

**From:** [Raj J. Pottabathni](#)  
**To:** [planningweb](#)  
**Subject:** Re: Agenda Item E.5 (Cannabis Zoning Ordinance Amendment) Public Comment  
**Date:** Wednesday, June 7, 2023 1:04:47 PM

---

(Sorry, there were a couple typo's in the previous version, please circulate this one, thank you.)

-----

Planning Commission Members,

My name is Raj, I am part of the Jiva MCE applicant team, and was the first-runner up back in the 2018 initial round, and again, the first-runner up in the 2022 round.

We support adding an additional retail permit, and believe more than 5 permits can be effective for the City of Merced's Commercial Cannabis Business program. However, wanted to give you some information as to why 10 is just too many.

Increasing the number of available permits from 5 to 10 would imperil Merced's cannabis market (and any resultant tax revenues) with oversaturation and insufficient demand, particularly given the state of the California cannabis industry. The current state of the California cannabis industry is quite dire. Wholesale cannabis pricing, and cannabis revenue, in California fell off steeply in 2021 and 2022 following pandemic era (2020) highs.

The California Legislative Analyst's Office ("LAO") recently reported on fourth quarter (Q4) 2022 revenue, noting that cannabis excise tax revenue has declined for six straight quarters. Declining operator revenues have resulted in significant excise tax underperformance, and the LAO currently anticipates revenues will fall short of the Fiscal Year 2022/23 Governor's Budget estimate issued in January 2023 by some \$158,000,000 (the revised LAO revenue estimates for Fiscal Year 2022/23 is \$484,000,000 versus the originally projected \$642,000,000).

At the February 21, 2023 Merced City Council meeting, the City of Merced Finance Department reported similar trends at the local level. Staff noted a 3.3% decrease in City sales tax revenue for Q3 2022 versus Q3 2021. By contrast, Measure Y cannabis tax revenues dipped much more steeply, with Finance reporting a decrease of 30-34% for Q3/Q4 2022 based on reporting. On a cash basis, revenue is down some 56% from the Q3/Q4 2020 high. Staff further noted that the dip in revenues will impact funding of City programs.

Faced with declining Measure Y revenue, doubling the number of cannabis retail locations in the City to 10 may seem like a good option to increase revenue. However, this decision would have the opposite effect. The combined effect of IRS Section 280e, which disallows cannabis operators from taking normal business deductions, and high cannabis tax rates makes the effective tax rate for California cannabis retailers close to 75%. Beyond that, cannabis businesses must contend with significant fixed expenses required to meet minimum regulatory standards. In this environment, cannabis retailers must bring in high top line revenue just to break even. Unfortunately, little progress is expected in 2023 at the federal level. Without federal legalization, reclassification of cannabis, or 280e tax and banking reform, cannabis industry growth will continue to be hampered. This dynamic puts further pressure on cannabis operators already contending with the ongoing downturn in the California market.

Tax revenue will only increase by the percentage of additional market capture related to customers who are presently shopping either in the illicit market or in a different community. With the maturity of existing retailers, it is unlikely that there will be an increase in consumption or an increase in the number of customers who already had access to existing stores but are now choosing to incorporate cannabis consumption into their lives. For this reason, only those locations that are regionally significant and not redundant to existing competitors hold promise to generate new tax revenue. This factor also speaks to the relocation issue, briefed below. While Jiva's unique location checks this box, few other potential locations in the City do. Increasing the total number of stores to 10 is unlikely to generate significant

additional tax revenue and threatens to dilute top line revenue at existing stores.

Regards,



**RAJ J. POTTABATHNI**

---

Principal & Managing Director

C: +1-732-801-6300

E: [Raj@JivaLife.org](mailto:Raj@JivaLife.org)

3056 Castro Valley Blvd. (#111)

Castro Valley, CA 94546

**CONFIDENTIALITY NOTICE:** The contents of this electronic mail or message including any attachments/links are intended solely for the addressee(s) as an individual or entity and may contain confidential and/or privileged information and shall be legally protected from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in this message is strictly prohibited. If you have received this transmission in error, please delete all copies and notify us immediately by forwarding a copy of this message to [Raj@JivaLife.org](mailto:Raj@JivaLife.org). Thank you.