



Memorandum

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Date: February 22, 2022
To: Mayor and Council Members
From: Michael Rogers, City Manager
Via: William Dean, Interim Development Services Director
Victoria Lombardo, Senior Planner
Subject: Cannabis Zoning Regulation and Timeline

This memorandum serves to provide background on the Council's request for the City's Cannabis Business and Zoning regulations, (density limits, downtown, and distance requirements) with a timeline showing the history thus far, and estimated upcoming events.

After the state of California enacted the Medical Cannabis Regulatory Safety Act in 2016, Council adopted an ordinance in 2017 prohibiting all cannabis uses.

Between September 2018 and July 2020, 13 Council discussions were held regarding cannabis regulations, including the adoption of Ordinances establishing the permit and zoning regulations, as well as procedural guidelines for the review process of Cannabis Business Permit applications.

Cannabis Business Permit applications were accepted between September 1 and October 15, 2020. On June 21, 2021 four retail conditional Cannabis Business Permits were awarded, in compliance with the established regulations. After three additional Council discussions between September and October 2021, revisions to the cannabis permit ordinance were adopted (effective November 18, 2021) allowing up to 11 storefront dispensaries, rather than the previous four. Please find all current Cannabis Ordinances and Guidelines here under the Regulatory Documents tab: <https://www.cityoftracy.org/opengov/regulations-on-commercial-cannabis-activities-in-the-city-of-tracy>

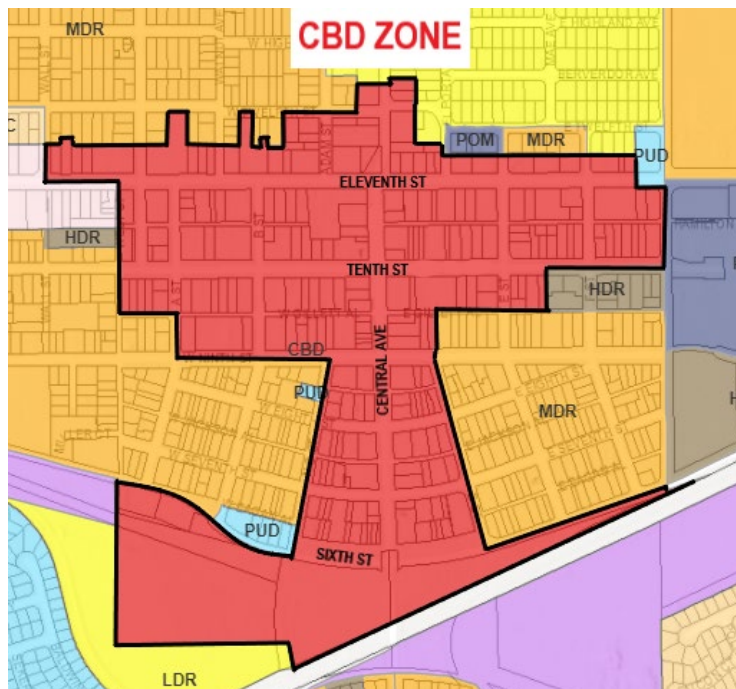
Community Benefits Proposals were accepted between November 18 and December 22, 2021. The review committee reviewed all new and/or revised Community Benefits Proposals (approximately 17 proposals) and made a recommendation to the Police Department on January 13, 2022. The original estimated timeline for the issuance of these additional Cannabis Business Permits was January 24, however, that was extended due to the extension of the submittal deadline for Community Benefits Proposals (as requested by applicants) and because the Police Department must perform preliminary background checks on all 50 additional qualifying applicants (all applications contain numerous applicants), a number significantly greater than anticipated. The award of permits to all qualified applicants is expected by mid-March. Applicants have informed staff that they need their permits prior to March 31st of this year in order to obtain provisional licenses from the State of California.

Staff has prepared a draft template Community Benefits Agreement for Council approval at an upcoming meeting, and is expecting to receive and begin processing Conditional Use Permit applications for all of the Cannabis Business sites as soon as the conditional Cannabis Business Permits are awarded by the Police Chief, again, expected to occur mid-March. Staff is also awaiting approval from the Department of Justice (DOJ) regarding the City's codified language requiring the use of the FBI database for final background checks. The documents were submitted to DOJ in January 2022. Once we receive that approval Council will immediately be presented with the necessary revised code language for adoption so that final background checks can be completed prior to any Cannabis Business becoming operational. Please note that the original submittal to the DOJ was expected to take 4-6 months for approval and took 13 months, with the Police Department checking in with the DOJ at least once a month during that time.

Zoning

During the formulation of the Cannabis Ordinance and Guidelines, Council discussed where such businesses should be allowed and prohibited during several meetings. Most of the in-depth discussion of the locational requirements occurred at the February 5, 2019 and December 3, 2019 meetings. Ultimately, Council decided to allow Cannabis dispensaries (storefronts) in all commercial and industrial zones within the City, including downtown (the CBD Zone, see below). All other Cannabis Business types (delivery, distribution, manufacturing, microbusiness, testing laboratory, and indoor cultivation) are allowed in all the City's industrial zones.

All Cannabis Business types shall be located at least 600 feet from any school, day care center, or youth center, in compliance with state law. The Conditional Use Permit process is where staff will determine consistency with the 600 foot requirement, and associated determinations relative to sensitive youth uses prior to recommendation of Planning Commission action on each Conditional Use Permit application. There was no requirement established by Council for a minimum distance between cannabis businesses.



Conditional Use Permit Applications and Process

To date, of the four retail Cannabis Business Permits that were awarded, only two Conditional Use Permit Applications (CUPs) have been submitted and are currently in review. Neither are located within the downtown (CBD) zone, though one (at 316 W. Eleventh Street) is notably only half a block to the west of that technical boundary of downtown. A third CUP application is in the intake process (it has not yet been accepted because they have not yet submitted all the required documents) is located downtown, at 104 W. Tenth Street.

Conditional Use Permits are discretionary permits that are used to determine if a land use is appropriate or not at a certain specific location. They allow for flexibility in zoning for certain land uses that a City may not want to allow simply “by right” in all locations of a certain zoning district but that may rather be appropriate in some but not all properties within that same zoning district. In order to determine if approval of a CUP is appropriate, the application is analyzed looking at various factors, including, but not limited to surrounding land uses (for example a truck stop may be appropriate in some commercial locations, but not in others that may abut housing or a school), physical property constraints (circulation/road patterns, available parking), and typical hours of operation. The CUP applications for cannabis businesses will be evaluated using these and all other appropriate factors prior to staff recommendations to Planning Commission. Each site’s proximity to a youth center will also be analyzed during this process. And while there is no code-based requirement for distance between cannabis businesses, the Planning Commission may take into consideration a possible overconcentration of cannabis businesses within any area as they make their findings for each application, should that occur.

Additional information about the City’s CUP application process can e found here:

<https://www.cityoftracy.org/our-city/departments/planning/development-permit-process/conditional-use-permit>