



# Council Agenda Report

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Date: 5/4/2021

Item No.: 14.

**FROM:** Hans Uslar, City Manager

**SUBJECT:** Review and Provide Guidance on Step 2 Elements of the Commercial Cannabis Roadmap (Not a Project under CEQA Article 20, Section 15378 and under General Rule Article 5, Section 15061)

## **RECOMMENDATION:**

That the City Council provide guidance on Step 2 Elements of the Commercial Cannabis Roadmap.

## **FISCAL IMPLICATIONS:**

The analysis, discussion, implementation and management of cannabis businesses will require allocation of staff resources. Some of those costs can be recovered through regulatory fees (e.g., cost recovery for issuing licenses and permits) and taxes. Cannabis businesses are expected to bring in additional fees, sales tax, business license tax and cannabis excise tax revenues. A recent analysis by HdL Companies shows the city estimated tax or fee revenue for cannabis retailers to be between \$0.5M to \$1.5M per year. Variability in the city revenue depends upon factors such retailer location(s) and market saturation (i.e., other cannabis retailers in Monterey County).

Proposition 64 added a state excise tax of 15% on the privilege of purchasing cannabis at a retail store (Rev. & Taxation Code section 34011(a).) It also added an excise tax for the privilege of cultivating cannabis. Proposition 64 did not affect the City's authority to impose taxes on cannabis except for cannabis cultivated for personal use is exempt and medical cannabis is exempt from state and local sales tax but not state or local excise taxes. The City could consider a future ballot measure to implement a local cannabis excise tax. City sales tax cannot differ from Bradley-Burns Uniform Sales and Use tax law in either what is taxed or the rate of tax.

## **ENVIRONMENTAL DETERMINATION:**

The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CCR, Title 14, Chapter 3 CEQA Guidelines Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

## **ALTERNATIVES CONSIDERED:**

The purpose of the meeting is to continue implementing the Commercial Cannabis Roadmap. Council direction will allow staff to prepare for Step 3 of the roadmap, which includes drafting policy and selection process guidelines. Alternatives will be considered during the policy development process.

## **DISCUSSION:**

### ***Completed Steps in the Cannabis Roadmap***

The City Council began discussion of cannabis operations at its Study Session on September 30, 2020, and later received a presentation from staff on the *Roadmap for Cannabis: An Engaging, Adaptable, and Transparent Process*.

*The Roadmap for Cannabis*, which was reviewed by the City Council on December 1, 2020, provided general direction on how to conduct public feedback, policy development, and potential implementation of commercial cannabis policy in the City of Monterey. Targeted outreach to residents, business, and community stakeholders took place from December 2020 through February 2021.

At a special meeting on February 24, the City Council received a report highlighting potential revenue (Attachment 1), public safety data, and community feedback. The City Council voted to enter into Step 2 of the Commercial Cannabis Roadmap, giving the “green light” to prioritize commercial cannabis as a policy issue and dedicate significant staffing resources with the intent to approve some form of commercial cannabis operations in Monterey.

### ***Current Stage in the Cannabis Roadmap: Step 2***

Spring 2021 is dedicated to the City Council making specific decisions on elements of Step 2 of the Cannabis Roadmap, in order for policies and procedures to be formalized. These decision points include:

- **Retail Operations:** How many retailers should be allowed? What location(s) should they be permitted?
- **Special Events:** Could staff begin to explore and engage with the public to consider cannabis special events?

At its meeting on May 4, 2021, the City Council will be asked to address these decision points. Clear guidance from the City Council would allow staff to refine policies and procedures and move into Step 3 of the Roadmap.

### ***Retail Operations***

The fiscal analysis completed by consulting firm HdL estimates the current market can sustain up to three (3) cannabis retail permits within the City. The public surveys show that 70.8% (postcard survey) and 74.9% (online survey) of Monterey residents believe the City should limit the number of permits issued for storefront cannabis retailers. Business groups that expressed support for cannabis retail operations in their areas include the New Monterey Business Association, Cannery Row Company, North Fremont Business Association, and Old Monterey Business Association (except Alvarado Street).

The State of California requires 600 feet buffer zones around schools and childcare facilities where cannabis retail stores would be prohibited.

Business associations have reported that land speculation has already begun among both landlords and potential cannabis retail tenants. Therefore, it is important for the City Council to identify allowable zones.

