented analysis and recommendations for an ordinance to reduce the distance required between cannabis retailers from 1,000 feet to 450 feet, to increase the maximum permitted cannabis retailers per council district from one to three and clarify the language on distance requirements as measured to a residential zone.

It was recommended that the Planning Commission:

- 1) Find that the Zoning Code Amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15061(b)(3), the common sense exemption and 15301 "Existing Facilities" (Class 1); therefore there are no unusual circumstances;
- 2) Adopt the required findings for the Zoning Code Amendments (Attachment A); and
- 3) Recommend that the City Council approve the Zoning Code Amendments as presented to the Planning Commission.

**Case Manager:** Jennifer Paige, AICP

**Public Comment:**

Lisa Freer  
Richard McDonald  
Erika Foy (Protect Pasadena Kids)  
Sushma Adarkar  
Megan Foker (Livable Pasadena)  
Steve Mulheim (Old Pasadena Management)  
Jordan Ferguson (Harvest of Pasadena)  
Gregoria Cardenas

**Motion:**

Commissioner Lyon moved that the Commission recommend that the City Council adopt staff's recommended changes to paragraph 5B. Commissioner Olivas seconded. Motion approved 5-3.

**Motion:**

Commissioner Coppess moved that the Commission recommend that there be no change to the existing language relating to cannabis retailers per council district and that there be no change to the existing language regarding distance between cannabis retailers. Commissioner Miller seconded. Motion approved 6-1. Commissioner Nanney abstained.

**6. COMMENTS AND REPORTS FROM STAFF**

Jennifer Paige informed the Commission about an upcoming training that will be presented to City Council at the December 9, 2019 meeting and will then be brought to the Planning Commission.

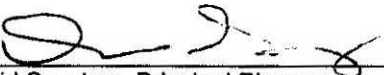
**7. COMMENTS AND REPORTS FROM COMMITTEES**

- **Design Commission** – Commissioner Coppess informed the Commission on two items heard at the November 12, 2019 meeting.
- **Board of Zoning Appeals** – Commissioner Williams informed the Commission on four items heard at the October 30, 2019 and November 6, 2019 meetings.
- **CIP** - None

**8. COMMENTS AND REPORTS FROM COMMISSIONERS**

Chair Coher and Jennifer Paige asked the Commission to provide feedback to staff on how correspondence from the public is relayed to the Commission.

**9. ADJOURNMENT** – Chair Coher adjourned the meeting at approximately 9:14 p.m.

  
\_\_\_\_\_  
David Sanchez, Principal Planner

  
\_\_\_\_\_  
Patricia De La Torre, Recording Secretary



# **EXHIBIT C**

### **ARGUMENT IN FAVOR OF MEASURE CC**

During the past several years, the California legislature and voters have enacted various laws which decriminalize or legalize commercial cannabis activity. In 2016, 63% of the total votes cast for Prop. 64 by Pasadena voters were in favor of the measure to legalize cannabis sales. Therefore, a new regulatory and enforcement framework addressing commercial cannabis businesses in the City is needed. Previous City Council action to regulate cannabis has been blocked by the cannabis industry. Therefore a vote of the people is necessary.

In order to preserve the quality of life for Pasadena's residents, it is the City's intent to allow a very limited number of highly qualified screened operators to do business in the City, using a tightly regulated process and regulatory ordinance. The proposed regulations reflect a cautious approach designed to protect our neighborhoods and businesses from negative impacts of cannabis businesses: the number of licenses is strictly limited. There are adequate separations from sensitive uses like schools and parks, and the concentration of uses in any single area is prohibited. By these means we hope to achieve a reduction in the number of illegal dispensaries in our City, and the ability to maintain an appropriate balance of local control and compliance with state law.

Please support our effort to impose reasonable controls rather than abdicating this responsibility to those motivated by profit and personal gain rather than the public interest.

TERRY TORNEK  
Mayor

ANDY WILSON  
City Councilmember

TYRON HAMPTON  
City Councilmember

MARGARET MCAUSTIN  
City Councilmember

**NO ARGUMENT AGAINST THIS MEASURE WAS SUBMITTED**

# **EXHIBIT D**

## **CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE CC**

Measure CC is submitted to the voters by the Pasadena City Council and would amend various provisions of the Pasadena Municipal Code to allow a limited number and types of commercial cannabis businesses to operate in Pasadena, subject to business, health and land use regulations.

