



# CITY OF POMONA

## PLANNING COMMISSION REPORT

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**DATE:** October 9, 2019

**TO:** Chairperson and Members of the Planning Commission

**FROM:** Development Services Department, Planning Division

**SUBJECT:** **COMMERCIAL CANNABIS PERMIT PROGRAM OVERLAY DISTRICT**  
Establishing a Commercial Cannabis Permit Program Overlay District in the Pomona Zoning Ordinance (CODE 12664-2019); adopting Determinations of Similarity pursuant to Section .501-A of Pomona Zoning Ordinance for commercial cannabis uses in the M-1, M-2, C-2, C-3, and C-4 zoning districts (DOS 12653-2019, DOS 12654-2019, DOS 12655-2019, DOS 12656-2019, DOS 12657-2019, DOS 12658-2019); and adopting a Director's Interpretation pursuant to Section 2.2.1 of the Pomona Corridors Specific Plan for storefront retail commercial cannabis use in the Pomona Corridors Specific Plan.

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission recommend to City Council:

1. Approval of a Commercial Cannabis Permit Program Overlay District in the Pomona Zoning Ordinance (CODE 12664-2019), as defined in the draft Resolution and related Exhibits (Attachment 3);
2. Adoption of Determinations of Similarity (DOS 12653-2019, DOS 12654-2019, DOS 12655-2019, DOS 12656-2019, DOS 12657-2019, DOS 12658-2019) pursuant to Section .501-A of Pomona Zoning Ordinance for commercial cannabis uses in M-1, M-2, C-2, C-3, and C-4 zoning districts (Attachment 6); and
3. Adoption of a Director's Interpretation pursuant to Section 2.2.1 of the Pomona Corridors Specific Plan for storefront retail commercial cannabis use in the Pomona Corridors Specific Plan (Attachment 7).

### **BACKGROUND**

On November 6, 2018, the City of Pomona, by ballot measure, adopted Ordinance No. 4254 ("Tax Ordinance"), which established a tax on commercial cannabis activity within the city (Attachment 1). On April 1, 2019, the City of Pomona adopted Ordinance No. 4257 ("Business Ordinance"), which established a formal application process to obtain a license to operate a commercial cannabis business within the city (Attachment 2). Prior to formally accepting applications for its Commercial Cannabis Permit Program ("CCPP"), the City must designate

locations in the city where cannabis-related land uses are permitted. This action is being brought forth as an “overlay” within the Pomona Zoning Ordinance that would permit CCPP land use activity on specific parcels within the City.

#### *How Do Overlay Districts Work?*

An “overlay district” provides additional land use regulation beyond the “underlying” zone that already exists on the parcel. For example, a parcel zoned “R-2—Multiple-Family Residential” is subject to the development standards as outlined for that district in the PZO (e.g. height, setbacks, architectural standards). In some instances, R-2 parcels also have an “S—Supplemental” overlay, which requires a Conditional Use Permit for the development of multi-unit residential properties. In such cases, projects are subject to both the CUP requirement and the underlying R-2 development standards.

The proposed CCPP overlay district (Attachment 3) will establish locations throughout the city that allow various types of commercial cannabis land uses. Each parcel is still subject to the underlying zoning district. For example, a parcel zoned “M-1” within the CCPP overlay district may allow a cannabis manufacturing use, but must also comply with the development standards of the M-1 zoning district in the PZO.

### **ANALYSIS**

To establish an overlay district for commercial cannabis land use activity, Staff conducted a multi-step analysis that included studying the scientific basis of cannabis as it relates to potential land use impacts, understanding existing State, Federal, and industry regulations, identifying and verifying sensitive uses, conducting a parcel-level analysis, considering community feedback, and studying potential environmental impacts.

Staff has summarized its analysis process as follows:

- A. Cannabis: Science & Regulation
- B. Development of a CCPP Overlay District
- C. 8/28/19 Draft CCPP Overlay District & Map
- D. Studying Potential Environmental Impacts
- E. Thematic Summary of Public Comments

#### **A. CANNABIS: SCIENCE & REGULATION**

##### What is Cannabis?

“Cannabis” refers to the *Cannabis sativa* plant. The cannabis plant consists of over one-hundred *cannabinoids*, which are compounds that have distinct properties and effects when used. The most commonly known cannabinoid is  $\Delta^6$ -*tetrahydrocannabinol*, also known as THC, which contains psychoactive properties. Lesser known, but increasingly popular cannabinoids, such as cannabidiol, or CBD, are non-psychoactive and typically used for their

medicinal properties. The cannabis plant also contains distinct compounds known as *terpenes*, which have aromatic properties. Both cannabinoids and terpenes are central to the understanding of the emerging legal cannabis market, as product manufacturing, testing, and sale is principally focused on the combinations of cannabinoids and terpenes that can be extracted and differentiated into unique products for sale. “Hemp” and “marijuana” both refer to the cannabis sativa plant and are terms that are typically used for policy and lawmaking purposes, as further explained below.

