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VIA E-MAIL

March 14, 2022

Mayor Victor Gordo
Vice-Mayor Andy Wilson &
Honorable Members of the City Council Tyron Hampton, John J. Kennedy,
Steve Madison, Gene Masuda, Jessica Rivas, and Felicia Williams
Pasadena City Hall
100 North Garfield Avenue
Pasadena, CA 91101

Re: Item No. 15 – CUP No. 6921

Dear Mayor Gordo, Vice-Mayor Wilson, and Honorable Members of the City Council:

Item 15 on your Agenda tonight is an appeal of the Planning Commission's approval of the conditional use permit application ("CUP") for a cannabis retail store at the intersection of Colorado Blvd. and Lake Avenue. The application has been submitted as a result of the City Council's recent amendments that modified the distance separation requirements approved by the voters in Section 17.50.066 of the Zoning Code. The City Council's amendments changed the distance separation requirements from one dispensary per Council District and no less than 1,000 feet apart to allow up to three dispensaries per Council District and only 450 feet apart.

Despite recent case law¹, the amendments were made without any environmental review of the feasible and likely cumulative environmental impacts from concentrating such uses. To

1. See *Union of Medical Marijuana Patients, Inc. v. City of San Diego*, 7 Cal.5th 1171, 1199 (2019) ("At a minimum, such a policy change could foreseeably result in new retail construction to accommodate the businesses. In addition, as [plaintiff] suggests, the establishment of new

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the contrary, the City Council adopted two categorical exemptions (*i.e.*, existing facilities and common-sense) to avoid any such environmental review. Further, the City Manager and Staff expressly represented that, “As each retailer may come forward for permits, any potential effects from that particular application will be subject to environmental review during the permitting process.” *See* Exhibit A. That statement was vague and ambiguous as to whether “cumulative environmental impacts” would be studied. We, therefore, objected to the use of the two exemptions.

Contrary to that representation, however, tonight, staff is recommending the approval of the CUP for a retailer that is only 457 feet (*i.e.*, a mere 7 feet more than the 450 limit) from another retailer based upon two more categorical exemptions, *i.e.*, existing facilities and small structures. Neither exemption applies, as explained below.

But, the disturbing fact is that a concentration of cannabis retailers is being allowed to occur without any environmental review of the cumulative impacts² from such concentration.³ This is the very problem the City Council assured the voters would not occur when it represented to them in the ballot summaries for Measures CC and DD that it was taking “a conservative approach” by only allowing such uses if they were sufficiently dispersed throughout the City’s various City Council districts and 1,000 feet apart. This is also the very problem the City Council assured the voters would not occur when it adopted the zoning code amendments and said that each retailer’s application would be subject to environmental review, not exempt from it.

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.’ ”).

2 Cumulative impacts are inevitable due to the very close proximity (450 feet) between applicants Harvest and Atrium, as well as Integral and SweetFlower.

3. Finding Nos. 4 and 5 for the CUP further expressly require substantial evidence that shows the conditionally approved use would not be detrimental or injurious to “the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use” and/or to the “property and improvements in the neighborhood or to the general welfare of the City.”

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Section 15300.2, subsection (b) in Title 14 of the California Code of Regulations is entitled “Cumulative Impact” and expressly states that, “All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.” Regardless of whether they are in different City Council districts, concentrating conditionally permitted retail cannabis stores within 450 feet of one another is, by definition, allowing “successive projects of the same type in the same place, over time,” which is “significant” and which mandates environmental review; particularly, in a case like this one where the use is being located at one of the busiest intersections in the City of Pasadena, *i.e.*, the intersection of Lake Avenue and Colorado Blvd.

I. CEQA – The Analytical Framework.

In enacting CEQA, the California Legislature declared its intention that all public agencies responsible for regulating activities affecting the environment give prime consideration to preventing environmental damage when carrying out their duties. *See* Cal. Pub. Res. Code § 21001. “The foremost principle under CEQA is that the Legislature intended the act ‘to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.’ ” *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.*, 47 Cal. 3d 376, 390 (1988); *Citizens of Goleta Valley v. Bd. of Supervisors of Santa Barbara Cnty.*, 52 Cal. 3d 553, 563-64 (1990). “With narrow exceptions, CEQA requires an EIR whenever a public agency proposes to approve or to carry out a project that may have a significant effect on the environment.”⁴ *Laurel Heights*, 47 Cal.3d at 391 (citations omitted); Cal. Pub. Res. Code § 21100(a).

“CEQA is primarily a procedural statute” (1 Kostka & Zischke, *Practice Under the California Environmental Quality Act* 17 (January 2011)), and states that the purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the

4. “Significant effect on the environment” means “a substantial, *or potentially* substantial, adverse change in the environment.” Cal. Pub. Res. Code § 21068 (emphasis added). “CEQA requires that an agency determine whether a project *may have* a significant environmental impact, and thus whether an EIR is required, *before* it approves that project.” *Laurel Heights*, 47 Cal. 3d at 394, emphasis original; *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 79 (1974) (emphasis added).

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significant effects of such a project might be minimized; and to indicate alternatives to such a project. Cal. Pub. Res. Code § 21061. It is therefore critical that CEQA's procedural rules be "scrupulously followed." *Laurel Heights*, 47 Cal. 3d at 392.

