

Cannabis/CBD

Study Session

August 19, 2019

Study Session Presentation

- Background
- Review Cannabis Businesses Categories, Pros and Cons, and Fiscal Impact
- Review Potential Land Use Area with Buffer
- CBD Businesses
- Next Steps

City Council Strategic Goal

Conduct a City Council study session regarding the pros and cons of the cannabis economy, with the exception of dispensaries and cultivation, along with a cost-benefit analysis.

Background

- 1996: Proposition 215, Compassionate Use Act
 - Provided doctors protection for medical marijuana recommendations, decriminalized possession and cultivation with doctor's recommendation
- 2003: SB 420, Medical Marijuana Program
 - Created voluntary ID card program
 - Expanded immunity for patients and primary caregivers
- 2015: City Council Approved Zoning Code Regulations Prohibiting Medical Marijuana Businesses
- 2015: Medical Cannabis Regulation & Safety Act
 - Created state regulatory structure for cultivation, manufacturing, distribution and retail of medical marijuana

Background

- 2016: Proposition 64, Adult Use of Marijuana Act
 - Decriminalizes possession and use of small amounts of marijuana for recreational purposes on private property
- 2017: City Council Approved Zoning Code Regulation Prohibiting Commercial Non-medical Marijuana Businesses and Deliveries
- 2017: SB 94, MAUCRSA
 - Reconciled Medical Cannabis Regulation and Safety Act with Prop. 64

Federal Government

- Marijuana is still classified by the Federal Government as a Schedule One substance
- States and cities are technically in violation/conflict with Federal law on cannabis.
- Currently, since it is Schedule One, no banks are permitted to do business in this industry. The State of California is looking at options.
- Cannabis is generally an all cash and self reporting business.

HdL Companies

- The City worked with the HdL Companies to conduct a fiscal analysis on the tax rates to project the potential amount of annual revenue that permitting each of these business types might generate for the City
- HdL provided revenue projection based on a very conservative, conservative and aggressive approach
- HdL's team of professionals has over 46 years of direct experience establishing and implementing cannabis regulatory and taxation and audit programs

Distribution

- Fundamental component of the cannabis supply chain
- Per State Law, only licensed distribution businesses can transport inventory between various cannabis businesses – such as laboratories, manufacturing and retail
- Key Issues:
 - Adequate security and control of inventory while stored on-site and transportation
 - Collection of State excise tax and state cultivation tax
 - Responsibility for checking packaging and labeling requirements

Distribution Fiscal Impact

- Protection of industrial space and no oversaturation
- Huntington Beach can be attractive for cannabis distributors
- Based on land use and buffers, Huntington Beach could support up to 4 distribution centers
- Potential revenue generation:

Distribution Permits		Up to 4	Tax Scenarios			
	Gross Receipts		Total GR	2.5%	3%	4%
Scenario 1	\$1,800,000	2	\$3,600,000	\$90,000	\$108,000	\$144,000
Scenario 2	\$1,800,000	3	\$5,400,000	\$135,000	\$162,000	\$216,000
Scenario 3	\$1,800,000	4	\$7,200,000	\$180,000	\$216,000	\$288,000

Manufacturing

- Defined as “all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products”
- Two types of licenses:
 - **Type 6** Manufacturing using non-volatile solvents, such as cold water, heat press and CO₂; and
 - **Type 7** Manufacturing using volatile solvents, such as butane, propane and ethanol
- Manufacturing will be a key activity based on current use trends
- Large quantities of volatile gases and industrial solvents are stored on site

Manufacturing Fiscal Impact

- Protection of industrial space and no oversaturation/buffer zones
- Industrial land available to support manufacturing
- Hazard/safety risks
- Huntington Beach could support up to 5 manufacturers with a range of sizes
- Potential revenue generation:

Manufacturing Permits		Up to 5	Tax Scenarios			
	Gross Receipts		Total GR	2.5%	3%	4%
Scenario 1	\$2,400,000	3	\$7,200,000	\$180,000	\$216,000	\$288,000
Scenario 2	\$2,400,000	4	\$9,600,000	\$240,000	\$288,000	\$384,000
Scenario 3	\$2,400,000	5	\$12,000,000	\$300,000	\$360,000	\$480,000