Staff Recommendation: Based on the fiscal analysis and community feedback, staff recommends the approval of one (1) cannabis retail permit in each of the following three (3) zones outside of a 600 feet buffer zone around schools and childcare facilities:

- Lighthouse Avenue
  - Cannery Row
  - Old Monterey (excluding Alvarado Street)
- (Staff is not recommending hotel properties in these areas that have voter-approved Visitor Accommodation Facility zoning)

Detailed maps of these zones are attached (see Attachment 1). On April 13, 2021, City staff met with executive directors and/or representatives of the Old Monterey, New Monterey, Cannery Row, North Fremont, and Fisherman's Wharf business associations, as well as presidents of the adjoining neighborhood associations (New Monterey, Downtown, Villa del Monte, Del Monte Grove/Laguna Grande, and Casanova Oak Knoll). The business and neighborhood stakeholders largely support the staff proposal to locate one cannabis retailer in each of the three zones listed above.

Late on Thursday, April 29, just prior to production of the agenda packet, the City received correspondence from two business associations: a letter from the North Fremont Business Association advocating for a cannabis retail zone to be created in their business district (Attachment 3) and a letter from the Cannery Row Business Association stating their opposition to cannabis retail activity in their business district.

### ***Alternative to Limiting the Number of Retail Locations***

Alternatively, the City Council could choose not to limit the number of cannabis retail locations in Monterey. This would allow market forces to determine which and how many cannabis retailers would be located in these zones. In some municipalities, limiting the number of retail locations has resulted in litigation because cities or counties decide which businesses are allowed. Although the city would follow a process that is as fair and equitable as possible based on clear criteria, the selection process might still be perceived by commercial operators as subjective.

### ***Special Events***

As a regional tourist destination, there are opportunities for the cannabis events to take place in the City of Monterey. The Monterey County Fairgrounds, for example, has asked the City to permit cannabis-related events (Attachment 2). These events feature the sale of cannabis and cannabis-themed products, which are not currently permitted in the City.

Several issues must be considered before special events are permitted in venues such as the Fairgrounds. This includes the likelihood of cannabis being consumed in public settings, safety considerations, and potential nuisance violations in the Casanova-Oak Knoll Neighborhood.

Staff Recommendation: Allow staff to engage with the public regarding cannabis-related special events at various locations in the City of Monterey. Considerations include locations, number of events, operational, revenue, potential nuisance violations, and public safety impacts.

### **Next Steps**

Following the Council's guidance on retail operations and special events, the Planning Commission will work with staff and the community to develop an ordinance to regulate business locations and operations. With specific direction from the Council, staff may prepare a draft ordinance for Planning Commission review. Ultimately, the Planning Commission will make a recommendation to the Council for final adoption of a draft ordinance. The process of developing a draft ordinance and Planning Commission review could take several public meetings over the course of the next year. Staff recommends the Council provide both staff and the Planning Commission with specific guidance on the locations and regulations necessary for a final decision.

Details of next steps include:

1. Preparation of: Lighthouse Specific Plan amendment, Downtown Specific Plan amendment and Coastal Plan amendment if area included and Cannery Row Zoning and Coastal Plan amendment.
2. Preparation of environmental document for these amendments (minimum 30-day circulation period for Initial Study Negative Declaration or Mitigated Negative Declaration). If an Environmental Impact Report (EIR) is needed, it will take up to 180 days.
3. Planning Commission hosts public hearings on these proposed amendments and adopts resolutions recommending the proposed changes
4. City Council hosts public hearings on these amendments
5. City can issue RFP or select providers (if the City chooses to limit the number of retailers)
6. Planning Commission can review permits in the Lighthouse and Downtown areas
7. After approval of the Cannery Row Coastal Land Use Plan Amendments, the City Council will send its proposed amendment to the California Coastal Commission for review and approval. If approved, they will send the approval to the City. The City will then host another meeting to accept the proposed changes. After the Coastal Commission process is finalized, the Planning Commission could issue permits. Subsequent review of the coastal permits will be required for each site in the coastal zone.

