



City Council Report

City Council Meeting: March 19, 2024
Agenda Item: 7.A

To: Mayor and City Council
From: David Martin, Director, Administration
Subject: Cannabis Social Equity Study Session

Recommended Action

Staff recommends that the City Council:

1. Review and discuss the presentation on cannabis social equity programs from other cities;
2. Provide direction on two potential policy options for approach to a cannabis social equity program within the City of Santa Monica which will determine the expansiveness of a social equity program and timeline by which staff returns with an ordinance; and
3. Discuss options and provide direction to staff on locational restrictions for the adult-use cannabis ordinance.

Executive Summary

On June 13, 2023, City Council directed staff to prepare an ordinance to allow adult-use cannabis businesses within the City of Santa Monica. As part of that overall direction, Council also directed the creation of a process to allow two medicinal cannabis retailers to sell adult use cannabis and that a social equity component be included in the adult-use cannabis program to help ensure that communities most impacted by federal and state cannabis enforcement are provided an opportunity to benefit from the cannabis industry.

Subsequent to the June 2023 study session, staff initiated work on drafting the ordinance and conducted research of social equity programs in other cities in order to help inform Santa Monica's program. This report outlines the purpose of equity studies in the context of cannabis, presents comparative research of how social equity has

been introduced to cannabis programs in other cities, a summary of those programs, lessons learned from other cities, and presents two options for the framework of a potential social equity program. Council direction is necessary to determine how to structure a selection process and other components of an equity program, the level of impact the social equity component will have on equity applicants, the resources necessary for such a program, and the timeline by which staff can return with an ordinance. In drafting the ordinance, staff is also seeking further direction on locational restrictions.

On January 19, 2024, staff received notification that the City was successful in securing a \$40,000 grant to fund a cannabis equity assessment. It is expected that the equity assessment will be completed by the end of 2024 and staff will return to Council to present the findings from the equity assessment and recommendations that will inform the cannabis equity program. The equity assessment could inform program eligibility including consideration of factors such as for income, geography, and prior arrest history. The equity assessment will also inform the components necessary to build an effective cannabis equity program, which could include but are not limited to priority application and licensing, employment, community reinvestment, and investment of future cannabis tax revenues.

The expense and impact of cannabis equity programs vary greatly by jurisdiction and through a variety of factors. This report provides an overview of cannabis equity assessments and explains how they inform the creation of cannabis equity programs. By providing a comparative analysis of equity programs from other jurisdictions and options for pursuing the City's cannabis equity program, staff seeks Council feedback on what level of a cannabis equity program to pursue considering the available resources, time, and desired outcomes.

As staff continues efforts to draft an adult-use cannabis ordinance, further direction from Council is also needed with regards to defining locational restrictions, which could impact where cannabis businesses could locate and how many could potentially be located in Santa Monica.

Discussion

Previous Council Direction

On June 13, 2023, the City Council received a presentation on key policy considerations for allowing adult-use cannabis businesses within the City of Santa Monica. The following summarizes Council's discussion and direction on key policy questions:

- 1) Should consumer access to legal adult-use cannabis in Santa Monica be permitted, or should the City maintain the restriction of medicinal-only cannabis?
 - *Council direction: Yes allow adult-use cannabis.*

- 2) What types of cannabis uses should be allowed?
 - *Council direction: Allow all cannabis businesses including consumption lounges with a focus on ensuring that regulations safeguard public safety and minimize impacts to surrounding uses. Some concerns were expressed about cultivation. Understood that ordinance may initially authorize some businesses (e.g. retail and delivery) with other businesses (e.g. consumption lounges) to come at a later time due to need for further research.*

- 3) Should the City set a limit to the number of retailers and other uses?
 - *Council direction: No cap due to concerns about potential liabilities and increased competition. Direction to explore potential locational restrictions that would naturally result in limiting the total number of cannabis businesses without establishing a cap.*

- 4) Should only the two selected medicinal cannabis retailers be allowed to expand into the adult-use market, or should the City allow new cannabis retailers?
 - *Council direction: Yes, allow two selected medicinal cannabis retailers to sell adult-use cannabis and explore allowing additional retailers.*

5) Where in the City should cannabis uses be allowed to operate?

- *Council direction: Operate only in non-residential zones and apply State buffers for distance from sensitive uses.*

6) Which land uses, if any, should be recognized as sensitive uses requiring a distance buffer from cannabis uses above and beyond state requirements?

- *Council direction: Use State buffers as baseline requirement and do not apply the City's local requirements for medicinal cannabis businesses. Council expressed concern about oversaturation and for staff to return with options for locational restrictions between cannabis businesses.*

In addition to providing direction on the regulatory framework of a new adult-use cannabis ordinance, Council also directed staff to conduct a cannabis equity assessment and create a cannabis equity program to help ensure that the communities most impacted by federal and state cannabis enforcement policies are provided an opportunity to benefit from the cannabis industry.

In providing direction to conduct an equity assessment and create a cannabis equity program, some Councilmembers also expressed concern about a discretionary process and the potential legal and practical issues, based upon the experience of other cities. Thus, some Councilmembers discussed the merits of a selection process but without a discretionary lens, such as a weighted lottery system. Councilmembers also expressed interest in including requirements for labor practices and diverse hiring.

