

**CORRESPONDENCE
FROM
AUGUST 16, 2021
CITY COUNCIL
MEETING**

CHARLES BERWANGER

DIAL: C

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CITY CLERK
CITY OF PASADENA

GORDON & REES
SCULLY MANSUKHANI
YOUR LAW FIRM PARTNER™

ATTORNEYS AT LAW
101 WEST BROADWAY, SUITE 2000
SAN DIEGO, CA 92101
WWW.GRSM.COM

VIA EMAIL AND OVERNIGHT MAIL

August 13, 2021

City Council
The City of Pasadena
100 North Garfield Avenue
Pasadena, CA 91101
correspondence@cityofpasadena.net

RE: Harvest of Pasadena's Objection to Amendments to Cannabis Regulations
City Council Agenda
August 16, 2021 City Council Hearing

Dear Mayor and Honorable Council Members:

This letter is written on behalf of Harvest of Pasadena, LLC. In sum, the amendments violate the voters' intent, violates the rights of Harvest (including CEQA and state cannabis laws), and violates several planning principals.

The clear intent of the voters passing Measure CC in June of 2018 was not only to repeal Pasadena's ban on commercial cannabis, but also, to establish cannabis regulations that would prevent overconcentration of cannabis retailers in any area of the city. Harvest opposes the amendments to the City's Cannabis Regulations that would allow up to three cannabis retailers per district and decrease the distance between cannabis retailers from 1,000 feet to only 450 feet for four reasons.

First, the amendments violate California Department of Cannabis Control Regulation Section 15019 (the prior Bureau Cannabis Regulation Section 5019) by creating an excessive concentration in city council district three. The amendments would create an unlawful excessive concentration of cannabis retailers in city district three by permitting three retailers to locate in district three. (see, Exhibit 1, attached hereto)

Second, the amendments would undo the intent of the voters. To effectuate the voters' intent, the City Council enacted two provisions to the Pasadena Municipal Code ("PMC"). First, the City Council enacted PMC Section 17.50.066(D)(3) that specifies that only one cannabis retailer may operate within a city council district at any one time. Second, PMC Section

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Item A & 22

1750.066(D)(5)(a) was added to prohibit a cannabis retailer being located within 1,000 feet of another cannabis retailer.

Third, the City Council could retain PMC Sections 1750.066(D)(3) and 1750.006(D)(5)(a) as they currently exist, and simply adopt the state guidelines standards to apply to all other city cannabis regulations. This simple change would create numerous compliant locations for cannabis retailers throughout council districts one, two, and five. (see, Exhibit 2, attached hereto), while not violating California Department of Cannabis Control Regulation Section 15019, and while upholding and respecting the intent of the voters when they approved Measure CC.

Lastly, Harvest hereby incorporates as though fully set forth herein, the letters dated November 22, 2019; April 19, 2021; and July 15, 2021 (true and correct copies of which are attached hereto marked respectively as Exhibits 3, 4, and 5).