Testing Laboratories

- Cannabis Testing Laboratories will be required to perform testing on cannabis goods to measure chemicals and items not in keeping with State project standards
- Laboratory will generate a certificate of analysis
- A quality assurance program will have to be implemented
- Laboratories pose the fewest public safety challenges, due to the small quantity of cannabis on premises
- Will need to provide adequate security and control of inventory while being stored on-site and transported

Testing Laboratories Fiscal Impact

- Limited revenue opportunities.
- Limited need for numerous laboratories.
- Potential revenue generation:

Testing Lab Permits		Up to 1	Tax Scenarios			
	Gross Receipts		Total GR	1.0%	1.5%	2.0%
Scenario 1	\$2,000,000	1	\$2,000,000	\$20,000	\$30,000	\$40,000
Scenario 2	\$2,000,000	1	\$2,000,000	\$20,000	\$30,000	\$40,000
Scenario 3	\$2,000,000	1	\$2,000,000	\$20,000	\$30,000	\$40,000

Retail Sales

- Retail may create safety concerns due to an all-cash business and product on site
- A non-store front retail could generate revenue without having traditional store fronts
- Potential revenue generation:

Retailer Permits		Up to 2	Tax Scenarios			
	Gross Receipts		Total GR	4.0%	5%	6%
Scenario 1	\$6,000,000	1	\$6,000,000	\$240,000	\$300,000	\$360,000
Scenario 2	\$5,200,000	2	\$10,400,000	\$416,000	\$520,000	\$624,000
Scenario 3	\$4,400,000	2	\$8,800,000	\$352,000	\$440,000	\$528,000