Interim Zoning Ordinance Authorizing Medicinal Cannabis Retailers to Sell Adult-Use Cannabis

On November 14, 2023, Council adopted Interim Zoning Ordinance No. 2764 allowing the two approved medicinal cannabis retailers to also sell adult-use cannabis. On December 19, 2023, Council extended Interim Zoning Ordinance No. 2764 through

adoption of Interim Zoning Ordinance No. 2770. As staff continues efforts to draft an Ordinance to allow for adult-use cannabis retail business and non-retail business types within the City and begins the process to conduct an equity assessment, further Council direction is required on the level and complexity of a cannabis equity program staff should pursue.

Cannabis Social Equity

Social equity in cannabis seeks to recognize the long-term negative impact that the criminalization of cannabis has had on minority communities resulting from the enforcement of federal and state laws related to cannabis use and possession. Research from communities across the United States has consistently demonstrated the disproportionate enforcement of anti-drug laws for minority groups despite similar cannabis usage rates. In particular, African Americans have been negatively affected by higher rates of arrest and incarceration for cannabis-related activities.

The consequences of a criminal conviction and incarceration include the permanent loss of property, disqualification from employment opportunities, reduced earnings potential, exclusion from public benefits such as housing assistance or student financial aid, and other life-altering impacts. The goal of cannabis social equity is to go beyond simply providing equal access to opportunities by developing an intentional program that helps ensure that the communities most impacted by federal and state cannabis enforcement policies are provided an opportunity to benefit from the newly legalized industry.

Many cities and counties have sought to develop cannabis equity programs as a means for reducing barriers to entry into the commercial cannabis industry for communities and individuals most impacted by the war on drugs. For social equity programs to be meaningful, however, they must be based upon data to identify those communities within each jurisdiction that have historically been most adversely impacted.

For this reason, it is common for development of a cannabis equity program to be preceded by a detailed study or report that analyzes factors such as disproportionate

contact by law enforcement, incarceration rates, or other metrics. Cannabis equity assessments are commonly conducted by local community foundations, universities, or other research organizations with significant outreach to local community members. The State of California through the Governor's Office of Business and Economic Development (GO-Biz) has historically provided annual funding to local jurisdictions to assist with development of cannabis equity studies (<https://business.ca.gov/cannabis-equity-grants-program-for-local-jurisdictions/>).

Once the local jurisdiction has identified affected communities, there are numerous policy options for promoting equity. Equity in the cannabis context means providing affected communities opportunities for equitable ownership and employment opportunities in the cannabis industry, or in some cases a percentage of the profits from the sale of cannabis, in order to decrease disparities in life outcomes for historically marginalized communities.

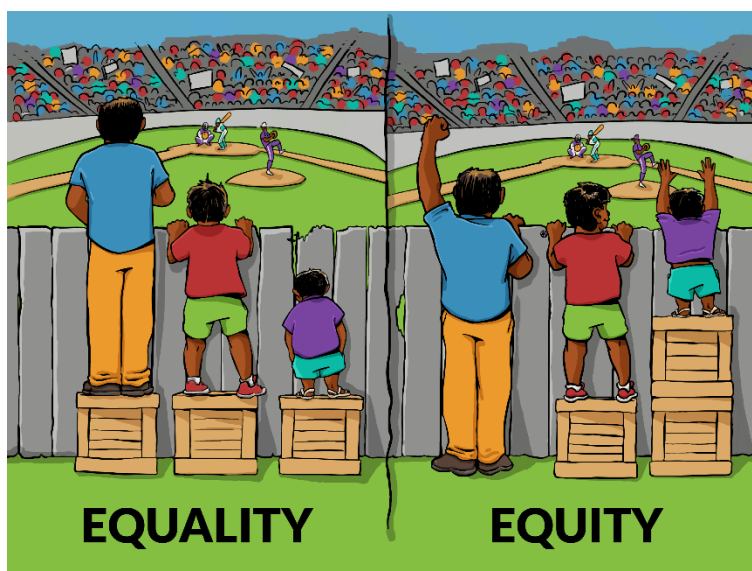


Figure 1: Fully implementing social equity in cannabis requires providing specifically focused assistance to ensure that affected communities have equitable access to the cannabis industry

Policy options may include application criteria specific to equity applicants, fee waivers, business development assistance, workforce training, assistance with accessing startup capital, business mentorship, assistance with expunging cannabis-related criminal

records, and utilizing cannabis tax revenues to fund community reinvestment. Regardless of what benefits the City offers, it is important to recognize the challenges that other cities have faced in implementing local cannabis equity programs. These challenges can include manipulative behavior by non-qualifying individuals taking advantage of the program, sunk costs for applicants who are ultimately unable to obtain a license, and limited staff resources to develop and implement a comprehensive program.

In addition, there are unique barriers to entry into the cannabis market that make the push for equity in the industry particularly challenging relative to other business types. These barriers include startup costs that can approach or exceed one million dollars, intense competition for a finite number of licenses, and limited availability of real estate within eligible zones of the city. Although significant, these challenges should not act as a deterrent to creating a cannabis equity program. They simply point to the need for policymakers to carefully think through the parameters of an equity program which starts with development of a cannabis equity assessment.

