



# PLANNING COMMISSION STAFF REPORT

**DATE:** December 14, 2022  
**TO:** Members of the Planning Commission  
**FROM:** Brian Halvorson, Planning Manager  
**RE:** Commission input on Cannabis Distribution in the PCD Zone

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## **AGENDA ITEM NO. 2**

Receive input and direction from the Commission regarding options to allow Cannabis distribution in the Planned Commercial District (PCD) zone.

### **Recommendation:**

Planning Commission review this report and provide input to staff and the City Council regarding options for allowing cannabis distribution in the Planned Commercial Development (PCD) Zone. Alternatively, the Planning Commission could recommend not allowing cannabis distribution in the PCD zone.

### **Background:**

At the February 18, 2020 City Council meeting, a majority of councilmembers at that time approved a request to bring back an agenda item concerning an amendment to the City's Municipal Code in order to allow cannabis distribution in the Planned Commercial Development (PCD) zone and allow cannabis events. Earlier in the year, the Council acted on the cannabis event item (allowing events in certain designated parks), but the cannabis distribution item was postponed until now. Therefore, staff has reviewed this request and consulted with the City Attorney's Office in order to outline options for completing this request. Before bringing the request back to the Council for consideration, the Council requested that staff receive input first from the Planning Commission and provide said input at a future Council meeting.

### **Discussion:**

Currently, there are 269 parcels zoned PCD. The majority of these parcels are located along H Street and Ocean Avenue (Attachment 1). Particularly along H Street, residential uses are in close proximity, and these parcels often include retail centers, grocery stores, hotels/motels, general/medical offices, restaurants, gas service stations, etc.

Currently, the only cannabis uses allowed by right (permitted) in the PCD zone are retail dispensaries and cannabis testing laboratories (Attachment 2). No other cannabis uses are currently allowed in commercial zones. The City's Industrial and Business Park zones (Attachment 3) allows retail dispensaries (with a CUP) as well as cannabis testing laboratories, cannabis cultivation and cannabis manufacturing as a permitted use without the requirement for a CUP.

Cannabis distribution or wholesale is not currently permitted as a stand-alone use in any zone but is instead included in the definition of "*Cannabis Manufacturing*," and is therefore currently only allowed in the Industrial and Business Park Zones. "*Distribution*" is a defined term in the City's cannabis ordinance and state law (LMC Chapter 9.36 and Business & Professions Code 26001(r)), which define it as "*the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to State Law.*" Rather than retail sale by a dispensary to a customer, distribution is the wholesale and transportation of cannabis or cannabis products in bulk, where the entity purchasing the cannabis or cannabis products is a retailer, not an end user. Distribution would also potentially include storage of large amounts of cannabis and cannabis products on site while awaiting transport or sale.

### **Options to Consider for Cannabis Distribution in the PCD Zone**

Based on the Council's request, and staff's preliminary analysis, permitting cannabis distribution in the PCD zone could be achieved under three options. Each option could provide the same outcome and should be considered in terms of the current business climate for cannabis and the Council's cannabis Ad Hoc committee that was recently formulated on September 20, 2022.

**Option #1:** Amend the 2030 General Plan Land Use Element and Zoning Code to explicitly allow Cannabis Distribution in the PCD zone.

This option would amend the General Plan to call out this use in the General Commercial land use category description and definition (Attachment 4) and Zoning Code to explicitly allow distribution with a CUP so that if an applicant wanted to pursue cannabis distribution in the PCD zone the use would be allowed if the City could make the required findings to issue a CUP. If this option is preferred by the Commission, staff recommends that the use require a CUP as large quantities of cannabis may be stored onsite and impacts (noise, traffic, odor, waste) to existing businesses in commercial centers and nearby residents are expected for a use that typically is located in the Business Park or Industrial zoning district.

In addition, an amendment to LMC Section 17.708.020 (Land Use Types) to add a definition for "*Cannabis Distribution*" would also be required. This option would provide the most certainty to the business community if a property owner and/or applicant wanted to introduce cannabis distribution in this zone. This option would require additional environmental review that has not been allocated in the current Planning Division budget. At a minimum, staff anticipates a Mitigated Negative Declaration which may cost an estimated \$25-35,000 to complete using the City's environmental consultant.

It is important to note that this amendment could also be initiated anytime by a property owner or applicant that is interested in pursuing an amendment on their own (without the city paying the costs associated with such an amendment).

**Option #2:** Utilize the existing zoning code which allows uses with a Conditional Use Permit that are not explicitly listed if certain findings are made pursuant to LMC Section 17.520.050.B.

When the comprehensive zoning code update was completed on December 17, 2019 (effective December 17, 2020), the Council wanted maximum flexibility regarding land uses. Therefore, even if a use is not listed in the code, if required findings can be made that the use will not be more obnoxious or detrimental to the public welfare than any other use explicitly permitted with a CUP in the same zone and that the use is of a comparable nature to at least one use explicitly permitted with a CUP in the same zone, then the Commission can process a use such as cannabis distribution with a CUP. Although this option would require further analysis on a case-by-case basis (based on location and surrounding uses) and further environmental review would be required, this option may be the best option in terms of time and costs that the City would have to absorb if a General Plan Amendment and Zone Change was City initiated.

**Option #3:** Come back to this request at a future Commission meeting once the Council Ad Hoc Committee returns with their additional research, findings, and recommendations regarding potential amendments to the Cannabis Ordinance on March 21, 2023.

At the September 20, 2022 regular City Council meeting, the Council discussed the potential for a moratorium on the issuance of commercial cannabis use licenses and an emergency ordinance suspending the issuance of such licenses and the formation of an Ad Hoc City Council Committee to assess and recommend revisions to the City's cannabis regulations. Following a Council discussion and input from the public and the cannabis business community, the Council decided to not approve a moratorium or issue an emergency ordinance but did establish an Ad Hoc Committee that will return to a Council meeting on March 21, 2023 with additional research and information on recommended next steps regarding the potential to amend Chapter 9.36 (Cannabis Uses).

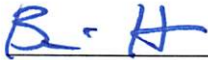
With this in mind, another option regarding allowing cannabis distribution in the PCD zone is to not take action at this time and wait until the Ad Hoc Council Committee returns with their recommendations and reassess how the Council wants to address cannabis distribution uses in light of any new information presented in March 2023. This would allow the Commission to revisit this topic at a future Commission meeting with the additional information from the Ad Hoc Committee before providing their input to the Council.

### **Next Steps**

At this time, the Planning Commission is only being asked to consider the options that staff has outlined and discussed above. Direction could be as simple as providing staff with the option that they feel is best to take at this time or provide another direction to staff that can then be presented at a future City Council meeting.

Depending on the specific feedback given to staff, and future direction from the City Council, this item could also return to the Commission for further consideration or a proposal to amend the General Plan and Zoning Code allowing cannabis distribution in the PCD zone following required environmental review of the proposed amendments.

Respectfully submitted,



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Brian Halvorson  
Planning Manager

**APPROVED FOR SUBMITTAL TO THE PLANNING COMMISSION:**



*FOR*  
Christie Alarcon  
Community Development Director

**Attachments**

- 1: Map of Planned Commercial Development (PCD) zone parcels
- 2: Commercial Zones Allowed Uses
- 3: Industrial Zones Allowed Uses
- 4: General Commercial (GC) General Plan Land Use Category and Definition