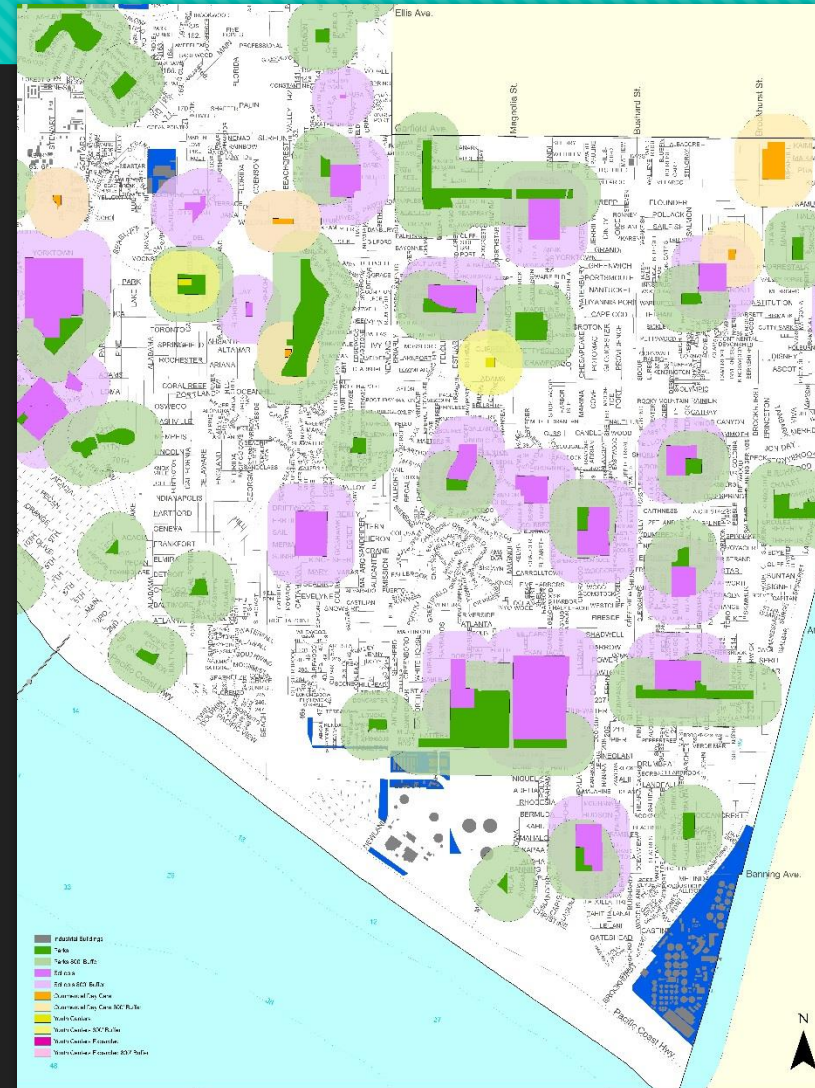
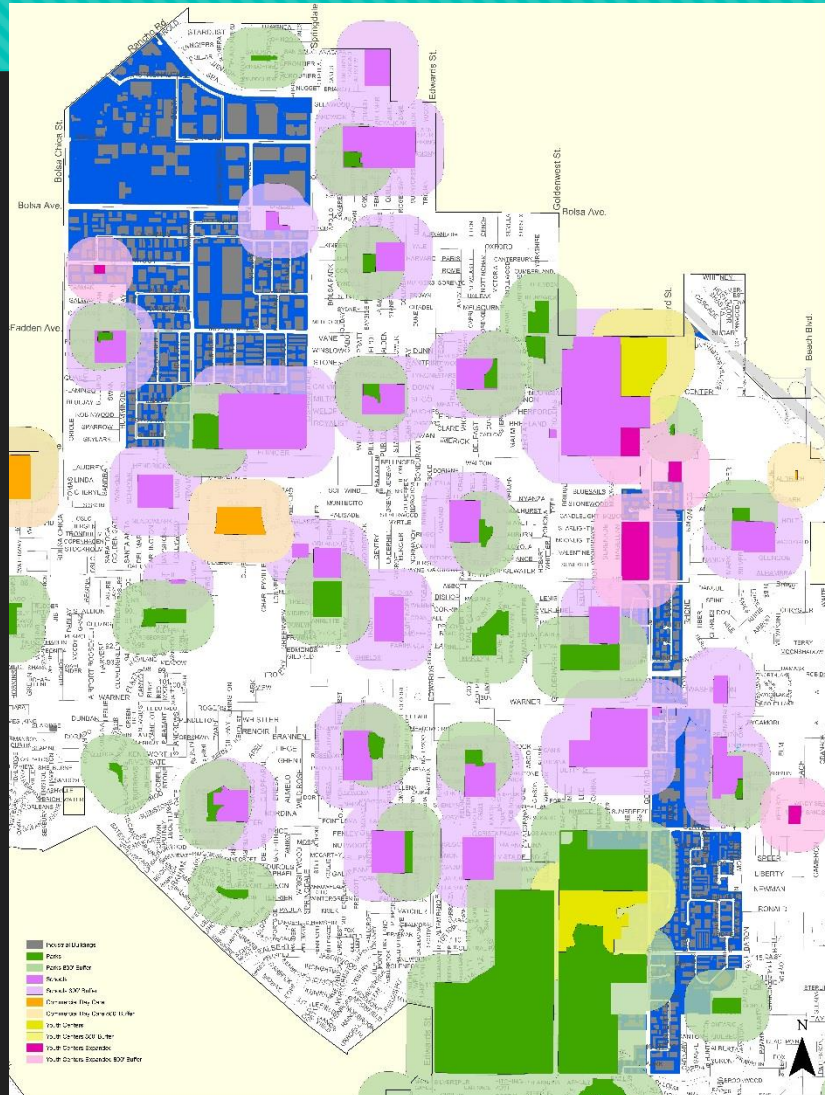
Cultivation/Microbusiness – Not Considered

- Cultivation sector is oversaturated
- Cultivation has numerous issues from odor, energy, water and pesticide use
- Microbusiness also not considered, since it includes cultivation, manufacturer and retailer

Overview of Fiscal Impact

<u>Max Permits</u>	Total of 12	
	Very Conservative	\$852,000
	Conservative	\$1,046,000
	Aggressive	\$1,336,000
<u>Mid Permits</u>	Total of 10	
	Very Conservative	\$811,000
	Conservative	\$1,000,000
	Aggressive	\$1,264,000
<u>Min Permits</u>	Total of 7	
	Very Conservative	\$530,000
	Conservative	\$654,000
	Aggressive	\$832,000

Potential Land Use Area-600 Feet Buffer



CBD

Is it legal/should it be legal to sell CBD oil and related products in Huntington Beach?