#### How is Cannabis currently regulated?

Cannabis is currently legal in the State of California. In California, three state agencies are collectively responsible for commercial cannabis regulations: the Bureau of Cannabis Control (BCC), the California Department of Public Health (CDPH), and the California Department of Food and Agriculture (CDFA). The BCC is a newly established agency, following the statewide legalization of commercial cannabis, that issues licenses and conducts inspections for storefront retail, deliveries, microbusiness, distribution, and testing of cannabis. The CDPH has established the Manufactured Cannabis Safety Branch, which regulates volatile and non-volatile manufacturing, along with labeling and packaging and shared facilities. The CDFA, under its CalCannabis Division, regulates all cultivation activity, including outdoor, indoor, mixed light, and other types of grow operations.

Federally, cannabis is classified as a Schedule 1 drug under the 1970 Controlled Substances Act, and is currently prohibited. Prior to 1970, cannabis was regulated under the 1937 Marihuana Tax Act. Prior to 1906 (Pure Food and Drug Act), cannabis was generally unregulated in the United States.

“Hemp” botanically refers to the cannabis sativa plant, but is federally defined by the 2018 Agricultural Improvement Act (Federal Farm Bill) as cannabis sativa that does not contain more than 0.3%  $\Delta^6$ -tetrahydrocannabinol (THC) by dry weight. Cannabinoids such as CBD produced under this definition of hemp are, therefore, not subject any cannabis regulations. “Marijuana” is the term associated with cannabis regulation.

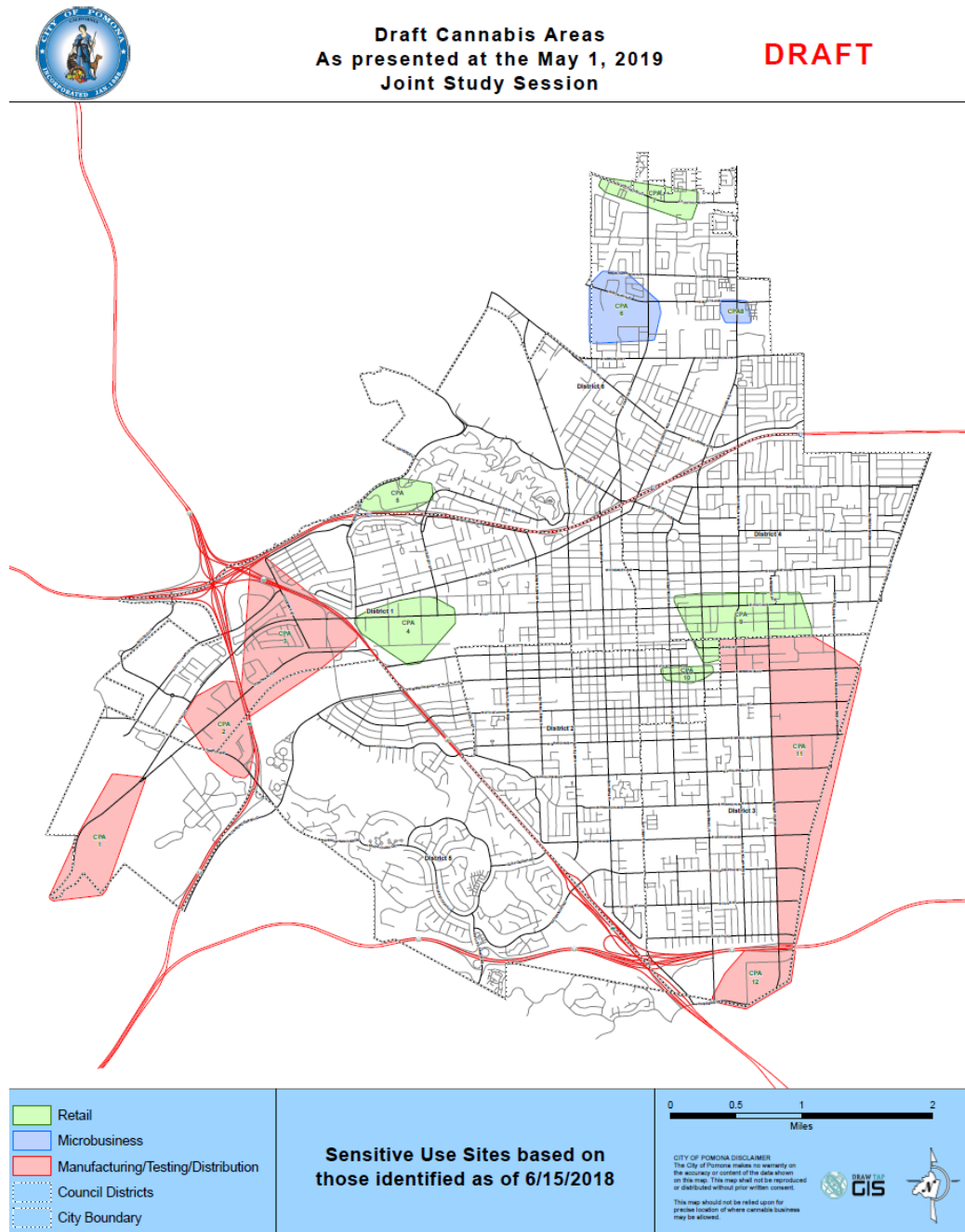
### **B. DEVELOPMENT OF A CCPP OVERLAY DISTRICT**

#### Step 1: Identifying Sensitive Uses and Establishing Cannabis Permit Areas

As the first step in developing a CCPP overlay district, Staff identified all parcels in the city that would remain eligible for inclusion after buffering out sensitive uses. The adopted Business Ordinance established a 1,000-foot buffer between any retail commercial cannabis business and any public or private K-12 school, day care center, or youth and recreation center that primarily serves youth within the City of Pomona. As part of developing the Business Ordinance, the City created a list of sensitive uses in June 2018, cross-referenced against available Business License data, which established a Sensitive Use Buffer Map (Attachment 4).