Toward that end, CEQA's implementing regulations (the "Guidelines") set forth a three-tier process for CEQA review. Cal. Code Regs. tit. 14, § 15000 *et seq.*

The first tier requires a determination whether the proposed action is a project. If so, the second tier requires a determination whether the project is exempt from environmental review under either a statutory or categorical exemption. If not, the third tier requires the preparation of an initial study to determine whether the project may have a significant effect on the environment and prepare a negative declaration, mitigated negative declaration, or EIR. *Muzzy Ranch Co. v. Solano Cnty. Airport Land Use Comm'n*, 41 Cal. 4th 372, 380-81 (2007).

The City admits SweetFlower's proposed cannabis store is a project under Tier One. This appeal, therefore, is focused on Tier Two. In that regard, "categorical exemptions are not absolute. Even if a project falls within the description of one of the exempt classes, it may nonetheless have a significant effect on the environment based on factors such as location, **cumulative impact**, or unusual circumstances. '[W]here there is **any reasonable possibility** that a project or activity may have a significant effect on the environment, an exemption would be improper.' " *Save Our Carmel River v. Monterey Peninsula Water Mgmt. Dist.*, 141 Cal. App. 4th 677, 688-689 (2006) (citing to *Ass'n for Protection of Env't Values in Ukiah v. City of Ukiah* (1991) 2 Cal. App. 4th 720, 726 (1991)) (emphasis added).⁵

The Guidelines specifically state: "All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant."⁶ Cal. Code Regs. tit. 14, § 15300.2. The issue in this appeal, therefore, is whether

5. "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." Cal. Code Regs. tit. 14, § 15300.2.

6. "Cumulative impacts" refer to "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. (a) The individual effects may be changes resulting from a single project or a number of separate projects. (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past,

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an overconcentration of cannabis stores “of the same type in the same place” has a cumulative impact or “any reasonable possibility” of a significant effect on the environment, and the neighborhoods around it. Under CEQA, any doubt that it has such an effect requires environmental review under Tier Three.

II. Exemptions Are Construed Narrowly and Not Applicable.

“In keeping with general principles of statutory construction, exemptions are construed narrowly and will not be unreasonably expanded beyond their terms.” *County of Amador v. El Dorado Cnty. Water Agency*, 76 Cal. App. 4th 931, 966 (1999). “Strict construction allows CEQA to be interpreted in a manner affording the fullest possible environmental protections within the reasonable scope of statutory language. It also comports with the statutory directive that *exemptions may be provided only for projects which have been determined not to have a significant environmental effect.*” *Id.* (citations omitted, emphasis added). Put another way, “where there is any *reasonable possibility* that a project or activity *may have a significant effect* on the environment, an exemption would be improper.” *Save Our Carmel River*, 141 Cal. App. 4th at 689 (emphasis added).

In this matter, the existing facilities exemption cannot be used for the CUP. “The key consideration is whether the project involves negligible or no expansion *of an existing use.*” *County of Amador*, 76 Cal. App. 4th at 967 (emphasis added). The regulatory phrase “existing use” refers to operations that have begun and are ongoing. Where a facility has not

present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” Cal. Code Regs. tit. 14, § 15355. With respect to the cumulative impact exception, an agency is required to consider the issue of significant effects and cumulative impacts of a proposed project in determining whether the project is exempt from CEQA where there is some information or evidence in the record that the project might have a significant environmental effect. *Ass’n for Prot. of Env’tl. Values in Ukiah*, 2 Cal. App. 4th at 732 (citing to *East Peninsula Educ. Council, Inc. v. Palos Verdes Peninsula Unified Sch. Dist.*, 210 Cal. App. 3d 155, 172 (1989)). “[T]he purpose of the requirement that cumulative impacts be considered . . . is to ensure review of the effects of the project in context with other projects of the same type.” *Save Our Carmel River*, 141 Cal. App. 4th at 703-04 (footnote omitted). “Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum.” *Cmtys. for a Better Env’tl. v. Cal. Res. Agency*, 103 Cal. App. 4th 98, 114 (2002), *disapproved on other grounds by Berkeley Hillside Pres. v. City of Berkeley*, 60 Cal. 4th 1086 (2015).

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been completed (as is the case with SweetFlower's proposed cannabis store), and is **not operational**, there is no existing use triggering the exemption. *Id.* Although page 5 of the Staff Report states that prior uses of the property "include a dry cleaner, retail sales of sewing machines, and other retail uses," all of those are retail uses permitted by right under the Zoning Code, not retail uses that require a CUP like a cannabis retail store. They also are not ones that are required to be separated by certain distances like cannabis stores. As such, now is the time for environmental review of the cumulative impacts of overconcentration so that the impacts can be eliminated or mitigated.⁷

In addition, the City has the burden of showing its use of any categorical exemption is supported by substantial evidence. *Davidon Homes v. City of San Jose*, 54 Cal. App. 4th 106, 115 (1997); *Dehne v. City of Santa Clara*, 115 Cal. App. 3d 827, 842 (1981). "Substantial evidence is evidence of ponderable legal significance that is reasonable in nature, credible, and of solid value." *Banker's Hill, Hillcrest, Park West Cmty. Preservation Grp.*, 139 Cal. App. 4th 249, 261 n.10. However, the record is devoid of any evidence "that is reasonable in nature, credible, and of solid value" regarding the lack of any possible cumulative environmental impacts resulting from the CUP; particularly, cumulative traffic impacts. As the City Council is well aware, the City adopted new traffic metrics for CEQA analysis and non-CEQA analysis in 2015. *See, e.g., City of Pasadena Mobility Element*, at 23-28. The new contingent use, therefore, should be analyzed under the City's new traffic metrics, which has not been done.