Sincerely,

GORDON REES
SCULLY MANSUKHANI, LLP

Charles V. Berwanger

Charles Berwanger

Exhibit 1

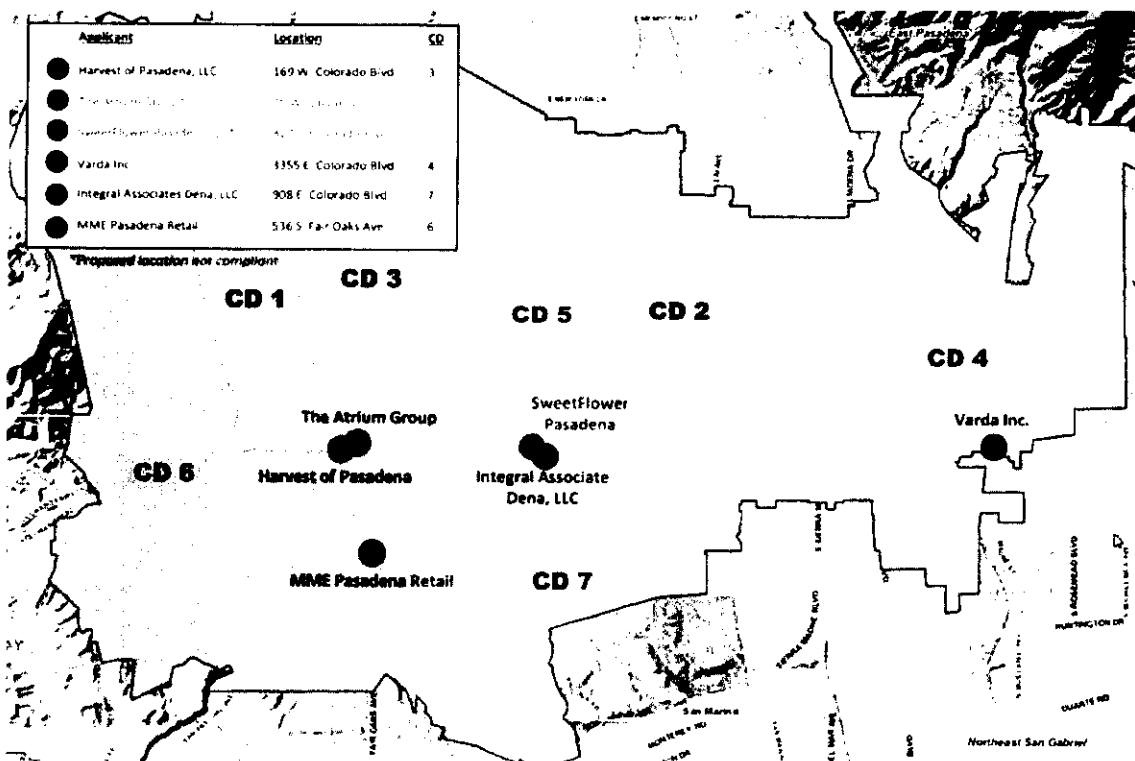


Exhibit 2

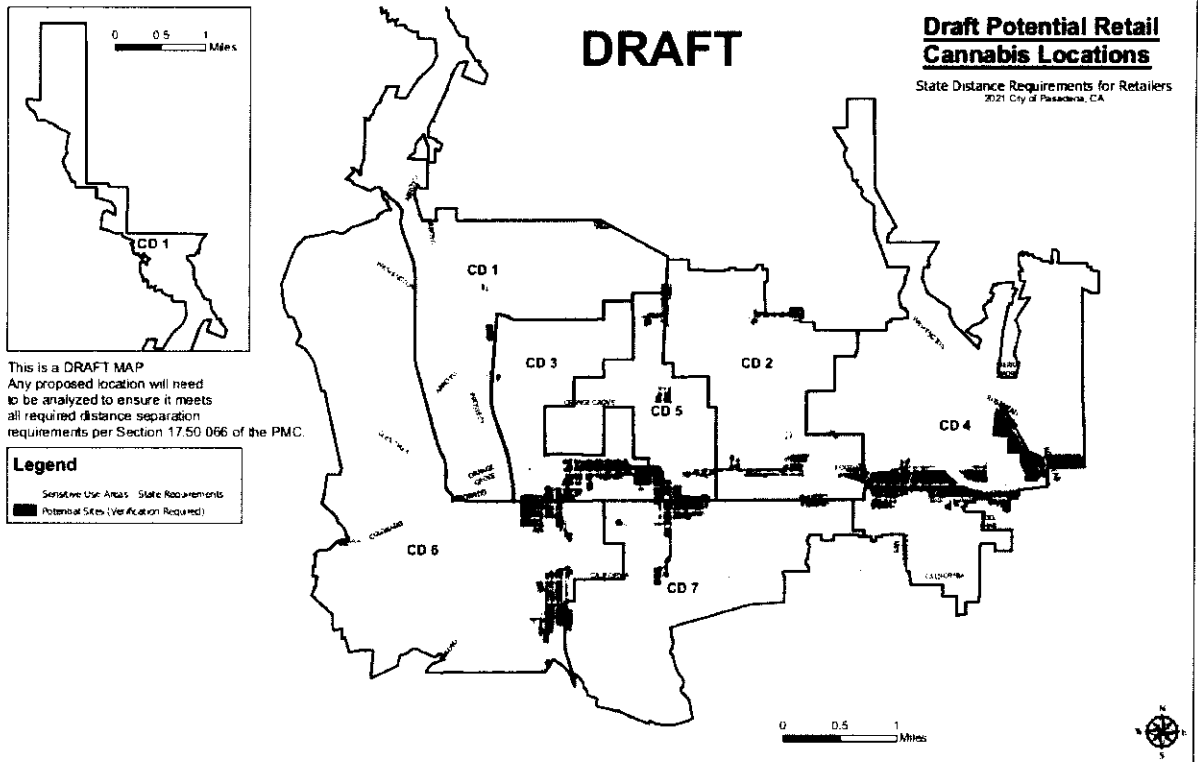


Exhibit 3

November 22, 2019

VIA ELECTRONIC MAIL

City Council
City of Pasadena
100 N. Garfield Avenue
Room S249
Pasadena, CA 91109

Re: City Council Agenda Item 14
Proposed Zoning Amendments to Cannabis Regulations
City Council Hearing on November 25, 2019

Dear Mayor Tornek and Honorable Councilmembers:

This letter is jointly-authored and signed by Harvest and Integral, the two applicants for cannabis retail permits who are furthest along the path towards obtaining entitlements to operate. We have each secured a location that complies with the City's existing cannabis regulations and are in the process of obtaining all required approvals and entitlements to operate under the City's current regulations. Throughout the application process, Harvest and Integral have relied in good faith on the City's rules and regulations (and Staff's interpretations thereof) and have committed the substantial resources necessary to comply with the City's requirements.

On November 25, 2019, the City Council will review proposed amendments to the City's regulations that would allow up to three dispensaries per Council District, contrary to the clearly-established will of the voters in passing Measures CC and DD. The practical effect of the amendment would be to allow up to three dispensaries in Old Town Pasadena, an over-concentration that the voters could not possibly have anticipated or intended.

We understand that these amendments are being offered in response to recent criticism of the City's cannabis permit process, pending litigation, and a ballot initiative, each of which may interfere with the City's efforts to make its present regulatory scheme work. We remain committed to working with the City to resolve these challenges in a constructive manner.

However, the proposed amendments seem to be aimed at helping two applicants get the locations they want in the short-term, rather than looking at the broader, long-term interests of the City. On November 13, 2019, therefore, the Planning Commission overwhelmingly rejected these proposed amendments by a vote of 7-1 as contrary to the will of the voters as expressed in Measures CC and DD. Excepting the proposed technical amendment to Section 17.50.066 D(5)(b), which it approved, the Planning Commission recommended no changes to the existing ordinance other than clean-up amendments.