The remaining eligible parcels were next grouped into Cannabis Permit Areas, or CPAs, based on similar zoning, land use, and geographical features, and were field investigated by Staff. On May 1, 2019, at a joint meeting of City Council and Planning Commission, Staff released the Draft CPA Map (Figure 1) to the general public as a starting point to discuss and further develop a draft CCPP overlay district.

**Figure 1.** Draft Cannabis Permit Area (CPA) Map, Released May 1, 2019



### Step 2: Soliciting Community Feedback

Staff held a series of community meetings to provide an overview of the CCPP and to answer questions and address concerns related to the development of the CCPP overlay district. The following meetings were held:

- June 19, 2019, Washington Park
- July 18, 2019, St. Paul's Episcopal Church
- July 23, 2019, Westmont Park Community Center
- August 15, 2019, Palomares Park

Staff directly answered questions at these meetings and noted 85 questions across four meetings (Attachment 5). These questions were incorporated into Staff analysis where appropriate or were directly answered at the meetings or in subsequent stakeholder meetings. Questions unrelated to the overlay district about the Business and Tax Ordinances were formally shared with the City Council for consideration at a special meeting held on August 19, 2019. In addition to these questions, Staff encouraged written, formal comments to be included in the public record. These formal comments are addressed in greater detail in *Section D: Thematic Summary of Public Comments* of this staff report.

### Step 3: Understanding Cannabis Land Uses

#### *Site Visits, Agency Meetings*

In an effort to better understand the details of how various cannabis-related land uses function, Staff conducted field visits to the following existing, legally operating cannabis businesses in the region:

- Cannasafe, Van Nuys (cannabis laboratory testing)
- Project Cannabis, Downtown Los Angeles (cultivation, manufacturing, distribution, storefront retail)
- Connected, Long Beach (storefront retail)
- People's OC, Santa Ana (storefront retail)
- The Joint, Santa Ana (storefront retail)
- Mr. Nice Guy, Santa Ana (storefront retail)

These cities were selected because of their similarities to Pomona in size, demographics, and programmatic approach. At the field visits, Staff interviewed business owners and on-site staff about their daily operations, approach to general concerns such as odor control and security of financial transactions, typical traffic and customer volume, environmental impact, and application process.

Staff also met with the three agencies regulating cannabis in California (BCC, CDPH, and CDFA) to better understand licensing requirements, operational requirements for cultivation

and manufacturing operations, and inspection and enforcement schedules. Staff obtained data from all agencies on the number and type of provisional and permanently licensed facilities across California.

Locally, Staff met with the Pomona Police Department to better understand the enforcement of illegal dispensaries in the City, and to hear directly from officers on specific challenges related to cannabis enforcement. Staff also met with regional agencies, such as the Los Angeles County Sanitation District and Los Angeles County Fire Department, to learn how cannabis uses are similar or distinct from other types of industries with respect to environmental impacts such as pollution, wastewater, fire prevention, and hazardous waste.

Lastly, Staff met with Planning staff from various cities with existing commercial cannabis permit programs, including Pasadena, Los Angeles, West Hollywood, Santa Ana, and Long Beach, to understand their strategies in developing commercial cannabis overlay districts. These meetings provided valuable insight on municipal implementation of cannabis zoning, best practices on zoning and land use analysis, and information on the day-to-day operations of various types of cannabis businesses.

#### *Commercial Cannabis Land Use Types*

The following is a summary of various commercial cannabis permit types and their typical land use activity, based on research, interviews, and field visits conducted:

- Storefront Retail. This is a commercial cannabis permit type issued by the Bureau of Cannabis Control. Storefront retail operations are brick-and-mortar retail establishments that sell packaged cannabis products. They may include ancillary delivery services. Customers must be over 21 years old. This permit type is similar in land use activity to other convenience retail uses, such as drug stores.
- Manufacturing. This is a commercial cannabis permit type issued by the California Department of Public Health's Manufactured Safety Branch. Manufacturing refers to the extraction of cannabinoids and terpenes from the cannabis plant for use in the production of various cannabis products, including creams, oils, and vapes. They may be permitted as non-volatile or volatile; non-volatile refers to manufacturing based on solvents such as water, dry ice, butter, as examples; volatile refers to manufacturing based on solvents that are hydrocarbons, such as butane, propane, or hexane. Different cannabis manufacturers prefer different solvent methods based on their preference for extracting cannabinoids and terpenes from the cannabis plant. CDPH also issues related permits for packaging and labeling of manufactured goods. This permit type is similar in land use activity to other manufacturing uses, such as the extraction of essential oils or food and beverage production.
- Cultivation. This is a commercial cannabis permit type issued by the California Department of Food and Agriculture's CalCannabis Division. The Business Ordinance does not permit outdoor cultivation of any type. Indoor cultivation requires artificial

lighting to conduct indoor agricultural raising of the cannabis plant. CalCannabis currently permits up to 22,000 square feet of indoor cultivation. This permit type is similar in land use activity to other crop raising uses, such as large nurseries. CalCannabis requires all operators to use a “track and trace” system that assigns a unique barcode to any cannabis plant cultivated, which is tracked through its life cycle until sale.