Cannabis Equity Grants Program for Local Jurisdictions

The State of California through GO-Biz has historically provided annual funding to local jurisdictions to assist with development of cannabis equity assessments.

City Planning Division staff, with support from the DEI team, applied for the Cannabis Equity Grants Program for Local Jurisdictions Type 1 Grant funding from GO-Biz to conduct a cannabis equity assessment for the City of Santa Monica. The grant was awarded on January 19, 2024, for the maximum amount of \$40,000 to conduct the assessment. The funds will be allocated to consultant contract services and personnel reimbursement. The equity assessment will help document the historical criminalization of cannabis and its disproportionate impact on specific populations in Santa Monica. The equity assessment will analyze both quantitative data including cannabis criminal arrest and demographic data along with qualitative data from surveys and community engagement to develop key findings and recommendations. Additional grant funding may be applied for in the future through this grant program to assist with preparing a

cannabis equity program. The amount available for request varies each year based on available State funds.

Regardless of the level of a cannabis equity program that the City should choose to pursue as discussed below, a cannabis equity assessment will be conducted to inform the cannabis equity program.

Discussion

Review of Equity Programs of Other Jurisdictions

In order to understand how to structure a cannabis equity program and what elements might be included, staff researched programs from other cities and spoke to staff who have established and implemented those programs. The following table provides a high-level summary of how various cities approached their cannabis equity programs and the resources necessary to implement the program. More detailed descriptions of social equity programs from other jurisdictions are provided in Attachment A.

Table 1: Summary Comparison of Cannabis Social Equity Programs from Other Cities

	Equity Program**	Developed at outset or later	How long to develop ordinance	How long to develop equity program	Dedicated staff/office for the program	Type of selection process
Culver City	No	N/A	~1 year	N/A	N/A	N/A
Long Beach	Yes	Later	~1 year	~2 years	Yes	RFP
Los Angeles	Yes	Later	--	--	Yes	Lottery
Oakland	Yes	Later	~2 years	3 months	Yes	Non-dispensary on rolling basis. Dispensaries through lottery
Palm Springs	Yes	Later	~1 year	9 months	Yes	Began with first come, first served but will likely move to lottery
San Diego	Yes	Later	~1 year	In process	Yes	TBD
San Francisco	Yes	Later	~1 year	~1 year	Yes	First come, first served

	Equity Program**	Developed at outset or later	How long to develop ordinance	How long to develop equity program	Dedicated staff/office for the program	Type of selection process
West Hollywood	No	N/A	~1 year	N/A	N/A	N/A

- ***Note: Of jurisdictions that had an equity program, all included standard best practices such as fee waivers and priority processing. This distinction informed the equity options being presented to Council for consideration.*

In all cases, cities developed a selection process to ensure that equity applicants could be given priority. Some of the salient points in reviewing the adult-use cannabis program of other cities were the following:

- A selection process is crucial to ensure that the equity program most benefits equity applicants from affected communities,
- Subsequent to development of an initial equity program, cities have needed to continue to refine and evolve the program to ensure that it meets the needs of equity applicants, and
- Most cities have staff dedicated solely to administer the cannabis program and/or its equity component.

Lessons Learned

The following summarize the lessons learned from the comparative research of cannabis equity programs from other cities and a brief explanation of how they apply to the Santa Monica context:

Regulatory Lesson

1. Establish a limit (whether through cap or other means) to number of licenses for retail locations.
 - Council directed that no cap be placed on the number of adult-use cannabis businesses. In most other jurisdictions that staff reviewed, programs that started with no controls on the number of businesses ended up grappling with an over concentration of businesses. This has made it a challenge to scale back the number of businesses after the fact and also

limit the number of total applicants while trying to apply an equity component.

Process Lessons

2. Create a selection process that requires meeting minimum qualifications to be an equity applicant and then apply a selection process that could include a lottery-based system.
 - Council provided direction to explore a non-discretionary selection process. Once Council direction is received on the equity program, staff will return with the ordinance and options for a selection process given Council's stated concerns about not having an excessively long selection process and concerns about legal liabilities.
3. If not developing an enhanced equity program, recommend setting aside a percentage of permits for equity businesses. Open applications to equity applicants before making it generally available.
 - If an adult-use cannabis ordinance is developed without an equity component, it is likely that equity applicants will have additional challenges in finding available locations, which will affect their ability to participate in the cannabis industry. Cities that have created an equity component after development of the regulatory ordinance found they needed to create mechanisms to ensure that a share of equity licenses are exclusively for equity applicants. The range of possibilities include setting aside a percentage of licenses compared to some cities that are only accepting applications from equity applicants.
4. Keep the application process simple: Background checks and ownership structure transparency should always be required. Eligibility criteria should not be too broad for equity applicants.
 - Equity applicants face many challenges to starting a business so any application process would need to be simple and easy to understand. The criteria to qualify as an equity applicant should also not be so onerous that it discourages broad participation. Lessons learned from other cities also

emphasized that it should be required that equity applicants have at least 51% ownership in the cannabis business.