The small structures exemption also does not apply. As set-forth in CEQA Guidelines § 15303 as follows:

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

7. Indeed, when the City Council approved Integral's CUP, it did so only after supplementing a previously completed EIR and making detailed findings in an addendum to the Colorado at Lake EIR (SCH No. 2009051066).

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.
- (c) A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
- (d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.
- (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.
- (f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

CEQA Guidelines, Cal. Code Regs. tit. 14, § 15303 (emphasis added). Where there is “any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper.” *Fairbank v. City of Mill Valley*, 75 Cal. App. 4th 1243, 1252 (1999) (if the previous version of the Class 3 exemption that existed at the time of the administrative and trial court proceedings still applied, the Court of Appeal “would almost certainly have to reverse the trial court’s decision on the Guidelines section 15303(c) exemption;”).

Further, the small facilities exemption applies as a matter of law only where the proposed facility is similar to the apartments and duplexes permitted under subdivision (b) and the small commercial structures permitted under subdivision (c) of CEQA Guidelines § 15303. See *Centinela Hosp. Ass’n v. City of Inglewood*, 225 Cal. App. 3d 1586, 1600 (1990), *declined to follow on other grounds*, *Berkeley Hillside Preservation v. City of Berkeley*, 60 Cal. 4th 1086, 1132-33 (2015).

Here, however, SweetFlower’s proposed location is neither. It sits in a strip mall extending from the northwest corner of Colorado Boulevard and Lake Avenue all the way to

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Hudson Avenue with limited parking available in the rear off an alley. Apparently, SweetFlower has only three parking spaces for its proposed use that it has publicly touted will raise “millions of dollars.” Obviously, to raise that level of revenue requires a lot of customers travelling by car to its store, as SweetFlower hopes and expects. However, there has been absolutely no analysis of the potential and likely traffic, noise, air quality and other impacts of that use, as well as the cumulative impacts of it being so close to another cannabis retailer at a major commercial intersection (*i.e.*, within 457 feet per the Staff Report).

Finally, the Staff Report improperly asserts that no exceptions to the use of either exemption apply because there are no features that distinguish this project from other retailers in the exempt existing facilities class, and that no unusual circumstances exist. However, the City concedes that, unlike normal retail products or stores, ***retail cannabis is in extremely high demand.*** As such, as the Supreme Court has stated, ***“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.” Union of Medical Marijuana, 7 Cal. 5th at 1199.***

The City also does not treat cannabis retailers the same as other retailers, as demonstrated by the Zoning Code, which requires cannabis retailers to obtain a specific CUP and permits other than those required by other retailers due to the City’s initial concerns about overconcentration in the original cannabis regulations. *See* City of Pasadena Municipal Code § 17.50.066.D.2 (“A use permit is required to establish or operate as a cannabis retailer.”). For the City to claim that commercial cannabis retail use is just another retail use is thus inaccurate, because it falsely implies that the proposed contingent use is replacing a permitted use with another permitted use. Given that “substantial evidence” establishes the exception of “unusual circumstances,” neither exemption can be used. *Davidon Homes, 54 Cal. App. 4th at 115.*

Finally, as to the findings required for the CUP, the first three findings require substantial evidence that the use is in conformance with the General Plan and Central District Specific Plan. However, under the Zoning Code, the allowable zones for the retail cannabis use are the CO, CL, CG, CD, and IG zoning districts, none of which exist in the City’s General Plan. *See* City of


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Pasadena Land Use Element, at 2-6. Any reliance on specific plans that are inconsistent with the General Plan render those specific plans, and any such zoning districts, void, and incapable of being substantial evidence to support those findings. *Beck Dev. Co. v. So. Pacific Transp. Co.*, 44 Cal. App. 4th 1160, 1196 (1996) (“A specific plan must be consistent with the city’s general plan.”); *Napa Citizens for Honest Gov’t v. Napa Cnty. Bd. of Supervisors*, 91 Cal. App. 4th 342, 389 (2001) (if specific plan is inconsistent with general plan, the specific plan is invalid). The impact of that rule of law is that the provision in Zoning Code § 17.50.066.D.5 that “[c]annabis retailers shall be permitted in only the CO, CL, CG, CD, and IG zoning districts” is a nullity and cannot be relied upon in the legally required findings until the specific plan is brought into conformity with the General Plan. And, even if it were not a nullity, General Plan Policy 3.1 states that one of the goals of the General Plan is to “Avoid the concentration of uses and facilities in any neighborhood or district where their intensities, operations and/or traffic could adversely impact the character, safety, health and quality of life.” Compliance with General Policy 3.1 requires substantial evidence of no such cumulative impacts, none of which exists.

Last, since there has been no environmental review of the likely traffic, noise and other environmental impacts, Finding Nos. 4 and 5 – and the proposed language in both – completely fails to discuss the health, safety and general welfare facts necessary to support each finding.

We, therefore, oppose the approval of the application for CUP #6921, until a full environmental review of the potential cumulative impacts has been conducted and the findings can be made based upon substantial evidence.

Thank you for your time and careful consideration.