We believe the City *could* amend its present ordinance to resolve outstanding issues and to allow all six applicants to operate within Pasadena. However, *the current proposal does not solve these problems consistent with the voters' vision*. We support the City taking the time to study this issue and to find a solution that will best serve the community.

The Proposed Alteration of the Cap on Dispensaries Per Council District and Reduction of 1,000 Foot Separation Requirement Will Lead to Over-Concentration

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 the will of the voters as expressed in Measures CC and DD and the expressed policy of the City Council. We oppose changing the current cap of one dispensary per Council District and reducing the 1,000-foot separation requirement.

As a practical matter, the proposed amendment would result in three cannabis dispensaries locating in Council District 3, which would mean that *50% of all cannabis dispensaries in the City would be located in Council District 3*. This over-concentration is not in line with Measures CC and DD and risks resulting in three dispensaries in the time-honored and carefully planned Old Town Pasadena.

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 proposing 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 even considers an alternative resulting in over-concentration.

Raising the cap to three dispensaries per Council District while also reducing the separation requirement also raises serious CEQA issues. City Staff has taken the position that its proposed amendments are exempt from CEQA under CEQA Guidelines Section 15061(b)(3), the common-sense exemption, and Section 15301, the existing facilities exemption. However, a recent California Supreme Court case determined that an 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* (August 19, 2019), Docket No. S238563. Any alteration of the City's policies which would allow up to three cannabis dispensaries in a Council District and in closer proximity to one another than 1,000 feet would inevitably create significant environmental impacts, including increased traffic from customers driving to new dispensaries and changed patterns of urban development in the City. The City must, therefore, conduct a thorough analysis of the possible impacts prior to making any final decisions on an amendment which would result in such a substantive, fundamental change.