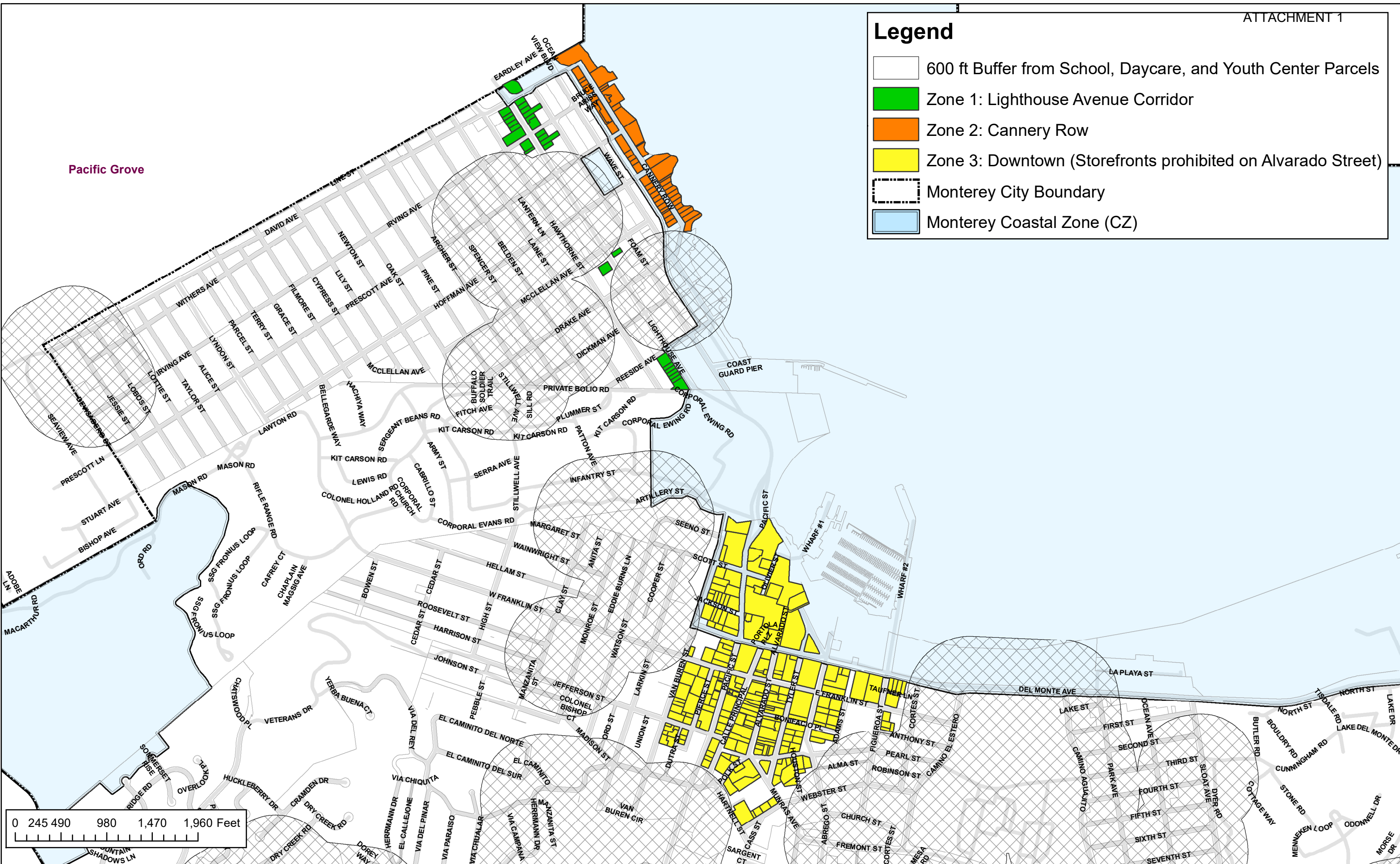
As part of Step 3 in the Commercial Cannabis Roadmap, which is expected to take place from summer through fall 2021, City staff will also establish guidelines for the cannabis selection process.

- Attachments:
1. Proposed Cannabis Retail Operation Zones, including eligible Downtown Specific Plan parcels
  2. Cannabis Events Support Letter, Monterey County Fairgrounds
  3. Retail Cannabis Support Letter, North Fremont Business Association
  4. Retail Cannabis Opposition Letter, Cannery Row Business Association

Writings distributed for discussion or consideration on this matter within 72 hours prior to the meeting, pursuant to Government Code § 54957.5, will be made available at the following link:  
<https://monterey.org/Submitted-Comments>

Legend

- 600 ft Buffer from School, Daycare, and Youth Center Parcels
- Zone 1: Lighthouse Avenue Corridor
- Zone 2: Cannery Row
- Zone 3: Downtown (Storefronts prohibited on Alvarado Street)
- Monterey City Boundary
- Monterey Coastal Zone (CZ)



Source: City of Monterey,

Council Regular Meeting, 6/4/2021, Item No 14, Item Page 3, Packet Page 33

City of Monterey Suggested Commercial Retail Cannabis Zones Alternative 1

Note: Visible storefronts on Alvarado Street prohibited





SENT VIA E-MAIL

February 22, 2021

Mayor Clyde Roberson  
City of Monterey  
City Hall  
580 Pacific Street  
Monterey, CA 93940

Dear Mayor Roberson:

On behalf of the 7<sup>th</sup> DAA Board of Directors, I would like to share the Monterey County Fair's support of cannabis in the City of Monterey including the potential of cannabis events at the Monterey County Fair & Event Center that include sales and consumption on site.

Cannabis events will generate revenue for the City through business licenses and sales tax. In addition, such events require an event organizer's license from the Bureau of Cannabis Control in California. A portion of this fee benefits the jurisdiction in which the event takes place, which will be yet another financial benefit for the City of Monterey.