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



Ben Kimbro
Senior Director of Public Affairs
Harvest of Pasadena

EXHIBIT A

changes proposed herein were considered a "project," the changes are exempt from CEQA pursuant to State CEQA Guidelines Section 15301 "Existing Facilities" (Class 1). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Given the built-out commercial and mixed use areas of the City where these uses may locate, and the fact that the changes proposed herein do not expand those areas, it is virtually certain that such uses will reoccupy existing structures. Beyond the controversy that may surround this particular use, for environmental analysis purposes it is simply a retail use, and there are no unique circumstances that would exempt these changes from a Class 1 exemption.

As each retailer may come forward for permits, any potential environmental effects from that particular application will be subject to environmental review during the permitting process.

in commercial cannabis activity.” The budget trailer bill extended this exemption to July 1, 2022.

As each retailer may come forward for permits, any potential environmental effects from that particular application will be subject to environmental review during the permitting process.

FISCAL IMPACT:

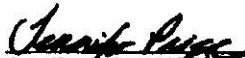
The proposed changes to the ordinance may result in additional cannabis retailers than would otherwise be allowed under current regulations. This would likely result in additional tax revenues from Measure DD in the hundreds of thousands of dollars.

Respectfully submitted,



STEVE MERMELL
City Manager

Prepared by:



Jennifer Paige, AICP
Deputy Director of Planning
& Community Development

Reviewed by:



David M. Reyes
Director of Planning & Community
Development

Attachments: (6)

Attachment A - Findings
Attachment B - Zoning Code Regulations
Attachment C - Map of CUP Locations
Attachment D - Distance Separations for Other Uses
Attachment E - November 25, 2019 Agenda Report and Minutes
Attachment F - Community Benefits Plans for Varda, Essence and Harvest

As each retailer may come forward for permits, any potential environmental effects from that particular application will be subject to environmental review during the permitting process.

COUNCIL POLICY CONSIDERATION:

The proposed recommendation furthers the goals and policies of the General Plan, specifically:

- *Land Use Element, Goal 2. Land Use Diversity. A mix of land uses meeting the diverse needs of Pasadena's residents and businesses, fostering improved housing conditions, offering a variety of employment and recreation opportunities, and supporting a healthy population while protecting the environment.*
- *Land Use Element, Goal 4. Elements Contributing to Urban Form. A safe, well-designed, accessible City with a diversity of uses and forms. These diverse forms include distinct, walkable districts, corridors, and transit and neighborhood villages and cohesive, unique single and multi-family residential neighborhoods and open spaces where people of all ages can live, work, shop, and recreate.*
- *Land Use Element, Goal 25. Vital Districts and Corridors. Diverse, active, prosperous and well-designed commercial corridors and districts that provide a diversity of goods, services and entertainment and contribute to a positive experience for residents and visitors.*

In addition, the following City Council Strategic Planning Goal would also be achieved:

- *Maintain fiscal responsibility and stability*

It is important to note that the standard for such policy considerations is consistency, as opposed to strict conformity.

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March 14, 2022

VIA E-MAIL

Mayor Victor Gordo
Vice-Mayor Andy Wilson &
Honorable Members of the City Council Tyron Hampton, John J. Kennedy,
Steve Madison, Gene Masuda, Jessica Rivas, and Felicia Williams
Pasadena City Hall
100 North Garfield Avenue
Pasadena, CA 91101

Re: Item No. 15 – CUP No. 6921

DECLARATION OF DOUGLAS SMURR
REGARDING ITEM 15 ON AGENDA FOR MARCH 14, 2022 HEARING RELATING
TO HARVEST OF PASADENA, LLC COMMENCING COMMERCIAL CANNABIS
BUSINESS OPERATIONS IN COUNCIL DISTRICT 3, AND TRAFFIC FLOW ISSUES
LIKELY TO BE CAUSED BY APPROVING SWEETFLOWER'S CUP

I, Douglas Smurr, declare as follows:

1. I am an attorney licensed to practice law in the State of California, and am Of Counsel with Gordon Rees Scully Mansukhani, LLP, currently serving as counsel of record for Harvest of Pasadena, LLC in the above-entitled matter. The facts set forth herein are within my personal knowledge and, if called as a witness, I could and would competently testify to them.

2. On Saturday, March 12, 2022, Harvest of Pasadena, LLC commenced commercial cannabis business operations in City Council District 3, at 169 W. Colorado Blvd., Pasadena, CA 91105.

03/14/2022
Item 15

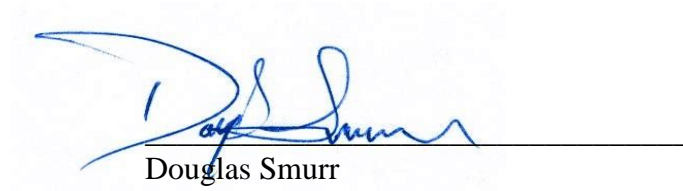
3. On February 6, 2022, at approximately 1:30 p.m., I accessed the 2013-2019 Traffic Volume Flow Map for the City of Pasadena at the City of Pasadena web site located at: <https://www.cityofpasadena.net/transportation/wp-content/uploads/sites/20/Traffic-Counts-2019.pdf> I printed out a true and correct portion of the 2013-2019 Traffic Volume Flow Map. Attached hereto, marked as Exhibit B, is the true and correct blank copy print out of the 2013-2019 Traffic Volume Flow Map printed from the above-referenced hyperlink without any alterations or additions.