### Background

On February 26, 2018, the City Council of the City of Pasadena ("Council") approved submission of an ordinance for voter approval to amend the Pasadena Municipal Code ("PMC") to allow a limited number and types of commercial cannabis businesses to operate in Pasadena, subject to business, health and land use regulations.

### The Measure

If passed, Measure CC would amend the PMC to allow three types of cannabis permits and a limited number of commercial cannabis businesses citywide as follows: six retailers, four cultivation sites, and four testing laboratories. The Measure includes distance separation requirements consistent with state law, as well as distance separation requirements from each of the businesses and residential districts, and between each of the businesses. The Measure establishes a process for a potential operator to apply for such cannabis permits, as well as to apply for the necessary land use permit. The Measure also establishes health and safety permitting and operating requirements for such businesses. No currently illegally operating cannabis businesses would be grandfathered in; one legal nonconforming testing lab would be allowed to remain. The Measure would repeal the current ban on commercial cannabis businesses.

Measure CC will not take effect unless a companion tax measure (Measure DD) is adopted by the voters. No applications for commercial cannabis businesses will be accepted until the City Manager approves and promulgates administrative regulations. No further voter approval would be required for future amendments by the City Council, which may amend the ordinance that is the subject of this Measure in its usual manner, without further voter approval.

If Measure CC does not pass, the current ban on all commercial cannabis businesses would remain in place.

**(Continued on next page)**

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE CC (Continued)**

Measure CC requires approval of a majority of voters. A "yes" vote for Measure CC will establish the ability of a limited number and types of commercial cannabis businesses to apply for necessary permits and land use approvals. A "no" vote against Measure CC will maintain the existing ban on such businesses.

**The above statement is an impartial analysis. Copies of the text of the proposed ordinance is available at City Libraries and on the City's webpage at [www.cityofpasadena.net/cityclerk/elections](http://www.cityofpasadena.net/cityclerk/elections). If you have any questions, please contact the City Clerk's Office at (626) 744-4124.**

# **EXHIBIT E**

***Union of Medical Marijuana Patients v. City of San Diego***

**(Aug. 19, 2019) \_\_ Cal.5th \_\_**

In 2014, the City amended its zoning ordinance to regulate medical marijuana dispensaries' location and operation. It added dispensaries to the list of permitted uses in two of the six commercial zones and two of the four industrial zones while excluding dispensaries from open space, agricultural, and residential zones. No CEQA document was prepared for this change to the City zoning ordinance because the City found that adoption of the ordinance did not constitute a project for CEQA purposes

UMMP brought suit, alleging that amendment of a zoning ordinance is conclusively considered a project because it is specifically listed as such in Public Resources Code (PRC) Section 21080 and meets the definition of a project under PRC Section 21065 (a discretionary activity with the potential for direct or a reasonably foreseeable indirect effect). The Court of Appeal opined that a zoning ordinance amendment was subject to the same statutory test for project-ness as activities not listed in Section 21080. As a result, the Court of Appeal held in favor of the City, finding that the ordinance was not a project because it lacked the potential to result in a physical change in the environment.

The California Supreme Court concluded that: "the various activities listed in section 21080 must satisfy the requirements of section 21065 before they are found to be a project for purposes of CEQA. ... we conclude that the Court of Appeal misapplied the test for determining whether a proposed activity has the potential to cause environmental change under section 21065, which was established in *Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4th 372 (*Muzzy Ranch*), and erred in affirming the City's finding that adoption of the ordinance did not constitute a project. For that reason, we reverse [the court's decision] and remand for further proceedings."

The Supreme Court clarified that Section 21080 does not, as a matter of law, mandate that a zoning ordinance amendment will always be a CEQA project. Sections 15080 and 15065 work in harmony: 15080 offers that, by way of example, an ordinance amendment could be a project, and 15065 applies to determine whether it is.