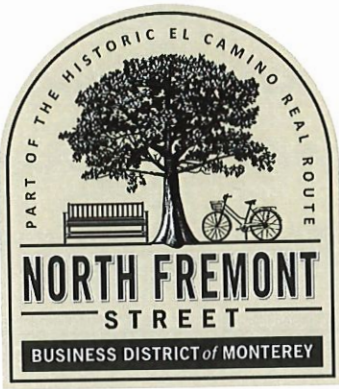
I look forward to working with the City of Monterey to bring cannabis events to the Fairgrounds!

Kindest Regards,

A handwritten signature in black ink that reads "Kelly Violini". The signature is written in a cursive, flowing style.

Kelly Violini  
CEO/Manager  
Monterey County Fair & Event Center

Cc: City Manager, Hans Uslar  
7<sup>th</sup> District Ag Association Board of Directors

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*Casanova/Oak Knoll*  
*Neighborhood Association*

*Tyller Williamson*  
*Monterey City Council*  
*Fernanda Roveri*  
*City of Monterey Staff Liaison*

c/o 2004 Fairground Road  
Monterey, CA 93940  
(831) 372-8106  
[www.northfremontmonterey.org](http://www.northfremontmonterey.org)

April 28, 2021

Mayor Clyde Roberson  
City of Monterey  
Pacific & Madison  
Monterey, CA 93940

Dear Mayor Roberson:

On Tuesday, April 13<sup>th</sup>, a Zoom meeting was held to discuss cannabis retail zones. Executive Directors and representatives from Cannery Row, Downtown and Lighthouse Business Districts were invited to this meeting, however the North Fremont Business District was not notified or invited to attend.

Ironically, all three of these Business Districts are being considered as potential sites for retail cannabis stores within the City of Monterey, whereas the North Fremont Business District, which was not represented, is not being considered.

As you are aware, the North Fremont corridor has 17 hotels, 14 restaurants and 80 businesses as well as the Fairgrounds bringing in over 103,000 tourists on an annual basis.

There seems to be a lack of transparency regarding cannabis retail zones and the North Fremont corridor. Our Business district has written letters of support and wishes to be considered for a future cannabis retail location.

As this subject is scheduled to be discussed on May 4<sup>th</sup> at City Council, I am requesting a meeting to be held prior to that date so our Business District is represented and included in the conversation.

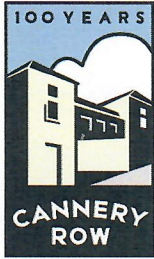
I can be reached at [kelly@montereycountyfair.com](mailto:kelly@montereycountyfair.com) or by phone at 831-372-8106 and look forward to scheduling a meeting.

Sincerely,

Kelly Violini  
NFBDM President  
CEO/Monterey County Fair

Cc: Dan Albert, City Council  
Alan Haffa, City Council  
Ed Smith, City Council  
Tyller Williamson, City Council  
Hans Uslar, City Manager  
Nat Rojanasathira, Assistant City Manager





# Cannery Row Business Association

Founded 1960

April 29, 2021

Mayor Clyde Roberson and Council Members  
City of Monterey  
City Hall  
Monterey, CA 93940

Dear Mayor Roberson and Honorable Council Members:

We want to thank the City Council, the City Manager and city staff for the thorough process you are taking with the residents and business community regarding the permitting of cannabis stores in the city limits. We also appreciate the opportunity to provide you with input from the Cannery Row Business Association (CRBA).


As we learned at a recent meeting, staff is recommending that one of the three potential locations for a cannabis store is within the CRBA district. Our board met and after discussion a unanimous vote was taken to strongly oppose this recommendation.

Our concerns are as follows:

- Cannery Row is a family friendly destination and we have worked hard to make our area safe and welcoming. Cannabis dispensaries are not compatible with our family audience.
- We believe that the Monterey Bay Aquarium's Bechtel Family Center for Ocean Education and Leadership should be considered in the same category as schools and daycare centers. With the return of school field trips, children walking between the Aquarium and the Bechtel Center will potentially be exposed to cannabis shops.
- The Recreation Trail runs through our district and is heavily utilized by families and children.
- Parking is already impacted during our busy months and remains a top complaint by both tourists and residents.
- Our district generates substantial sales tax and TOT dollars for the City. We want to focus on maintaining these revenue levels without the potential risk of losing visitors to other markets due to perceptions that we are not family friendly.

Please feel free to contact one of us if you have any questions.

Sincerely,

  
Lance Koehler, Co-Chair  
CRBA

Sincerely,

  
DeAnn Brady, Co-Chair  
CRBA

Cc: Hans Uslar, City Manager

P.O. Box 1203, Monterey, CA 93940  
626-8636 / 626-4269 fax