4. After printing out Exhibit B, I add the approximate street locations (to the closest cross street) of the six-top scoring Pasadena cannabis applicants to Exhibit B (MedMen, Varda, Harvest, Atrium, Integral, and SweetFlower). I placed a total of four (4) red circles to indicate the approximate location of the six-top scoring Pasadena cannabis applicants. Only four red dots were used due to the size limitations of the map and the very close proximity (457 feet) between the applicants of Harvest & Atrium, and Integral & SweetFlower. Following that, I drew straight blue lines from the name of the cannabis applicant(s) to the red dot locating the approximate location of the indicated cannabis applicant(s). A true and correct copy of this version of the 2013-2019 Traffic Volume Flow Map is attached as Exhibit C.

5. Exhibits A, D, and E are true and correct portions of Respondents City of Pasadena and City Council of the City of Pasadena's Request for Judicial Notice in Support of Opposition to Petitioners' Motion to Stay ("RFJN") that was filed on February 1, 2022 in the matter of Integral and Harvest v. City of Pasadena, and City Council of the City of Pasadena in

the Superior Court of California, County of Los Angeles, Case Number 21STCP04058. Exhibits A, D, and E each contain the corresponding identifying page number as used in the RFJN. As for Exhibit E, I added the yellow highlights and the red underlining.

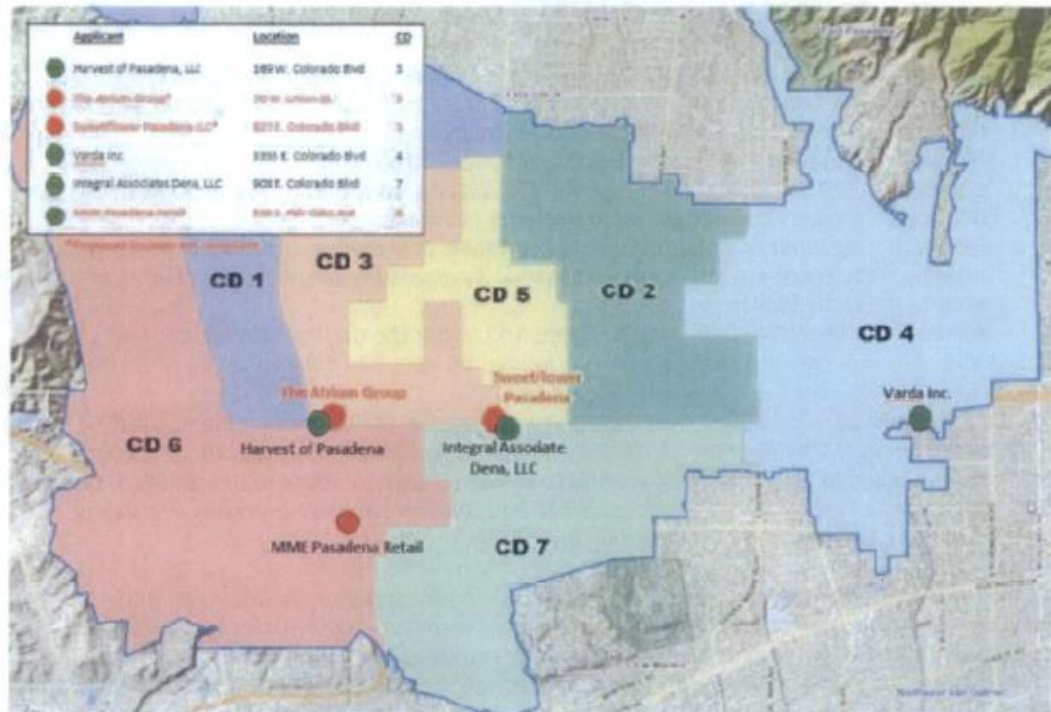
I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on March 14, 2022, in Sacramento, California.