5. Develop informational tools such as an interactive GIS cannabis map so businesses can identify existing locations.
 - Similar to informational business assistance tools that the City has already developed, this is an example of tools that the City would need to develop to help cannabis operators, including equity applicants learn and find information on the basics of how and where to start a business.
6. Sale of permits should either be prohibited or restrictions placed on their sale to ensure continuation of equity program.
 - The sale of permits is an important future consideration after the development of a cannabis program and particularly in the context of an equity program. If the program's goals include reserving some percentage of licenses for equity applicants then the sale of permits would necessarily need to be restricted in some way. However, this could mean that equity applicants potentially do not receive the full benefit of their investment if their licenses are valued differently in the market compared to non-equity licenses. This is a consideration that Council is not being asked to provide direction on at this time but is being highlighted as a component that will need further study.

Staffing Lesson

7. Create a dedicated cannabis department to ensure appropriate regulatory oversight and enforcement and provide necessary educational, technical, and business support to equity applicants.
 - Even if cities created the cannabis program and equity component in-house, all cities had staff dedicated solely to the cannabis program. Given the changing landscape of cannabis, additional staff or consultant support will be necessary to provide hands-on technical and educational assistance to equity applicants. Further, if public safety impacts of

cannabis businesses are a concern, dedicated staff are necessary to ensure appropriate oversight of cannabis businesses.

Permitting Lessons

The following lessons are related to permitting and will be considered by staff in the development of the adult-use cannabis ordinance.

8. Although equity applicants may be allowed in more desirable areas of the city, there may be pushback from non-equity operators.
9. Explore possibilities to not give businesses a vested right to run with the land for cannabis uses.
 - Conferring vested rights that run with the land for cannabis uses means that it would not allow future adjustment of operations if the City evolves the cannabis program. The City may want to explore options regarding this to allow flexibility in how the program is implemented.
10. Understand the nuances of the different cannabis operations for each permit type to have a successful program.

Equity Framework Options

Based on the comparative research of other cities and lessons learned, staff developed two policy options for the framework of a cannabis equity program – a Standard Equity option and an Enhanced Equity option. The Standard Equity option would result in a shorter timeframe to develop compared to the Enhanced Equity option and would utilize best practices and elements from equity programs in other jurisdictions. Cities that have more of a Standard Equity program include Palm Springs. Cities that have more of an Enhanced Equity program include Long Beach, San Francisco, Oakland, and Los Angeles. The differences in potential costs, staffing resources, and processes required are also highlighted in the table. The “Ordinance Only” column represents the process and timeline if only an adult-use cannabis ordinance is pursued without an equity program – this is in line with the programs in West Hollywood and Culver City. This column is only presented as a baseline for comparison with the Standard Equity and Enhanced Equity options.

Council's direction on which equity option to pursue would impact the timeline by which an ordinance and regulations would be available and thus, the timeline by which additional adult-use cannabis retailers could open in the city and resulting future tax revenues.

Based largely on available existing staff and financial resources, staff recommends that an adult-use cannabis ordinance be developed in concert with a Standard Equity option. This would allow the development of an ordinance that could build in some equity components, would initially include an administrative selection process and would not require additional staffing.

Table 2: Outline of Framework Options for Cannabis Equity Program

	ORDINANCE ONLY	STANDARD EQUITY (Recommended Option)	ENHANCED EQUITY
EQUITY PROGRAM	Adult-use cannabis ordinance only No equity program	Adult-use cannabis ordinance Equity program derived from best general practices and examples from other cities informed by Santa Monica equity assessment	Adult-use cannabis ordinance Equity program with tailored components created from comprehensive Santa Monica-specific equity assessment findings
TIMELINE	Approx. 12 months By December 2024	Approx. 12 -18 months By June 2025	Approx. 24 months and ongoing By December 2025 for initial components but will require ongoing support due to likelihood of direct and technical assistance
EQUITY ASSESSMENT	Conducted	Conducted	Conducted

	ORDINANCE ONLY	STANDARD EQUITY (Recommended Option)	ENHANCED EQUITY
COST/ FUNDING (Can vary further depending on number of businesses and level of oversight needed)	Approx. \$40K for assessment Funded by State Go-Biz Grant – Type 1	Approx. \$40K for assessment Funded by State Go-Biz Grant – Type 1	Approx. \$40K for assessment Funded by State Go-Biz Grant – Type 1 <ul style="list-style-type: none"> • Additional cost for consultant to develop enhanced equity program • Apply for ongoing State Go-Biz Type 2 grant funding and future budget actions by Council to continue to support equity program as necessary
ANTICIPATED STAFFING NEEDED	Existing Planning staff	Existing staff development of equity program Additional interdepartmental staff and/or contract staff for ongoing management of cannabis program	1 to 2 Full-time staff dedicated to cannabis program oversight and equity applicants. Depends on number of cannabis businesses and desired level of regulatory oversight
PROCESS	Based on zoning regulations (First come first served)	Administrative Non-selection process (lottery, first come first served, etc.)	Discretionary Selection process (RFP, etc.)
POTENTIAL PROGRAM ELEMENTS (for illustrative purposes only)	None	<ul style="list-style-type: none"> • Application criteria specific to equity applicants • Fee waivers • Expedited application review • Reduced or eliminate buffer requirements 	<ul style="list-style-type: none"> • Business development assistance/mentorship • Workforce training • Assistance with accessing startup capital • Assistance with expunging cannabis-related criminal records • Utilizing cannabis tax revenues to fund community reinvestment

Selection Process

Cities have taken a variety of approaches to the selection and permitting process for cannabis businesses should the community cap the number of outlets in the jurisdiction.