The Supreme Court reasoned:

Applying the foregoing test, we conclude the City erred in determining that the adoption of the Ordinance was not a project. Prior to the Ordinance, no medical marijuana dispensaries were legally permitted to operate in the City. The Ordinance therefore amended the City's zoning regulations to permit the establishment of a sizable number of retail businesses of an entirely new type. Although inconsistency with prior permissible land uses is not necessary for an activity to constitute a project (see *Muzzy Ranch, supra*, 41 Cal.4th at p. 388), establishment of these new businesses is capable of causing indirect physical changes in the environment. At a minimum, such a policy change could foreseeably result in new retail construction to accommodate the businesses. In addition, as UMMP suggests, the establishment of

new stores could cause a citywide change in patterns of vehicle traffic from the businesses' customers, employees, and suppliers. The necessary causal connection between the Ordinance and these effects is present because adoption of the Ordinance was "an essential step culminating in action [the establishment of new businesses] which may affect the environment." (*Fullerton Joint Union High School Dist. v. State Board of Education* (1982) 32 Cal.3d 779, 797 (*Fullerton*)). The theoretical effects mentioned above are sufficiently plausible to raise the possibility that the Ordinance "may cause . . . a reasonably foreseeable indirect physical change in the environment" (§ 21065), warranting its consideration as a project.

The City had rejected UMMP's claims that the new ordinance would result in indirect effects due to changes in traffic, horticulture, and concentration of dispensaries because UMMP failed to provide supporting evidence. The Supreme Court reasoned that at this early point in the CEQA process – determining whether the action is even a project - this "put the cart before the horse:"

The likely *actual* impact of an activity is not at issue in determining its status as a project. [footnote omitted] Further, at this stage of the CEQA process virtually any postulated indirect environmental effect will be "speculative" in a legal sense — that is, unsupported by evidence in the record (e.g., *People v. Murtishaw* (2011) 51 Cal.4th 574, 591 ["defendant's claim . . . is entirely speculative, for he points to nothing in the record that supports his claim"]) — because little or no factual record will have been developed. A lack of support in the record, however, does not prevent an agency from considering a possible environmental effect at this initial stage of CEQA analysis. Instead, such an effect may be rejected as speculative only if, as noted above, the postulated causal mechanism underlying its occurrence is tenuous.

The City argued that there was not too little known about the potential impacts of the ordinance amendment to permit environmental review. The Court rejected that argument. The determination of whether an activity is a project under CEQA is separate (and preliminary to) an agency's determination of whether that project may have significant physical impacts. The Court concluded its decision as follows:

It ultimately might prove true that, in the context of the City, the actual environmental effects of the Ordinance will be minimal. It is possible, as the Court of Appeal assumed, that the City's commercial vacancy rate is sufficient to provide retail space for the new businesses without the need for expansion. (*Marijuana Patients, supra*, 4 Cal.App.5th at p. 123 [dispensaries "could simply cho[o]se to locate in available commercial space in an existing building"].) It is also possible, as UMMP suggests, that a significant number of unlicensed businesses selling medical marijuana already exist in the City and that the newly licensed businesses will simply displace them. Rather than causing increased traffic and other activity, the net effect of this substitution might be little or no additional environmental burden on the City. All of these factors can be explored in the second and, if warranted, third tiers of the CEQA



process. As to those tiers, we are in no position to offer, and do not express, an opinion on the applicability of the various exemptions or, alternatively, the appropriate level of environmental review.

## Martinez, Ruben

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**From:** Aida Mosses <aidamosses@gmail.com>  
**Sent:** Thursday, April 15, 2021 5:59 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Support Sweet Flower and Zoning Code Change

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you *know* the content is safe. Report phish using the Phish Alert Button. [Learn more...](#)

City of Pasadena

Members of the City Council

Re: Support of Zoning Code Amendment to Cannabis Regulation

Thank you for the opportunity to convey my support for the upcoming Public Hearing related to the Zoning Code Amendment to Cannabis Businesses. As a long time Pasadena resident, I support amending the ordinance to modify location requirements. By amending the regulation, we do not change the limit of more than six commercial cannabis retailers citywide. We allow for the top scoring applicants to proceed with the CUP process, opening more retail stores and generating more tax revenue for the City of Pasadena.

The Lake and Colorado location is a suitable location for a retail store. Please vote in favor of staff's recommendation to amend the Zoning Code on April 12, 2021 to decrease the distance between cannabis retailers from 1,000 feet to 450 feet and allow up to three dispensaries per council district. I would like to see Sweet Flower open its doors in Pasadena in the months ahead.

Sincerely,

aida mosses

Sent from my iPhone