- Testing. This is a commercial cannabis permit type issued by the Bureau of Cannabis Control. All cannabis products for sale in the State of California must pass laboratory testing conducted by a permitted cannabis testing facility. This permit type is similar in land use activity to other processing uses, such as medical imaging and testing labs or scientific research facilities.
- Distribution. This is a commercial cannabis permit type issued by the Bureau of Cannabis Control. Cannabis products cannot be transported from one facility to another in the State of California without a license. Distribution licenses include General Distribution, for brick-and-mortar facilities that stock cannabis product, and Distributor—Transport, for transportation between licensed facilities. Ancillary distribution activities are permitted under the Business Ordinance in association with another commercial cannabis permit type.
- Microbusiness. This is a commercial cannabis permit type issued by the Bureau of Cannabis Control. To qualify, an operator must conduct three of the following four activities: storefront retail, distribution, indoor cultivation up to 10,000 square feet, or non-volatile manufacturing. Such operations are known in the industry as vertically integrated businesses, as product sold in microbusiness storefronts are grown or manufactured on site.

#### *Determinations of Similarity*

Based on the entirety of its research into commercial cannabis permit types and their associated land use activities, Staff has determined that the proposed land uses related to commercial cannabis are similar enough to existing, permitted land uses within the Pomona Zoning Ordinance (PZO) and Pomona Corridors Specific Plan (PCSP).

For commercial cannabis uses that may locate in zoning districts under the PZO, such determinations require a “Determination of Similarity,” or DOS, as outlined in Section .501-A of the PZO. The Determination of Similarity process is used for any land use establishing in the City that is not specifically listed in the PZO. Multiple DOS findings for various cannabis land uses proposed in the PZO have been provided for consideration (Attachment 6).

For commercial cannabis uses that may locate on zoning districts under the PCSP, such determinations require a “Director’s Interpretation,” as outlined in Section .2.2.1 of the PCSP. The Director’s Interpretation for cannabis storefront-retail as similar to “convenience uses” has been provided for consideration (Attachment 7).

Taken together, these determinations form the basis of the CCPP overlay district and map as discussed in greater detail in *Section D: 8/28/19 Draft CCPP Overlay District & Map*.

#### Step 4: Identifying Specific Parcels for Cannabis Land Uses

Using the Draft CPA map as a starting point, which already considered proximity of commercial cannabis to sensitive uses, and after establishing these commercial cannabis land uses as similar to existing land uses within the City through a DOS process, Staff conducted a parcel-level analysis to determine which parcels would be appropriate for a CCPP overlay district. This analysis was based on the following methodology:

##### a. Sensitive Use Verification

Staff verified the Sensitive Use Buffer Map (Attachment 4) dated June 2018 that was used to establish the Cannabis Permit Areas. This included confirming the inclusion of all parks and recreation facilities, day care centers, and K-12 public and private schools within the City, measuring all 1000-foot parcel distances, elimination of uses outside Pomona jurisdictional boundaries, and elimination of any sensitive uses that did not meet Business Ordinance definitions based on field visits; this included the removal of sensitive uses confirmed to be permanently closed.

##### b. General Plan Consistency

All parcels were analyzed against the 2014 General Plan for consistency with designated land use “place types.” An example of general plan consistency is a parcel that has been designated by the General Plan as providing for long-term commercial land uses, and a zoning district that permits such commercial land uses. Several parcels eligible for inclusion in the overlay contain commercially zoned districts that have been identified as a “residential neighborhood” place type in the General Plan, and therefore would not promote further commercial development. These parcels have been excluded from the draft overlay. In other cases, the General Plan land use designation appears to be in conflict with existing site conditions, and may require future general plan amendments for clean-up; for example, properties located east of Towne Avenue and south of Mission Boulevard are designated as Workplace District, which promotes industrial and office uses, but currently includes several distinct zoning designations without clear pattern. Only those parcels that have recently implemented the General Plan goals, such as the 2014 Corridors Specific Plan’s City Gateway and Neighborhood Center Segment, have been included as compatible. It is unclear at this time if the comprehensive zoning update for the remaining parcels within the Workplace District will be exclusively industrial or mixed-use.

##### c. Social Determinants of Health

In researching retail cannabis and its impact on social determinants of health, Staff reviewed a Health Impact Assessment prepared by the County of Los Angeles Public Health Department in July 2019, entitled “*Health Equity Implications of Retail Cannabis Regulation in Los Angeles County*.” The assessment found that the addition of a licensed cannabis dispensary was



not significantly associated with violent crime or property and violent crimes combined. With respect to youth access, the assessment recommended following State requirements for sensitive use buffers (600 feet) at minimum, and to discourage the explicit promotion of commercial cannabis and retail storefronts.