Application processes may be tailored to provide merit-based ranking or a lottery where appropriate for awarding a specified number of permits, or to provide a quality assurance standard for those business types where there is no such limit. The process may include specific evaluation criteria to ensure that applicants have addressed all requirements before being allowed to move forward to the permitting process. The application process can be designed to accommodate a variety of selection methods:

- Merit based: Applicants are ranked according to their score. Top-ranked applicants are selected to move forward to the permitting process, consistent with the number of permits available.
- Equity: Priority is given to individuals who qualify for the cannabis equity program, as defined by the equity assessment.
- Lottery: All applications scoring above a minimum baseline are entered into a drawing from which applications will be selected at random, consistent with the number of permits available. Those applications selected will be allowed to move forward to the permitting process.
- First come / first served: Applications are reviewed and scored in the order they are received. All applications scoring above a minimum baseline will be allowed to move forward to the permitting process, until the maximum number of permits available has been reached.

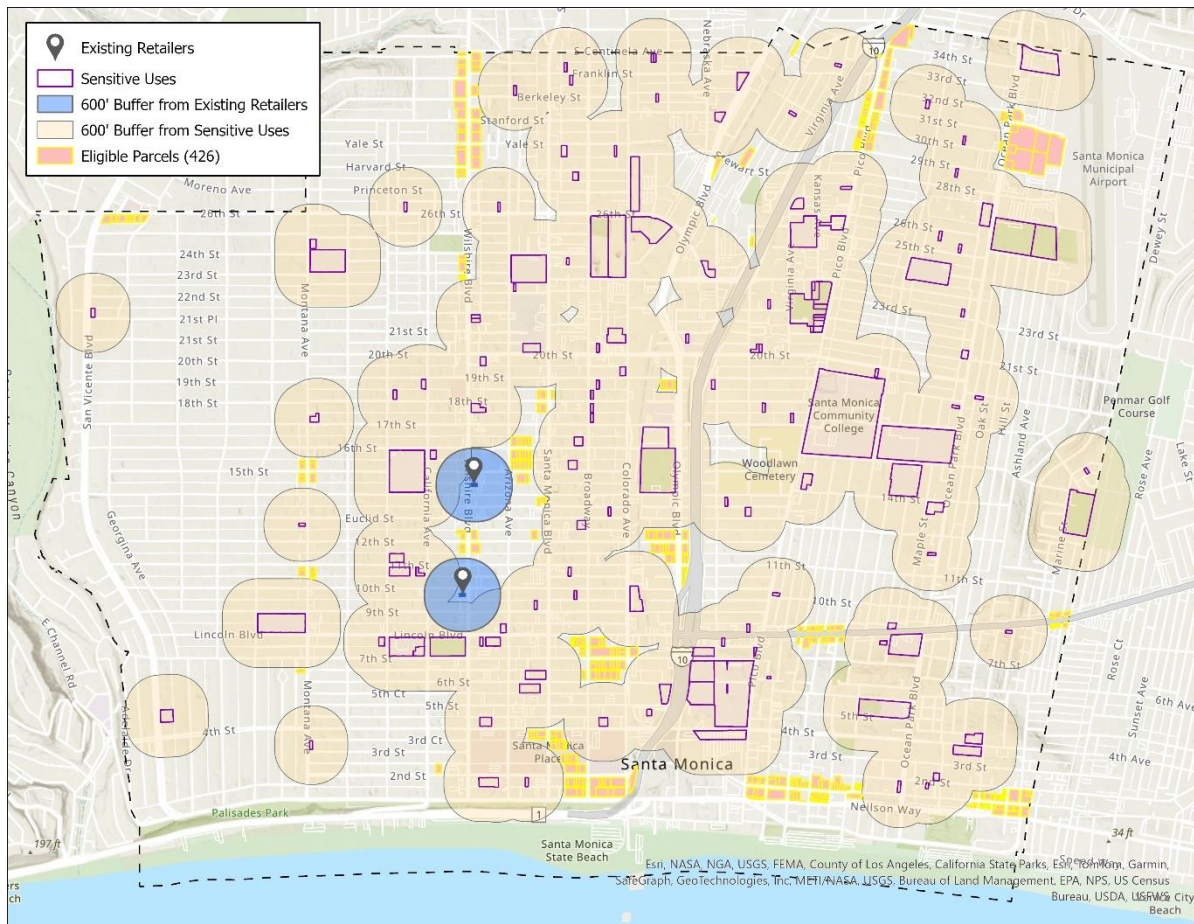
Determining the most appropriate process depends upon the number of permits available and the anticipated demand for those permits. Upon Council direction on the framework of the cannabis equity program, staff would develop the regulatory ordinance and then develop the application process.

Locational Zoning Considerations

The State of California's requirements state that cannabis businesses cannot be located within 600 feet of a "sensitive use", defined as a school, day care center, or youth center. Local jurisdictions have the authority to increase or decrease the buffer distances and/or expand the definition of "sensitive use". Prior Council direction was to

use the State's buffers from sensitive uses resulting in 426 eligible parcels where cannabis businesses could locate (see Map 1).