The City Should Not Alter Buffer Zones Until It Has Fully Analyzed the Zoning Impacts

In order for the City to retain the cap of one dispensary per Council District and the 1,000 - foot separation requirement, while allowing a total of six dispensaries to operate, the City would

potentially need to adopt a number of minor amendments to the current buffer requirements. *We have no objection to the proposed amendments to Section 17.50.066 D(5)(a)-(b)*, clarifying that the sensitive receptor buffer should be calculated from the cannabis retail parcel to existing residential zones or sensitive uses. Toward that end, you will find a redline document proposing changes to Section 17.50.066 which we believe would be appropriate to carry out both the technical amendment approved by the Planning Commission and the will of the voters. These amendments, just by themselves, however, may not be sufficient to achieve six dispensaries due to the difficulty in finding desirable locations in Districts with no proposed dispensaries.

There are several alternatives Staff could study to open up more locations for dispensaries by simply reducing the 600-foot separation requirement. A change in the distance requirement between dispensaries and some sensitive receptors from 600 feet to 500 feet may, by itself, resolve the present shortage of desirable locations. Staff originally recommended 300-feet, which may be an option as well. This cannot be known until an analysis is undertaken to study the possible impacts of any proposed amendment.

The City also could also revise its list of sensitive receptors to create more potential locations. As just one example of a possible amendment, State law does not designate churches as sensitive receptors, and removing churches from the City's buffer requirements might allow additional locations in other Council Districts.

Before proceeding with any amendment, City Staff should identify and analyze all reasonable amendments to the 600-foot buffer requirements and determine the number of compliant locations which would result in Council District 1, 2, and 5. At minimum, Staff should conduct an analysis to determine which, if any, changes to existing buffer requirements, would have the greatest effect without adversely impacting the sensitive uses in question.

When originally implementing Measures CC and DD, the City did not fully evaluate the impact of the proposed buffer zones to determine whether six compliant locations existed under the location restrictions. *We are concerned the exact same problem may arise with the proposed and other new amendments to the buffer requirements.*

Therefore, before proceeding with any amendment to the buffer zones, we recommend and request that Staff fully analyze and determine the number of compliant locations in each Council District and the impacts of the proposed changes on those locations.

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

Sincerely,

Richard A. McDonald, Esq.

Of Counsel, Carlson & Nicholas, LLP
Attorneys for Integral Associates Dena, LLC

Ben Kimbro

Director of Public Affairs
Harvest of Pasadena

Cc (via email):

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

Exhibit 4

CARLSON & NICHOLAS, LLP
Attorneys at Law

www.carlsonnicholas.com

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

Pasadena,
California 91101

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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.

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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

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given the breadth and scope of the trial court's ruling.' 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 feet 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

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).

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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.² 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. 5th 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. 4th 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

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, 387.³

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*").⁴ 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

3. Allowing up to three cannabis dispensaries in a Council District and in closer proximity than 1,000-feet 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.

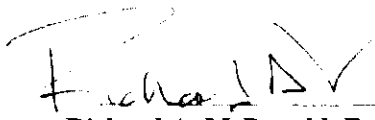
4. *HPT* is instructive on the protection the courts provide parties who act in reliance on public agency representations and actions. There, *HPT* obtained a conditional use permit from the City of Anaheim for the construction of a resort hotel. As a condition to the permit, the City required the hotel 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


Ze&e/A

Cc (via email):

Steven Mermen, City Manager
Michele Beal Bagnicris, City Attorney
Theresa E. Fuentes, Assistant City Attorney
David Reyces, 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 staffs 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.

C

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:

C.

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, McCaustin)

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 McCaustin)

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, Nanne, 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 staffs 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)
Gloria 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



Patrie La Torre, Recording Secretary