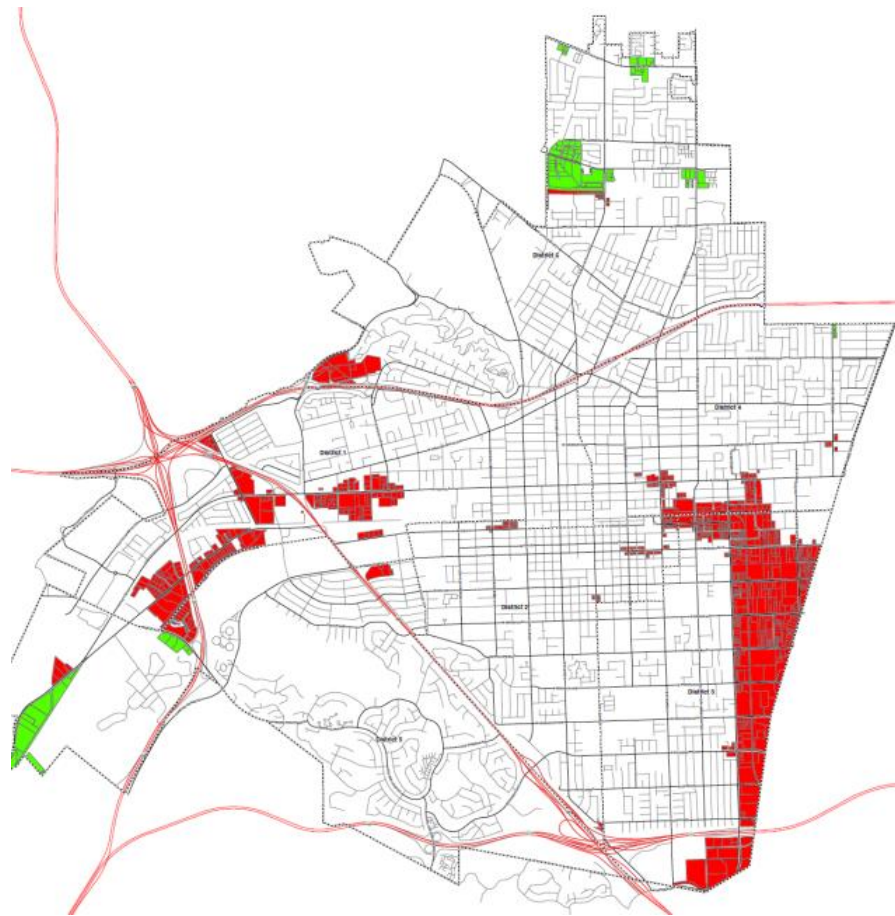
The City Council has expressed its intent to limit the total number of commercial cannabis business permits to eight (8), including two (2) storefront retail and two (2) microbusiness, which may include a storefront retail. Therefore, up to a total of four (4) storefront retail uses are contemplated at this time. In addition, the Business Ordinance established a 1,000-foot sensitive use buffer, exceeding the State minimum by 400 feet, along with a 1,000-foot distance buffer between commercial cannabis retailers. Due to the limited number of available retail licenses, and the sensitive use and commercial-to-commercial buffers established, the risk of overconcentration of licenses and its impact on social determinants of health is minimal. Therefore, parcels were not excluded from consideration on the basis of crime or other indicators of public health and welfare.

#### d. Environmental Justice

Staff reviewed data from *CalEnviroScreen 3.0*, a State regulatory tool developed by the Office of Environmental Health Hazard Assessment (OEHHA), to consider environmental justice policies in the identification of commercial cannabis parcels. The tool measures environmental burden (based on both environmental risk and socioeconomic status) on a percentage scale of 0-100, based on census tract. The State defines a “disadvantaged community” as one that exceeds 75% on this index, which qualifies for investment of proceeds from the State’s cap-and-trade program.

As seen in Figure 2, a significant portion of the potential CCPP overlay district is considered disadvantaged. Staff further surveyed these portions of the City to determine any incompatible land uses, such as the existence of single-unit or multi-unit residential properties within industrial zones. There are approximately 200 residential properties that are sited within the M-1 and M-2 industrial zones, generally located east of Reservoir Street, between the 60 Freeway due north to First Street. Additional residential uses are located within the industrial zone east of Towne Avenue, north of the railroad, along Price Street. As the intent of tools like CalEnviroScreen is to provide data and indicators for municipalities to reasonably address concerns of environmental justice whenever possible, such as the intentional siting of new industrial land uses in minority, low-income communities, Staff has excluded blocks of parcels that include any of the residential properties identified from consideration for industrial-related cannabis uses, as such residential uses are currently incompatible with the underlying industrial land uses permitted.

**Figure 2.** Overlay Parcels in Red Identified as “Disadvantaged” by OEHHA/CalEnviroScreen 3.0



e. Legal Non-Conforming Residential Uses

As a measure of displacement prevention, Staff identified any single or multi-unit residential uses located within a commercial zoning district. Such parcels have been excluded from consideration, in an effort to prevent speculation by potential operators and displacement of residents as part of an effort to establish a commercial cannabis use in the City of Pomona.

f. Site Access, Island Parcels

Staff identified any parcels that are practically unusable or developable for commercial cannabis uses or other land uses. For instance, individual parcels that have been identified belonging to the Los Angeles County Flood Control District, or Southern California Edison, have been removed. Moreover, other sites are identified as unique parcels but lack access to an improved public street and may be vestiges of previous land subdivisions. Such parcels have also been removed from consideration.

### C. 8/28/19 DRAFT CCPP OVERLAY DISTRICT & MAP

On August 28, 2019, Staff released a Draft CCPP Overlay District Map, which was presented at an Open House in City Council Chambers, followed by a discussion at the regularly scheduled Planning Commission meeting.

