

Housing and Community Development/Cannabis Program
Proposed Alternative Enhancements to the Citygate & Associates, LLC Recommendations

Cannabis Business Permit (CBP) Backlog

Staff believes the Citygate & Associates LLC report misrepresents the CBP backlog. In the Executive Summary on page 1 paragraph 2, the report states “The time from cannabis business permit application to approval is historically more than one year and is often several years.” The statement is misleading in that the CBP initial application submittal is not required until the land use permit has been approved. The historical backlog is based on 89 CBP applications submitted on or around February 2020 when 71% of the associated land use permits had not been approved.

In early 2020, the former Resource Management Agency (RMA) Director and Program agreed to require all commercial cannabis business operators to submit a CBP initial application due to the delay in processing land use permits. The Program needed more information about the operator to understand who was operating, who owned the business, identify other financial interest holders, and more importantly, begin to require operators to meet the requirements of Monterey County Code Chapter 7.90.

Proposed Alternative Enhancement No. 1

Establish a Provisional Cannabis Business Permit (PCBP) through a stand-alone ordinance and a process that would replace the existing stipulated agreement approach. The details of this process will be reviewed in the first reading report that follows this presentation. The existing stipulated agreement process is time consuming; requiring as many as 100 new stipulated agreements to be negotiated would be even more so, particularly as staff would need to track each agreement to monitor progress and for enforcement, if necessary.

Options for Proposed Alternative Enhancement No. 1 are as follows.

1. Issue a PCBP to current operators for one year following the effective date of the Ordinance creating this process.
 - a. There will not be a fee for the PCBP.
 - b. During the twelve-month period, each operator would have the opportunity to complete those requirements that are critical and important including but not limited to: land use permit entitlement, specific conditions, Infrastructure Improvement TRA-3 and fee payments, public water systems, septic systems, and hazardous materials requirements. Details will be developed once the full Board makes a determination and provides direction.
 - c. At the end of the twelve months, staff will determine whether each Operator has completed or, at minimum, made substantial progress toward satisfying these critical requirements.

- i. If so, the PCBP will be renewed until December 31, 2023, for state license holders considered large and December 31, 2025 for all others at which time it will expire by its own terms. If critical requirements or substantial progress toward those requirements is not made by that time, the operation would be required to cease and an Administrative Fine would become due and payable, in addition to cost recovery fees unless 1) there are special, extraordinary circumstances outside the control of the operator that make completion of one or more requirements impossible; and 2) all relevant departments approve of a limited extension.
 - ii. Should the operator fail to meet critical requirements by the end of the six-month term, the operation would be required to cease, and an Administrative Fine would become due and payable, in addition to cost recovery fees, unless 1) there are special, extraordinary circumstances outside the control of the operator that make completion of one or more requirements impossible; and 2) all relevant departments approve of a limited extension.
 2. The local land use permits that have not had any progress within 6 months will be recommended for denial without prejudice.
 - a. The Department of Cannabis Control will be notified of such actions.

The benefit of the PCBP would be to formally establish a process to issue a CBP and provide local authorization for an annual state license before the applicant has satisfied certain land use obligations. The PCBP would also incentivize operators to complete permitting requirements by placing a definite end date on the process.

Those that are not currently operating would need to satisfy all County requirements before they can become operational. They would not be considered for a PCBP. Moreover, the PCBP would terminate the “Good Standing” criteria regime.

Proposed Alternative Enhancement No. 2

The Budget Office has denied the Program’s augmentation request of \$265,280 to be used for outside consultant work to expedite the processing of cannabis permits. Rincon Consultants and CSG Consultants have been retained to assist with expediting cannabis-related permits since May and March of 2021 respectively. This allocation is critical to expedite cannabis related permits.

Of the 33 land use permits reviewed by Rincon, 10 have been approved and 5 have been withdrawn. Of the 19 building permits reviewed by CSG, 1 has been issued, 1 has been finalized, and 1 has been withdrawn. The Program will require this allocation to continue expediting cannabis-related permits.

Proposed Alternative Enhancement No. 3

Since July 2021, the Program has coordinated and met with 34 land use applicants and County departments to review the land use permit status, discuss incomplete items, and set milestones for completion. Combined with the outside consultants work to expedite land use permits, these meetings have resulted in 8 land use permits moving to a complete status, set for hearing, or approved status in FY 22.

Staff believes in the efficacy of this process and proposes building upon this process and establishing priorities to assist in progressing the remaining land use applications. The Program has divided the land use permits and associated CBPs into five categories based on SB 160 state provisional sunset dates.