Map 1 – Eligible Parcels where Cannabis Businesses could Locate Based on Council-directed 600-foot buffer from Sensitive Uses (State of California baseline requirement)



In the June 2023 study session, Council also expressed concern about oversaturation of cannabis businesses and thus directed staff to explore other mechanisms to place a buffer between operators such as a distance or a per-block limit. There is precedent in the zoning ordinance to place locational restrictions on particular land uses such as a limit on the number of restaurants per block (e.g. on Main Street) and also a minimum distance between similar uses (e.g. neighborhood stores in residential areas).

The following table and maps illustrate the potential result of implementing options for distance between operators with an estimate of how many total operators would result

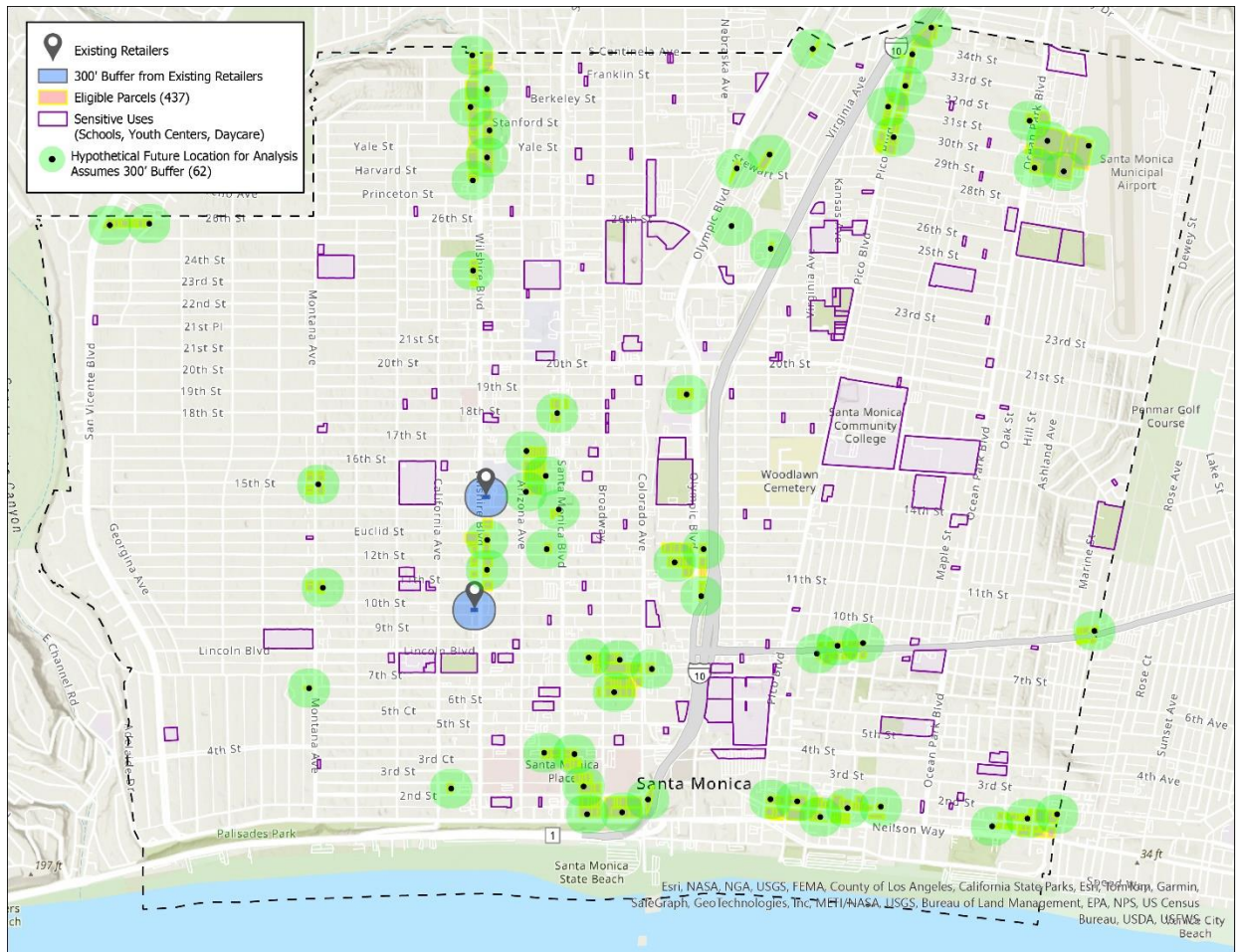
citywide. The small buffer (i.e. 300 feet between businesses) would mean that there would potentially be more cannabis businesses in the city than would be allowed under the large buffer (i.e. 900 feet).

It is important to note the maps that are the basis for these rough estimates are based on hypothetical locations of potential future cannabis businesses on eligible parcels. Eligible parcels were determined by setting a 600-foot buffer from sensitive uses per the State of California requirements and as directed by Council. These rough estimates are only for the purpose of informing Council's policy decision and include the two existing approved locations where medicinal cannabis operators have been authorized to sell adult-use cannabis through an Interim Zoning Ordinance but otherwise do not represent any pending applications.