As illustrated in Figure 3, the proposed CCPP overlay district is divided into “sub areas.” These subareas are grouped by zoning designations and cannabis land use permissions. Per the Business Ordinance, outdoor cultivation is prohibited in the City; storefront retail is prohibited in District 3; and all cannabis permits are prohibited in Downtown Pomona.

**Figure 3.** Draft CCPP Overlay District, Released 8/28/19



The proposed district represents approximately 1% of the total number of parcels in the City. Table 1 provided a parcel count breakdown of the CCPP Overlay District by sub area.

**Table 1.** Number of Parcels in CCPP Overlay District by Sub Area

Sub Area	Number of Parcels
1	206
2	10
3	173
4	25
<b>Total</b>	<b>414</b>

*Permitted Uses in CCPP Overlay District*

As indicated in the draft Resolution and Exhibits (Attachment 3), the intent and purpose of the overlay is “to solely establish locations in the City of Pomona that permit land uses related to commercial cannabis.” All cannabis-related land uses must still comply with the development standards of the underlying zoning district. Table 2 provides a breakdown of permitted uses by sub area and commercial cannabis permit type. Each commercial cannabis permit type is further identified by its related Land Use Classification, which represents an existing land use in either the PZO and PCSP that has been adopted under a Determination of Similarity or Director’s Interpretation.

**Table 2.** Draft CCP Overlay District Permitted Uses

Commercial Cannabis Permit Type	Land Use Classification(s) <sup>1</sup>	Sub Area			
		1	2	3	4
Manufacturing	Manufacturing	X	X	P	P
Indoor Cultivation <sup>2</sup>	Raise Crops	X	X	P	P
Outdoor Cultivation	N/A	X	X	X	X
Distribution <sup>3</sup>	Manufacturing	X	X	P	P
Testing	Processing	X	X	P	P
Microbusiness <sup>4</sup>	Manufacturing, Commercial, Raise Crops	X	X	P	X
Retailer-Storefront <sup>5</sup>	Convenience Use, Retail Store	P	P	P <sup>6</sup>	X

<sup>1</sup> Land Use Classifications are existing, defined land uses in the Pomona Zoning Ordinance, Pomona Corridors Specific Plan, or defined through a Determination of Similarity or Director’s Interpretation.

<sup>2</sup> Up to 22,000 square feet of indoor cultivation when not in conjunction with a Microbusiness. Up to 10,000 square feet of indoor cultivation when in conjunction with a Microbusiness.

<sup>3</sup> Ancillary distribution (transport only) activities permitted in conjunction with any commercial cannabis use. Parking of ancillary distribution vehicles may not occupy spaces allocated for primary commercial cannabis use.

<sup>4</sup> To be considered a “microbusiness,” must engage in at least three (3) of the following activities: indoor cultivation up to 10,000 square feet, non-volatile manufacturing, storefront retail, and distribution.

<sup>5</sup> Ancillary delivery activities permitted in conjunction with any retailer-storefront. Storefront retailers also providing delivery shall comply with the requirements pertaining to deliveries in Section 68-29 of City’s Municipal Code. Parking of ancillary delivery vehicles may not occupy spaces allocated for primary commercial cannabis use.

<sup>6</sup> Only permitted as part of a microbusiness.

Revisions Since 8/28/19 Draft CCPP Overlay District & Map

Based on comments received, the following revisions have been made to the Draft 8/28/19 CCPP Overlay District & Map:

1. Staff conducted a field visit to “Options for Youth,” a sensitive use identified at 695 East Foothill Boulevard. Staff confirmed that the use has permanently closed and been replaced with a new use. Therefore, it has been eliminated from the sensitive use list. This opened 29 parcels for consideration. Following the methodology outlined in Section B, Staff has proposed all eligible parcels for consideration.
2. Staff conducted a field visit to “Vovinam Martial Arts,” a sensitive use identified at 1313 West Holt Boulevard. Staff was unable to find any evidence that this site is actively and primarily serving youth or meets the definition of a youth and recreation center as defined in the Business Ordinance. The use does have an active business license but repeated attempts at contacting ownership, along with field visits to observe any activity, have led Staff to eliminate it from the sensitive use list. This opened 15 parcels for consideration. Following the methodology outlined in Section B, three parcels contained legal non-conforming residential units or were otherwise impractical to use due to site access; therefore, 12 parcels are proposed for consideration.
3. Staff conducted a field visit to “Pomona Premier Youth Soccer League,” a sensitive use identified at 1225 West Mission Boulevard. Staff confirmed that this facility does not actively serve youth, but is instead used primarily as an office for administrative purposes. Therefore, it has been eliminated from the sensitive use list. This opened 38 parcels for consideration. Following the methodology outlined in Section B, a majority of parcels contain legal non-conforming residential units, and therefore none of the parcels are proposed for consideration.
4. Staff conducted a field visit to “Quest Academy,” a sensitive use identified at 1024 East Phillips Boulevard. Staff confirmed that the day care is now closed. Therefore, it has been eliminated from these sensitive use list. This did not open any new parcels for consideration.
5. Staff identified two parcels belonging to the Los Angeles County Flood Control District located at Bonita Avenue and Fulton, at the border of the City of Pomona and the City of La Verne. Following the methodology outlined in Section B, these parcels cannot reasonably be developed. Therefore, they have been eliminated from consideration.