- Category A – Large Licenses (highest priority)
 - The large license is considered commercial cannabis cultivation >22,000 square feet (SF) for mixed light/indoor or >1 acre (AC) for outdoor.
 - The last day to renew a provisional license for this type is January 1, 2023, or for simplicity, Calendar Year (CY) 2022.
 - 32 PLNs and 42 CBPs pending approval
- Category B – Small/Equity Licenses
 - The small/equity license is considered commercial cannabis cultivation <22,000 SF for mixed light/indoor or <20,000 SF for outdoor.
 - The last day to renew a provisional license for this type is January 1, 2025, or for simplicity CY 2024.
 - 23 PLNs and 39 CBPs pending approval
- Category C – Retail
 - The last day to renew a provisional license for this type is January 1, 2025, or for simplicity, CY 2024.
 - 3 PLNs and 2 CBPs pending approval
- Category D – All Other License Types
 - This category includes the following: distribution, nursery, manufacturing, and testing.
 - The last day to renew a provisional license for this type is January 1, 2025, or for simplicity, CY 2024.
 - 9 PLNs and 17 CBPs pending approval
- Category E – Miscellaneous
 - This category is comprised of a single land use permit that was approved for indoor cultivation and non-volatile manufacturing. Staff determined that the CBP associated with this property is under the oversight of the United States Drug Enforcement Administration.

There are 32 land use permits and 28 associated CBPs that will need to gain compliance in CY 2023, depending on the state license expiration date. On March 14, 2022, the Program met with the Cannabis Management Team (participants identified in Alternative Enhancement #1). The Management Team agreed to the following.

1. Continue individual applicant meetings to review incomplete items, set target completion dates, and track progress.
 - a. The Program will create a matrix to track meetings, target dates, and create an individual SMART goal for each applicant to share progress and outcomes.
2. After several meetings with the HCD Director and EHB Bureau Chief, the Program revised the compliance inspection process as follows. HCD and EHB agreed to the process. It was identified the HCD compliance inspection staff had other work duties that prevented them from completing research assignments related to building permits and caused frustration between the Program and HCD staff. The Program has agreed to absorb this task of researching all relevant required permits and enhancing its assistance to the industry in navigating the county departments, redirecting to appropriate department staff, or assisting with questions to assist them in meeting requirements to become locally compliant and eligible for their respective state licenses. This absorption of work will need to be prioritized against other competing priorities and the Program will be seeking out-of-class assignment pay for one staff member.

Revised Compliance Inspection Process:

- a. An inspection will be scheduled when the applicant has made significant progress in respective permits, a cannabis business permit is being issued or renewed, a significant complaint or inquiry is received, a modification request is received, a cultivation square footage measurement is needed, or any other miscellaneous requests that may require an inspection.
 - i. The site inspection will be conducted using the most recent Correction Notice as a guide. Any new egregious violation will be added. Violations that can be corrected on site will be observed and not included in the Correction Notice that will be issued.
- b. We will not schedule the daily 8:10 AM meeting unless inspection(s) is/are scheduled for that day.
- c. The inspectors will be expected to complete the site inspection, result the inspection in Accela, and create the PowerPoint slide deck within the agreed timeframe. As of now, it is within 24 hours.
- d. The Program will not request inspection staff to complete any research on related permits.
- e. All staff will be expected to record their time on the timesheet using the cannabis override code for cannabis work activities only.

Proposed Alternative Enhancement No. 4

In each of the RMA and Cannabis Program reports, Citygate made the same recommendations to establish service-level commitments and to develop performance measures. While staff believe that substantial improvements have already been made, the Cannabis Program has created SMART (Specific, Measurable, Achievable, Relevant and Time-Bound) goals to provide transparency to the Program's ability to process a CBP within the limits set in this goal. These

goals can be found in Attachment D. HCD and Program staff will continue to develop SMART goals that measure and demonstrate the efficiency of our respective processes. Staff will report the outcomes related to these goals and service level commitments to the Board and Cannabis Committee.

Proposed Alternative Enhancement No. 5

Expand the regular meetings with land use permit applicants to begin meetings with all CBP applicants in small focus groups. This was completed in April 2022.

The focus groups proved to be very valuable for cannabis operators, as well as County staff. The results of the small cannabis industry focus groups provided the information for staff to review requirements and modify where reasonable and allowable and continue efforts to improve internal processes.