

THE ATRIUM GROUP LLC

August 18, 2019

The Honorable Terry Tornek, Mayor of
Pasadena
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
Pasadena, CA 91101

Mr. Tyron Hampton, Vice Mayor of Pasadena &
City Councilmember District 1
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
Pasadena, CA 91101

Ms. Margaret McAustin, City Councilmember
District 2
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
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Mr. John J. Kennedy, City Councilmember
District 3
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
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Mr. Gene Masuda, City Councilmember
District 4
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
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Mr. Victor M. Gordo, City Councilmember
District 5
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
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Mr. Steve Madison, City Councilmember
District 6
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
Pasadena, CA 91101

Mr. Andy Wilson, City Councilmember
District 7
City of Pasadena, City Hall
100 N. Garfield Avenue, Room S228
Pasadena, CA 91101

Dear Honorable Mayor and Members of the Pasadena City Council:

It has come to our attention that the City Council will be holding a closed session on Monday, August 19th to discuss, among other things, the City's potential exposure to litigation. Although the published agenda does not divulge the specific areas of exposure for the City, it's safe to assume that this closed-door session is related to the impending litigation the City is facing from at least one, if not several, parties who have claims against the City in connection with the City's handling of Conditional Use Permit applications from prospective cannabis retailers.

If it is not clear now, it will certainly become apparent once the City's own investigation into its cannabis permitting program has been concluded, that the City is facing substantial liabilities as a result of the actions of its Planning staff.

As the City grapples with how to handle this difficult situation, I would like to propose a three-part solution that will allow each of the final six permit applicants to find a suitable business location, thereby negating the need for any of the applicants to pursue their claims against the City. Each component of the solution, though varying from current Pasadena regulations, fully conforms with California cannabis laws.

First, I suggest that the Council remove the caps on the number of retailers allowed in each District. This limit was an arbitrary decision and, in hindsight, just doesn't make a lot of sense. At the very least, I would suggest increasing the cap to two (2) per District, except for District 3, which because of its central location, commercial traffic and size, should be allowed to have three (3) cannabis retailers.

Secondly, I would reduce the required distance requirements between cannabis retailers from 1,000 feet to 450 feet. This, in conjunction with the first recommendation above, should fully resolve the concerns of two aggrieved applicants who each have significant claims against the City.

Finally, if the City truly wishes to reduce the tension and inequities that its restrictive zoning rules have created, it should reduce the sensitive use buffer zones for churches, substance abuse treatment facilities, and residential areas from 600 ft to 200 ft. None of these are recognized as state-mandated sensitive uses. In particular, the residential setback requirement is egregiously onerous and substantially out of touch with anything I have ever seen in other jurisdictions. This limitation should really be removed in its entirety, aside from a restriction that a cannabis retail location cannot be directly abutting a property zoned for residential use.

Taken collectively, these measures will allow the City to avoid the risks and uncertainty of litigation, while allowing all six approved retail candidates to find viable locations. Furthermore, a less restrictive map would allow more City neighborhoods to be served by lawful cannabis sales, while encouraging the six retail candidates to carve out their own territories rather than crowding into the same limited sectors that are currently being contested. And with a broader map, these premium cannabis stores will bring commercial vitality and jobs to a broader swath of the Pasadena community.

Sincerely,

Chris Berman
Chief Operating Officer
The Atrium Group, LLC

cc: Mr. Dean Bornstein, Chief Executive Officer, The Atrium Group, LLC
Mr. Steven Mermell, City Manager
Ms. Michele Beal Bagneris, City Attorney

Mr. Nicholas G. Rodriguez, Assist. City Manager

Mr. David Reyes, Director of Pasadena Department of Planning & Development

Mr. Christopher Sutton, Esq.