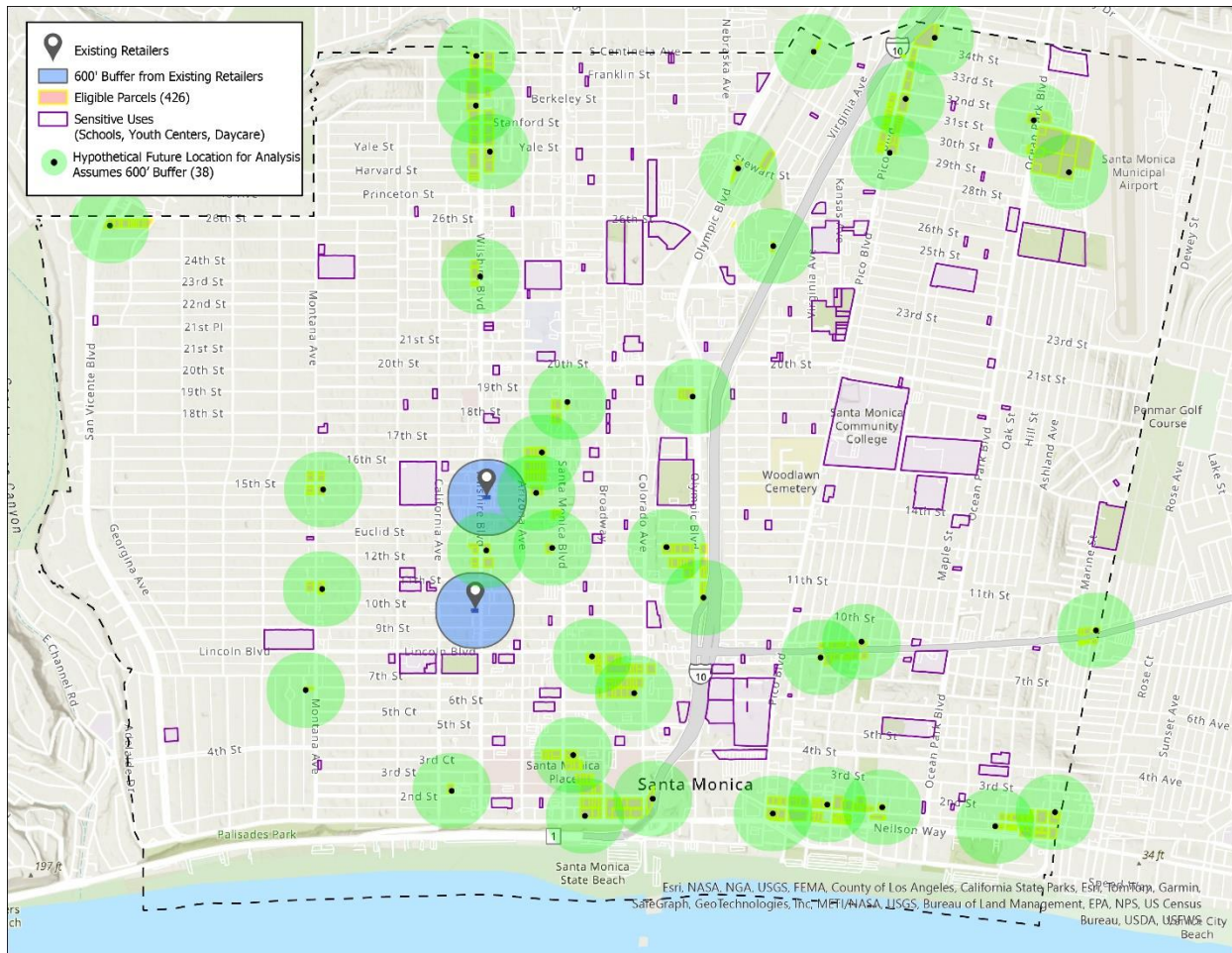
Table 1: Rough Estimate of Possible Total Number of Operators Based on Possible Options for Distance Between Cannabis Businesses assuming not more than 1 per block

	Small (300' Buffer)	Medium (600' Buffer)	Large (900' Buffer)
Potential Maximum Number of Cannabis Businesses	62	38	29