Proposed revisions to the sensitive use list are reflected in the Revised Sensitive Use Buffer Map (Attachment 8).

## **D. STUDYING POTENTIAL ENVIRONMENTAL IMPACTS**

According to Section §15183(a) (Projects Consistent with a Community Plan or Zoning) of the State CEQA Guidelines, additional environmental review is not required for projects “which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified,” except as might be necessary to determine whether there are project-specific significant effects. A Finding of Consistency was prepared to conduct this analysis (Attachment 9).

This Finding of Consistency evaluates the proposed CCPP overlay district’s consistency with the Final Environmental Impact Report for the City of Pomona General Plan Update. The 2014 Final EIR, which was certified in March 2014, establishes the City’s vision for development of the City through the year 2035. The evaluation determined whether the overlay would have new or increased severity significant environmental effects beyond those identified in the 2014 Final EIR.

Key findings include the following:

- Traffic. Operation of the commercial cannabis uses (i.e., cultivation, distribution, and retail) would not substantially change traffic patterns on area roadways and would not be expected to impact levels of service at any nearby intersections or induce a substantial increase in vehicle miles traveled when compared to existing uses in designated sub areas.
- Odor & Emissions. Odor from cannabis is largely associated with chemicals known as terpenes that are produced by flowering plants. However, as regulated by Section 68-27 of the PMC, odor control devices and techniques are required in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Typical devices and techniques include, but are not limited to, carbon filters or air systems that create negative pressure between the commercial cannabis business’s interior and exterior environments. The proposed Cannabis Overlay would not result in air quality impacts from construction or operation emissions beyond those identified in the 2014 Final EIR.
- Hazardous Waste. The purpose of the Cannabis Overlay is to establish locations in the City that permit land uses related to commercial cannabis. Such development would remain subject to federal, state, and local laws and regulations pertaining to the transport, use, disposal, handling, and storage of hazardous waste, including but not limited to, Title 49 of the Code of Federal Regulations. Furthermore, any development that handles or uses hazardous materials would be required to comply with the regulations, standards, and guidelines established by the Environmental Protection Agency, State, Los Angeles County, and City of Pomona related to storage, use, and disposal of hazardous materials. Nonetheless, consistent with what was determined in the 2014 Final EIR, the proposed Cannabis Overlay would not result in impacts associated with hazardous materials beyond those identified in the 2014 Final EIR.



- Water & Energy. As with other uses that could be developed in the Overlay Sub Areas, cannabis-related development would result in GHG emissions and a demand in energy, particularly from indoor cultivation. As regulated by Section 68-30 of the PMC, cannabis cultivation is required to comply with State and local laws related to electricity, water usage, water quality, discharges, and similar matters. Cannabis-related development would be subject to regulations in place at the time the development is proposed that are aimed at achieving statewide GHG reduction targets, including the 2030 target of a 40 percent reduction from 1990 emission levels outlined in SB 32. Permitted uses in the Cannabis Overlay would also be required to comply with energy conservation measures in the California Green Building Code (CALGreen) and 2019 Building Energy Efficiency Standards, which include measures that increase building performance so that new development does not result in wasteful, inefficient, or unnecessary consumption of energy. The proposed Overlay would not result in an impact related to GHG emissions or energy consumption beyond that identified in the 2014 Final EIR.

The Findings of Consistency concluded that the proposed CCPP overlay district would not introduce new land use designations or otherwise alter the general land use patterns or development standards; therefore, integration of the proposed overlay would not result in any new or increased severity of significant environmental effects beyond those identified in the 2014 Final EIR. Mitigation beyond that identified in the 2014 Final EIR is not required for any of the analyzed environmental issue areas. As such, pursuant to §15183 of the CEQA Guidelines, no additional environmental review or documentation is required for the proposed CCPP overlay district under CEQA.

## **E. THEMATIC SUMMARY OF PUBLIC COMMENTS**

Staff has received 91 written public comment letters related to the Commercial Cannabis Permit Program and the development of the CCPP overlay district (Attachment 11). For ease of reference, Staff has reviewed all public comments and organized them thematically with responses. Individual comment letters are referenced as “CL #.” References may overlap across themes as some letters identified multiple issues.

### **1. Sensitive Uses (CL #1-2, 76, 78-79, 80, 83, 85, 91)**

Several comment letters cited concerns about either a specific sensitive use, or requesting to identify additional areas as sensitive uses.

The City of Knowledge (CL #1-2) has expressed concerns about the proximity of cannabis uses to their school site. The City of Knowledge is already identified on the Sensitive Use Buffer Map prepared in June 2018 (Attachment 4); no cannabis use may be located within 1,000 feet of its boundaries. Furthermore, in regards to concerns of overconcentration, the City Council has expressed their intent to limit retail permits to two (2) citywide, and two (2) microbusinesses, which may include storefront retail. A microbusiness license is not contemplated for any sub-area located near the City of Knowledge, and the remaining two retail licenses can be located citywide, and may not be located within 1,000 feet of each other.

Therefore, the risk of an undue concentration of cannabis dispensaries in the city is minimal (*See Section B—4-b: Social Determinants of Health* of this staff report).