HBZSO 204.20

204.20 Prohibited Uses—Commercial Non-Medical Marijuana Businesses and Deliveries

- A. **Purpose.** In order to expressly inform the public that any sale or distribution of non-medical marijuana by Commercial Non-Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries, etc., however named is prohibited in the City of Huntington Beach, the City is adding this express prohibition to the Zoning and Subdivision Ordinance.
- B. **Definitions.** Unless otherwise specifically defined herein, the definitions contained within Adult Use of Marijuana Act shall apply to this ordinance.
1. ~~Commercial non-medical marijuana business, collective, cooperative or dispensary~~ means any location, structure, facility, vehicle, business, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana (including marijuana for recreational use) is sold, traded, exchanged, bartered for in any way, made available, located, stored, displayed, placed or cultivated, including any of the foregoing if used in connection with the sale or distribution of non-medical marijuana.
 2. **Non-medical marijuana delivery** means the commercial transfer of non-medical marijuana or non-medical marijuana products to a person, including any technology that enables persons to arrange for or facilitate the commercial transfer of non-medical marijuana or non-medical marijuana products.
 3. **Non-medical marijuana products** means non-medical marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.
- C. ~~Commercial Non-Medical Marijuana Businesses, Collectives, Cooperatives or Dispensaries.~~ A Commercial Non-Medical Marijuana Business, Collective, Cooperative or Dispensary or any other such business, no matter how so named, is not a permitted use in any zoning district or specific plan in the City. It shall be unlawful for any person or entity to own, manage, establish, conduct or operate a Commercial Non-Medical Marijuana Business, Collective, Cooperative or Dispensary. Also, it shall be unlawful for any person to permit to be established, conducted, operated, owned or managed as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, any Commercial Non-Medical Marijuana Business, Collective, Cooperative or Dispensary in the City.
- D. **Non-Medical Marijuana Deliveries.** Delivery of non-medical marijuana is not a permitted use in any zoning district or specific plan in the City. No permit or any other applicable license or entitlement for use, nor any business license, shall be approved or issued for the establishment, maintenance or operation of non-medical marijuana deliveries.
- E. **Public Nuisance.** Any use or condition caused or permitted to exist in violation of any of the provisions of this section is hereby declared a public nuisance and may be abated by the City.
- F. **Enforcement.**
1. Violation of this Chapter 204 of the Huntington Beach Zoning and Subdivision Ordinance is a public nuisance and may be enforced pursuant to the provisions of the Municipal Code including the Zoning and Subdivision Ordinance.
 2. Nothing in this section in any way limits any other remedies that may be available to the City, or any penalty that may be imposed by the City, for violations of this section. Such additional remedies include, but are not limited to, injunctive relief or administrative citations. (4137-10/17, 4175-3/19)

B. Definitions. Unless otherwise specifically defined herein, the definitions contained within Adult Use of the Marijuana Act shall apply to this ordinance.

3. Non-medical marijuana products means non-medical marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

Adult use of Marijuana Act (Prop 64)

- Prop 64 contains language that “marijuana” does not include:
 - Industrial Hemp as defined in Section 11018.5 of the H&S Code.
 - The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

H&S Code Section 11018.5(a)

“Industrial Hemp” means a crop that is limited to types of the plant *Cannabis sativa* L. having more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

CA Business & Professions Code 26001(f)

“Cannabis” does not mean “industrial hemp”
as defined by Section 11018.5 of the Health
and Safety Code

Food & Agricultural Code Section 81006

Outlines laboratory testing requirements for products containing THC:

“The laboratory test report shall be issued by a laboratory approved by the department, using a department-approved testing method, and indicate the percentage content of THC on a dry-weight basis, indicate the date and location of samples taken, and state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage of content of THC that is equal to or less than three-tenths of 1 percent, the words “PASSED AS CALIFORNIA INDUSTRIAL HEMP” shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words “FAILED AS CALIFORNIA INDUSTRIAL HEMP” shall appear at or near the top of the laboratory test report.”

Next Steps

- Direct Staff to look at options for potential cannabis businesses
 - Development Agreements
 - Possible Ballot Measure?
- Direct Staff to review and amend HBZSO 204.20 to expressly allow the sale of CBD from industrial hemp extract



Questions