Douglas Smurr

EXHIBIT A

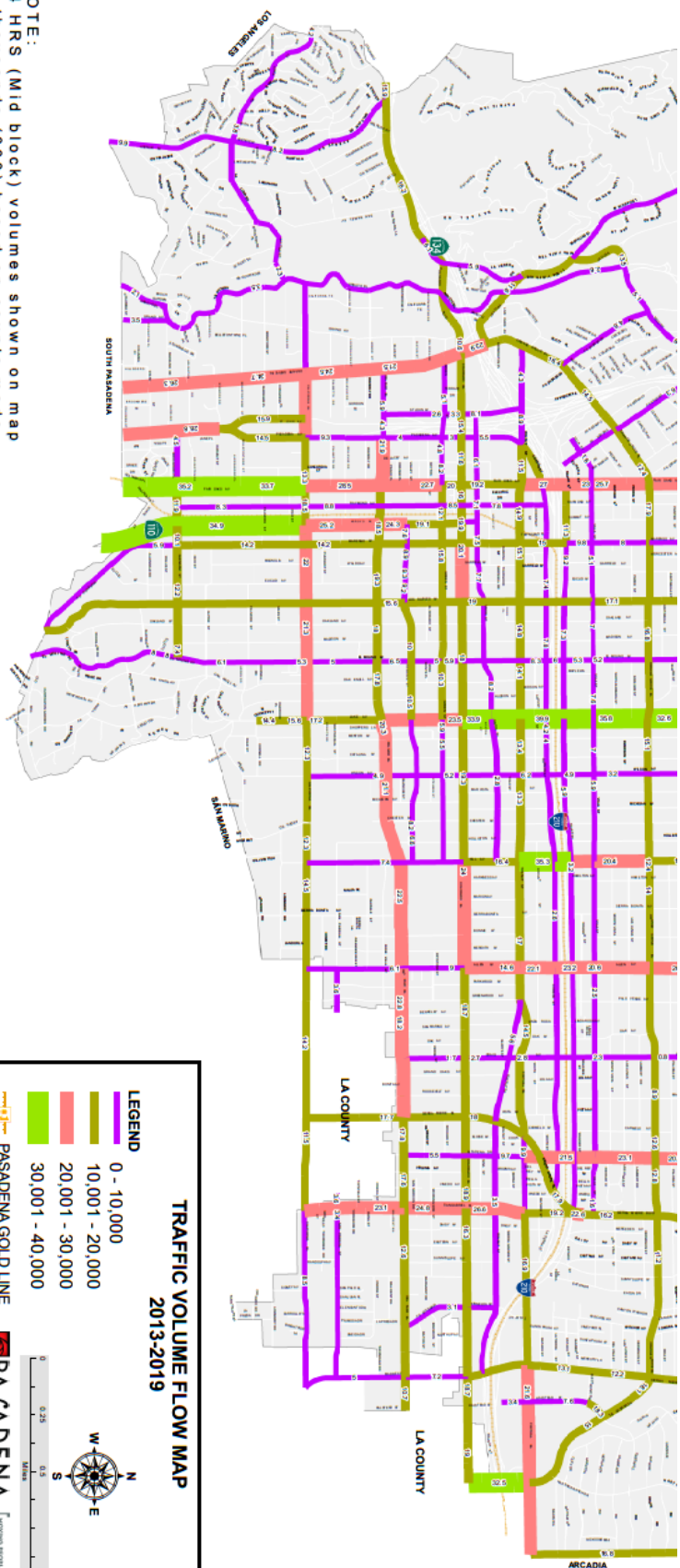
**ATTACHMENT C
LOCATION MAP OF EXISTING CUP APPLICATIONS SUBMITTED**



Green denotes locations with a CUP that have been issued.
Red denotes CUP locations that cannot be processed at this time

EXHIBIT B

NOTE:
24 HRS (Mid block) volumes shown on map
in thousands (000) based on counts made
2013 /2014 /2015 /2016 /2017/ 2018/ 2019



TRAFFIC VOLUME FLOW MAP 2013-2019

LEGEND

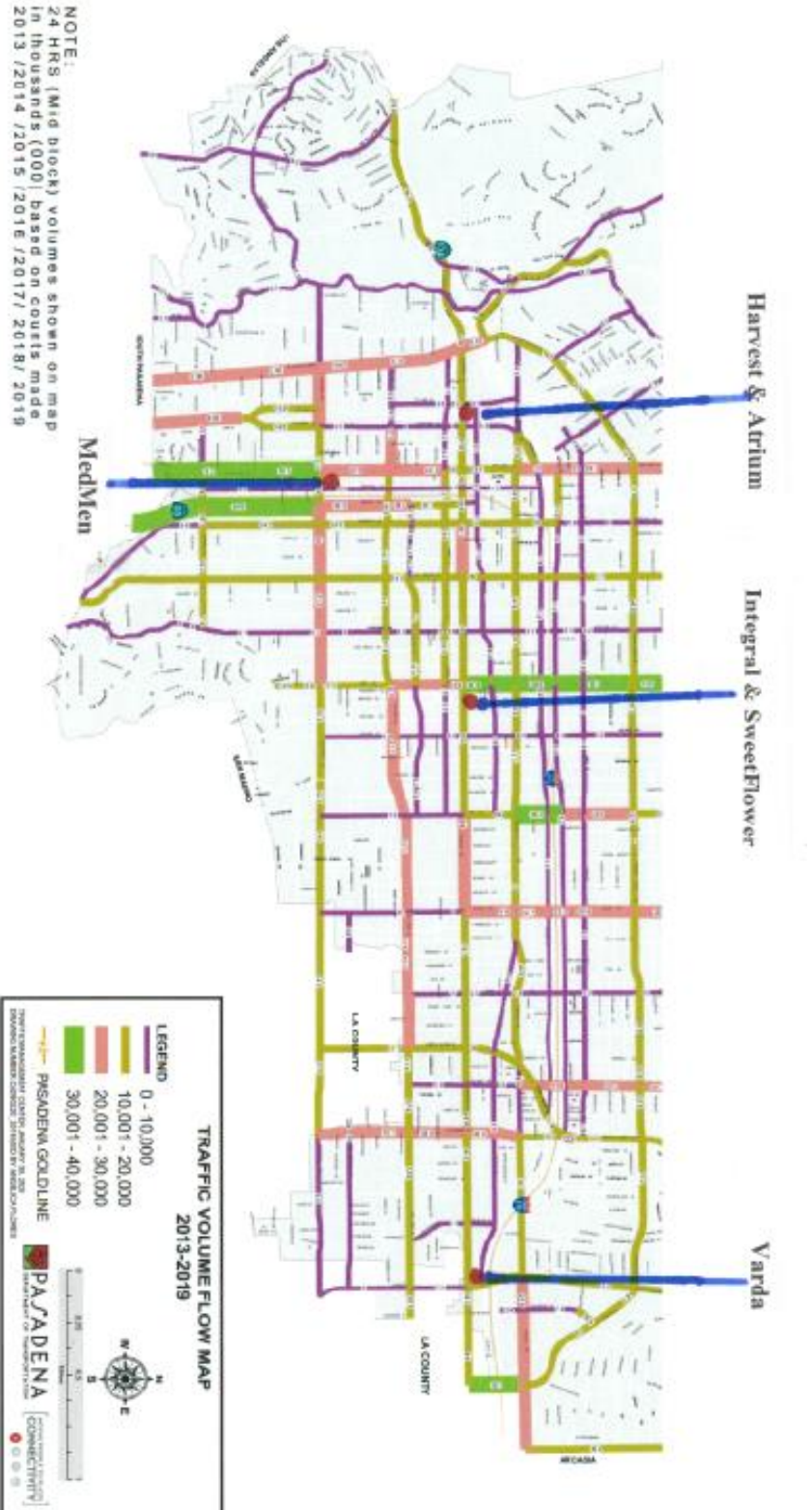
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- 10,001 - 20,000
- 20,001 - 30,000
- 30,001 - 40,000