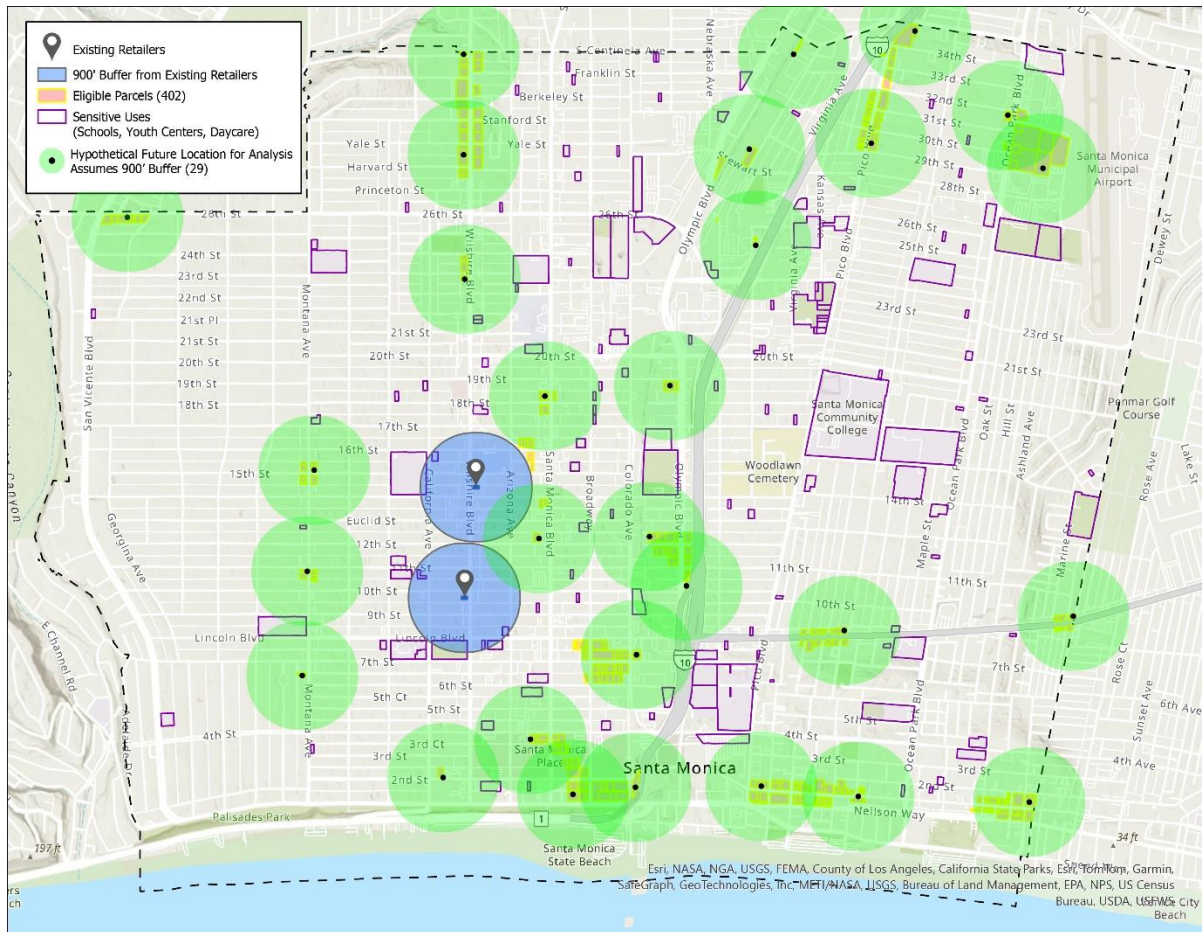
Map 2 – Rough Estimation of Highest Potential Number of Operators Citywide
Assuming Small 300' buffer between Cannabis Businesses



Map 3 – Rough Estimation of Highest Potential Number of Operators Citywide
Assuming Medium 600' buffer between Cannabis Businesses



Map 4 – Rough Estimation of Highest Potential Number of Operators Citywide
Assuming Large 900' buffer between Cannabis Businesses



Council should provide direction on the following key policy questions regarding additional locational restrictions for cannabis businesses:

1. Should there be an additional buffer around particular sensitive uses in the City?
2. For distances between operators, would Council prefer a small (300'), medium (600'), or large (900') buffer?
3. In addition to a distance between operators, should there be an additional restriction that states that in no case should there be more than 1 cannabis business per block?

Next Steps

The following are next steps in the development of the adult-use cannabis program with anticipated timelines for staff to return with an ordinance:

- May – December 2024 - Hire consultant and conduct equity assessment
- By December 2024 - Develop cannabis ordinance and administrative guidelines. Apply for additional Cannabis Equity Grants (Type 1) funding to assist in the development of a cannabis equity program
- Develop cannabis equity program – timeline will depend on Council direction
- December 2024/January 2025 – Apply for next round of Cannabis Equity Grants Program (Type 1) for creation of equity program that could also include direct assistance to cannabis businesses

Past Council Actions

<u>Meeting Date</u>	<u>Description</u>
06/13/23 (Attachment B)	Adult-Use Cannabis Study Session
10/24/23 (Attachment C)	Interim Zoning Ordinance (IZO) authorizing medicinal cannabis retailers to sell adult use cannabis

Environmental Review

No environmental review under CEQA is required at this time since the purpose of this study session is to receive Council direction and comments. No actions are being undertaken that will result in direct or indirect physical changes in the environment.

Financial Impacts and Budget Actions

There is no immediate financial impact or budget request as a result of the recommended action today. Staff will return to Council if specific budget actions are required in the future.

Prepared By: Tony Kim, Principal Planner


Approved

Forwarded to Council

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David Martin, Director

3/8/2024

A handwritten signature in blue ink, appearing to read "David White", written over a horizontal line.

David White, City Manager

3/13/2024

Attachments:

- A. Attachment A - Detailed Summary of Cannabis Programs from Other Cities
- B. City Council June 13, 2023 - Adult Use Cannabis Study Session (Web Link)
- C. City Council October 24, 2023 - IZO (Web Link)