The City of La Verne (CL #78-79) has requested defining its boundary line at Fulton Road and Bonita Avenue as a sensitive use, based on concerns from their Police Department about enforcement spillover from proposed properties along Bonita Avenue. The Business Ordinance does not define jurisdictional boundaries as sensitive uses. Furthermore, selectively including boundaries is inadvisable, and would require the inclusion of all jurisdictional boundaries at Walnut, Chino, Claremont, Montclair, and unincorporated Los Angeles County, which would significantly reduce the footprint of available parcels in the CCPP overlay district, while not distancing a cannabis operator from a specific, defined sensitive use.

One public comment (CL#76) requested adding residences as sensitive uses, and inquired on whether only parks with youth activities have been included. The sensitive use list includes all City of Pomona parks and recreation facilities, regardless of active programming, as such uses reasonably serve youth. Residential zones have not been defined in the Business Ordinance as a sensitive use.

Newlife Pomona Church (CL #83, 91) has expressed concern about the potential for crime and traffic increases adjacent to its facility, which serves youth. Newlife has not been identified as a sensitive use, as it did not qualify as a primarily youth-serving facility or a day care.

One public comment (CL #85) requested Staff to investigate Vovinam Martial Arts for possible exclusion from the sensitive use list. Staff has confirmed that this use does not meet the requirements for a sensitive use and has recommended its exclusion (*See Section C—Revisions—2* of this staff report)

## 2. Environmental Impacts (CL #1-2, 3-74, 76, 80, 82, 86, 87, 88, 90, 93)

Several comment letters cited concerns about potential environmental impacts from cannabis-related land uses. These concerns included traffic generated by retail operators, odor, noise, hazardous waste, energy consumption, and water usage. An environmental review has been conducted on the proposed CCPP Overlay District to determine any significant environmental impacts. As noted in *Section D—Studying Potential Environmental Impacts* of this staff report, a Findings of Consistency (Attachment 9) was prepared to determine whether the proposed overlay would result in any new or increased severity of environmental effects beyond those previously studied and identified in the 2014 Final EIR. This analysis addresses environmental concerns raised in various comment letters. The review determined that impacts associated with the overlay are similar to those anticipated for the overlay area in the 2014 Final EIR and the implementation of the CCPP Overlay District would not result in any new or increased environmental impacts. Therefore, as consistent with Section 15183 of State CEQA Guidelines, no additional environmental review is required.

## 3. Parcel Methodology (CL #81, 82, 84, 85, 89, 92)



Multiple letters cited concerns regarding specific parcels in the City that either have been proposed for the CCPP overlay district, or have been excluded. Letters citing parcel-specific environmental concerns are addressed above under “Environmental Impacts.” Any parcel proposed for exclusion from the overlay has undergone the same analysis based on the methodology outlined in *Section B—Development of CCPP Overlay District* of this staff report. Regarding a parcel located at 324 North Towne Avenue (CL #84), properties located east of Towne Avenue and south of Mission Boulevard are designated as Workplace District, which promotes industrial and office uses, but currently includes several distinct zoning designations without clear pattern. Only those parcels that have recently implemented the General Plan goals, such as the 2014 Corridors Specific Plan’s City Gateway and Neighborhood Center mixed-use segments have been included as compatible. It is unclear at this time if the comprehensive zoning update for the remaining parcels within the Workplace District will be exclusively industrial or mixed-use. The only parcels recommended for exclusion since the release of the 8/28/19 Draft CCPP Overlay District Map are two owned by the Los Angeles County Flood Control District, as the methodology determined that it would be impractical to develop these parcels. The only parcels recommended for inclusion since the draft release are based on the closure or removal of sensitive uses.

#### 4. General (CL #75-76, 80)

Some letters have cited general concerns about either the proposed CCPP Overlay District or the Business and Tax Ordinances. Many of these concerns have been either directly addressed through subsequent conversations and workshops, or through direct responses. Questions directly related to the Business Ordinance will be considered as part of the related action steps required to launch the CCPP.

## NOTICING

Public noticing was completed as required by Government Code 65091. A hearing for public notice was published on Friday, September 27, 2019 in the Inland Valley Daily Bulletin. In addition, Staff voluntarily noticed property owners within 400 feet of each individual parcel proposed within the CCPP overlay district. A copy of the published public hearing notice and individual radius maps identifying parcels within 400 feet have been provided for reference (Attachment 10).

## CONCLUSION

The land use activity associated with the CCPP overlay district is similar to land use classifications that already exist in either the Pomona Zoning Ordinance or Pomona Corridors Specific Plan. Therefore, adoption of Determinations of Similarity and a Director’s Interpretation is appropriate. The CCPP Overlay District complies with CEQA, the Business and Tax Ordinances, and the Pomona General Plan, and reflects community feedback and consideration of environmental and social justice.

Respectfully Submitted:

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**ATTACHMENTS**

1. Ordinance No. 4257 (“Business Ordinance”)
2. Ordinance No. 4254 (“Tax Ordinance”)
3. Draft Resolution with Exhibits A-C
4. Sensitive Use Buffer Map dated June 2018
5. Questions from Community Meetings
6. Determinations of Similarity (DOS)
7. Director’s Interpretation (for PCSP)
8. Revised Sensitive Use Buffer Map
9. Environmental Findings of Consistency
10. Proof of Publication of Public Hearing Notice
11. Full Record of Public Comments Received