PASADENA GOLD LINE

TRAFFIC MANAGEMENT CENTER, JANUARY 30, 2020
SHOWING NUMBER COUNTS, OBTAINED BY PASADENA POLICE



EXHIBIT C



<https://www.cityofpasadena.net/transportation/wp-content/uploads/sites/20/Traffic-Counts-2019.pdf>

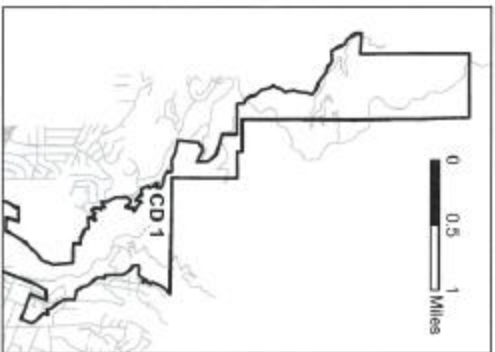
Accessed 02/06/2022 at 1:30 p.m., by Douglas Smart

EXHIBIT D

DRAFT

**Draft Potential Retail
Cannabis Locations**

State Distance Requirements for Retailers
2021 City of Pasadena, CA



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

- Legend**
- Sensitive Use Areas - State Requirements
 - Potential Sites (Verification Required)

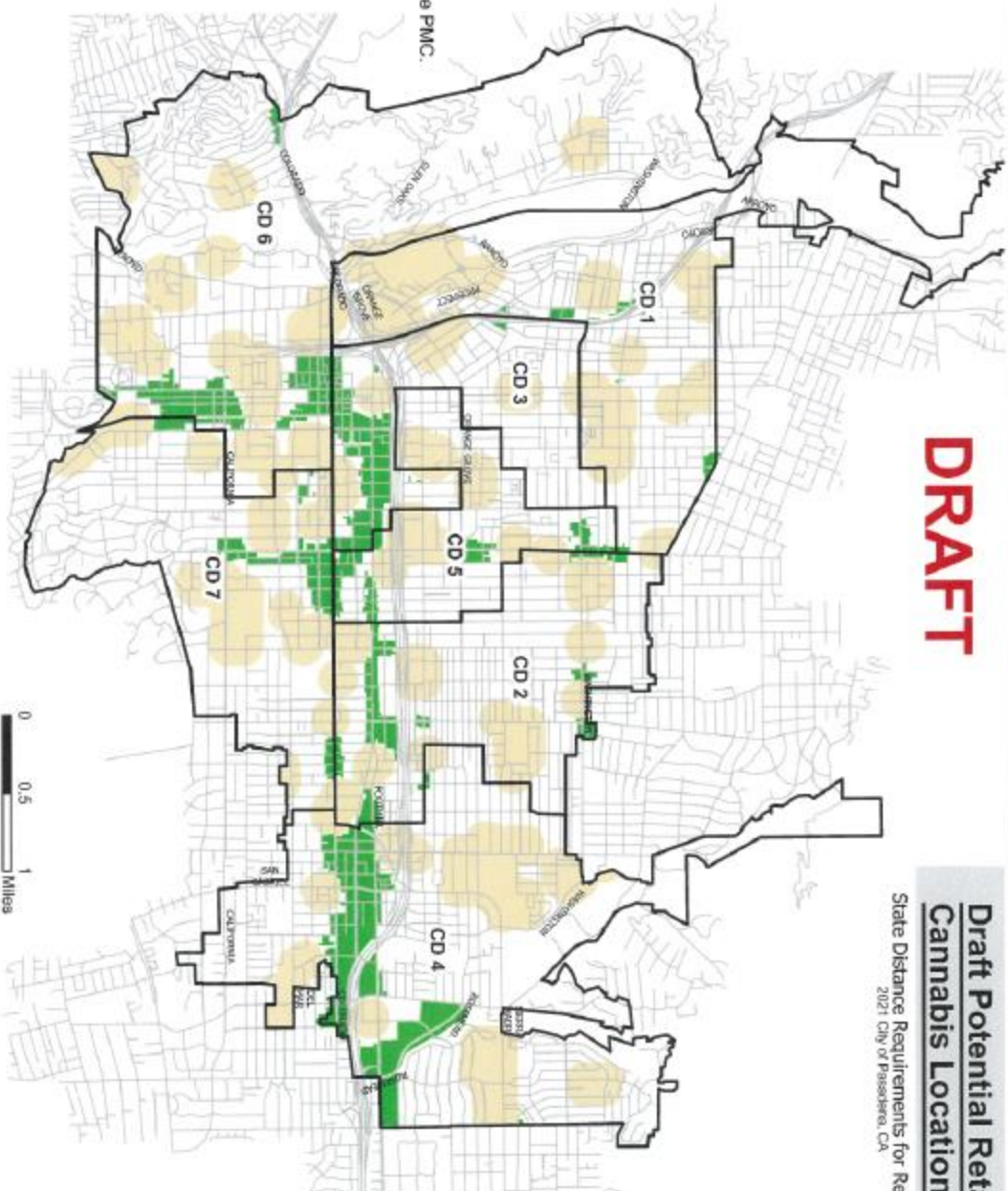


EXHIBIT E



FILED

NOV 09 2021

DEAN G. LOGAN
REGISTRAR-RECORDER/COUNTY CLERK
DEPUTY

NOTICE OF EXEMPTION

To:
Los Angeles County Clerk
Business Filing & Registration
12400 E Imperial Hwy, Room 1101
Norwalk, CA 90650

From:
City of Pasadena
Planning and Community Development
Department
175 North Garfield Avenue
Pasadena, California 91101

Project Title: Ordinance of the City of Pasadena amending Chapter 17.50 (Zoning Code) of the Pasadena Municipal Code to increase potential cannabis retail sites, and to correct distance separation requirements between cannabis laboratories and other cannabis uses

Project Applicant: City-Initiated

Project Address: Citywide

Project City: Pasadena

Project County: Los Angeles

Project Description: The proposed Zoning Code Amendment codifies modifications that will allow for additional potential sites at which a cannabis retail use may be established. The decrease in separation distance and the increase of up to three sites per council district will open up additional potential sites. The cap of six permits across the city will remain, so that the absolute potential number of retailers will not increase. This ordinance will also correct an error in the distance separation from cannabis labs and other cannabis uses, to make them consistent with other similar separation requirements.

Name of Public Agency Approving Project: City of Pasadena

Name of Person or Agency Carrying Out Project: City of Pasadena

Exempt Status (Check one):

- ☐ Ministerial (California Public Resources Code, §21080(b)(1); California Code of Regulations, Title 14, Chapter 3, Article 18, §15268)
- ☐ Declared Emergency (California Public Resources Code, §21080(b)(3); 15269(a))
- ☐ Emergency Project (California Public Resources Code, §21080(b)(4); 15269(b)(c))
- ☒ **Categorical Exemption** (California Code of Regulations, Title 14, Chapter 3, Article 19, Class 1, §15301, Existing Facilities)
- ☐ Statutory Exemption (California Code of Regulations, Title 14, Chapter 3, Article 18, §(#))
- ☒ **Common Sense Exemption** (California Code of Regulations, Title 14, Chapter 3, Article 5, §15061(b)(3))

Reason why project is exempt: The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with Public Resources Code §21080(b)(9) and State CEQA Guidelines §15301, Class 1, Existing Facilities and CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption). Section 15301 of the State CEQA Guidelines (Class 1) provides a categorical exemption for the "operation, repair, maintenance, permitting, leasing,

licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use." The proposed project consists of a zoning code amendment to allow for additional potential sites at which a cannabis retail use may be established and to correct an error in the distance separation from cannabis laboratories and other cannabis uses, to make them consistent with other similar separation requirements. Cannabis retail and cannabis laboratories are conditionally permitted uses, subject to a separate environmental review once a proposed code-compliant site is identified. No physical changes to the environment are proposed as part of this amendment.

There are no features that distinguish this project from others in the exempt class; therefore, there are no unusual circumstances. With regard to historic resources and hazardous waste lists compiled pursuant to Government Code Section 65962.5, the proposed Zoning Code Amendment would not result in any proposed impacts since specific locations for cannabis retail and cannabis laboratories are not identified in the amendment. A Conditional Use Permit application is required once a proposed location is identified, at which point the proposed locations will be evaluated. Finally, the proposed project would not contribute to any significant cumulative impacts that have occurred as a result of successive projects of the same type in the same place, over time. Since the project fits within the Class 1, Existing Facilities, categorical exemption and none of the exceptions to the use of categorical exemptions identified in State CEQA Guidelines Section 15300.2 apply, the project is exempt from CEQA.

In addition, the project is exempt from CEQA pursuant to the Common Sense Exemption (formerly the General Rule) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. See CEQA Guidelines §15061(b)(3). Such is the case for the proposed zoning code amendment, which is limited to correcting a previous error and changing the distance separation requirement between cannabis establishments, without allowing for any more cannabis establishments citywide that currently allowed. Furthermore, the proposed code amendment would not entitle any cannabis uses and adoption of the amendment, itself, would not result in any physical changes in the environment, as cannabis retail and cannabis laboratories would remain conditionally permitted uses, subject to a separate discretionary approval and environmental review process once a proposed code-compliant site is identified.

Lead Agency:	City of Pasadena, Planning and Community Development Department
Contact Person:	Jennifer Paige

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COMPLETED BY: John Bellas
TITLE: Commercial Cannabis
DATE: 1-2-2021

REVIEWED BY: Jennifer Paige
TITLE: Dep. Director
DATE: 1/14/21