

CITY PLANNING DEPARTMENT



Memorandum – FINAL

To: City Plan Commission
From: Gregory Guertin, MA – Senior Planner
Date: October 31, 2023
RE: Ordinance #9-23-01

I. Ordinance Summary & Context

On May 25th, 2022 legislation was signed into law by the governor to legalize, regulate and tax adult recreational cannabis use in Rhode Island. The law established a 10% state cannabis excise tax in addition to sales tax and a 3% local tax for the municipality where the sales takes place. The law allows a total of 33 licensed cannabis retailers statewide distributed in six zones. Currently, there are 6 licensed retailers in the state, which includes 5 compassion centers which sell to both medical and recreational customers. The Administration has sponsored ordinance 9-23-01 to establish specific requirements for the potential location of cannabis retailers within the City of Cranston.

Ordinance 9-23-01, as proposed by the Administration, would allow Cannabis Retailers and Hybrid Cannabis Retailers *only in industrial zones (M-1 and M-2)*. The ordinance requires setbacks from a list of land uses, establishes restrictions of the land use, and stipulates annual reporting. The Administration drafted this ordinance to mirror ordinance 1-20-03, the purpose of which was to amend the city code in order to regulate the establishment of Medical Marijuana Dispensaries.

II. Planning Analysis

Consistent with the Planning Department's recommendation of the previous medical marijuana ordinance, staff believes that the city should be open to providing access to recreational cannabis, so long as the City's residents and businesses are protected from the potential nuisances created by the land use. Since the passing of the 2022 legislation and the opening of the first retail locations throughout the state, the recreational cannabis industry is on track to meet the state's annual revenue projections of [\\$76 million for FY 2024](#). Monthly sales for recreational cannabis in Rhode Island, as reported by the [Office of Cannabis Regulation](#), grew from \$3.4 million dollars in December 2022 to \$7.1 million dollars in September 2023. There is a clear, growing demand for the retail sale of cannabis in Rhode Island, and staff finds that access to the sale of this product is correlated with the health and well-being of the City.

Staff will now provide analysis for each section of the ordinance as it was written:

A. Definitions

Staff finds the definitions as written in the ordinance to comply with the definitions as set forth in R.I. Gen. Laws (RIGL) § 21-28.11-3 (The Rhode Island Cannabis Act – Definitions) with one exception. The definition of “*Marijuana retail facility*” in the ordinance appears to be redundant and is perhaps an overlooked carry-over from the previously approved medical marijuana ordinance. The definition of “*cannabis retailer*” in the ordinance refers to Sec. 21-28.11-3(16) of RIGL which simultaneously defines “*cannabis retailer*” or “*marijuana retailer*” to mean “*an entity licensed pursuant to § 21-28.11-10.2 to purchase and deliver cannabis and cannabis products from cannabis establishments and to deliver, sell or otherwise transfer cannabis and cannabis products to cannabis establishments and to consumers.*”

Staff find the definition as written in state law to be comprehensive and precludes any need for distinction between these terms, as they are referring to identical entities. It should also be noted that this definition does not allow for the cultivation or consumption of cannabis on-premises at such establishments.

B. Licensing. Staff have no concerns or comments on this section of the proposed ordinance.

C. Proximity to Other Land Uses.

Staff have reviewed this section of code and conducted a nearly identical analysis to what was provided to the Commission at the regular city plan commission meeting in February 2020 with regard to the medical marijuana dispensaries ordinance.

Staff believes performance standards and setbacks from incompatible uses can be written to prevent or mitigate potentially detrimental impacts of the land use. However, it is difficult to determine exactly what linear distance would be appropriate for buffering all, if any, potential nuisances generated by Cannabis Retailers. The proximity to other land uses as written in this and the medical marijuana ordinance, for example, far exceeds the proximity restrictions on the retail sale of alcoholic beverages as established in R.I. Gen. Laws § 3-7-19, which only restricts those retailers from being granted licenses for retailers located within two hundred (200) feet of schools and churches.

The ordinance as proposed restricts cannabis retailers from being located within one thousand (1,000) feet of educational institutions, five hundred (500) feet of other land uses (commercial day care, library, municipal park/playground, outdoor sports field, substance abuse treatment facility, halfway house, youth center, athletic and recreational facility, and place of religious worship), and four hundred (400) feet from a residential zoning district or a property with a residential use. It is unclear to staff if these buffered zones are warranted, as the potential nuisances generated by this land use are not clear, especially given the buffers offered by the sale of alcohol are far lower and less restrictive than what is being proposed. Furthermore, the ordinance restricts cultivation and manufacturing, in part due to the odors associated with these uses. Anecdotally, it seems safe to assume that retail operations will have less (if any) odors than cultivators and given that the ordinance requires odor control systems and has performance standards for noise, dust, vibration, glare, restrictions to visibility, outdoor displays and sales, security and inspections, it isn't self-evident what nuisance these buffers would be intended to prevent.

Staff has prepared a map and have included the maps provided for the previous discussion on medical marijuana dispensaries on the following pages for the purpose of visually illustrating the industrial zones in the city and how the proposed setbacks would impact the potential sites for Cannabis Retailers. The

first map (the newly generated map) shows the combined setbacks as prescribed by the ordinance, and the industrial parcels that meet those requirements. The subsequent maps were provided for the previous discussion on medical marijuana dispensaries and show the city's industrial zones, the itemized setbacks as prescribed in the prior ordinance, and a combined map. There are slightly more than 500 total M-1 and M-2 zoned parcels in the City that meet the minimum lot area requirement of 6,000 ft². The proposed setbacks would reduce the 100% eligible parcels to an estimated 93 parcels.¹

It is also important to consider that Cannabis Retailers are proposed to only be permitted in the City's industrial zones (further elaborated on in staffs review of section D. Restrictions). The relegation of this commercial activity to industrial zones, which are generally distanced from residential zones, inherently provides an additional layer of protection from abutting land uses deemed unsuitable for proximity to this use. For these reasons, staff believes that the proposed setbacks **are more than sufficient** to remedy any potential impacts imparted by Cannabis Retailers. Staff would recommend that, if this ordinance is approved as written, this subject be revisited and further researched at a later date to ensure the appropriateness of these buffers.

¹ *Staffs current GIS analysis produced nearly identical results, however, the newly staff could not source all of the previously identified data given time constraints. The newly generated map and the map titled "Medical Marijuana Dispensaries – Proposed Setbacks" yielded nearly identical results. The following text was included in staff's previous ordinance memo on medical marijuana dispensaries: Please be aware that the setbacks would be measured from the property line of the buffered use to the Cannabis Retailer building, not the lot property line, so partially affected lots may still be feasible for this use. It is important to understand that some of the data was not readily available, and that additional points from which setbacks would be required may exist - see the "Map Data Sources" attachment for a detailed explanation. It is possible that the setbacks could be more or less restrictive than displayed in the maps, for example, some religious institutions may also be determined to be educational institutions. Additionally, with the exception of substance abuse treatment facilities, this analysis only incorporates buffers from points within the City of Cranston where those points could be readily identified. The buffers would apply across municipal boundary, so further analysis of any site near the perimeter of the City would be required. Wetlands were not taken into consideration, which may further reduce feasible locations.*

Retail Sales of Cannabis



Estimated Suitable Locations

per Ordinance 9-23-01

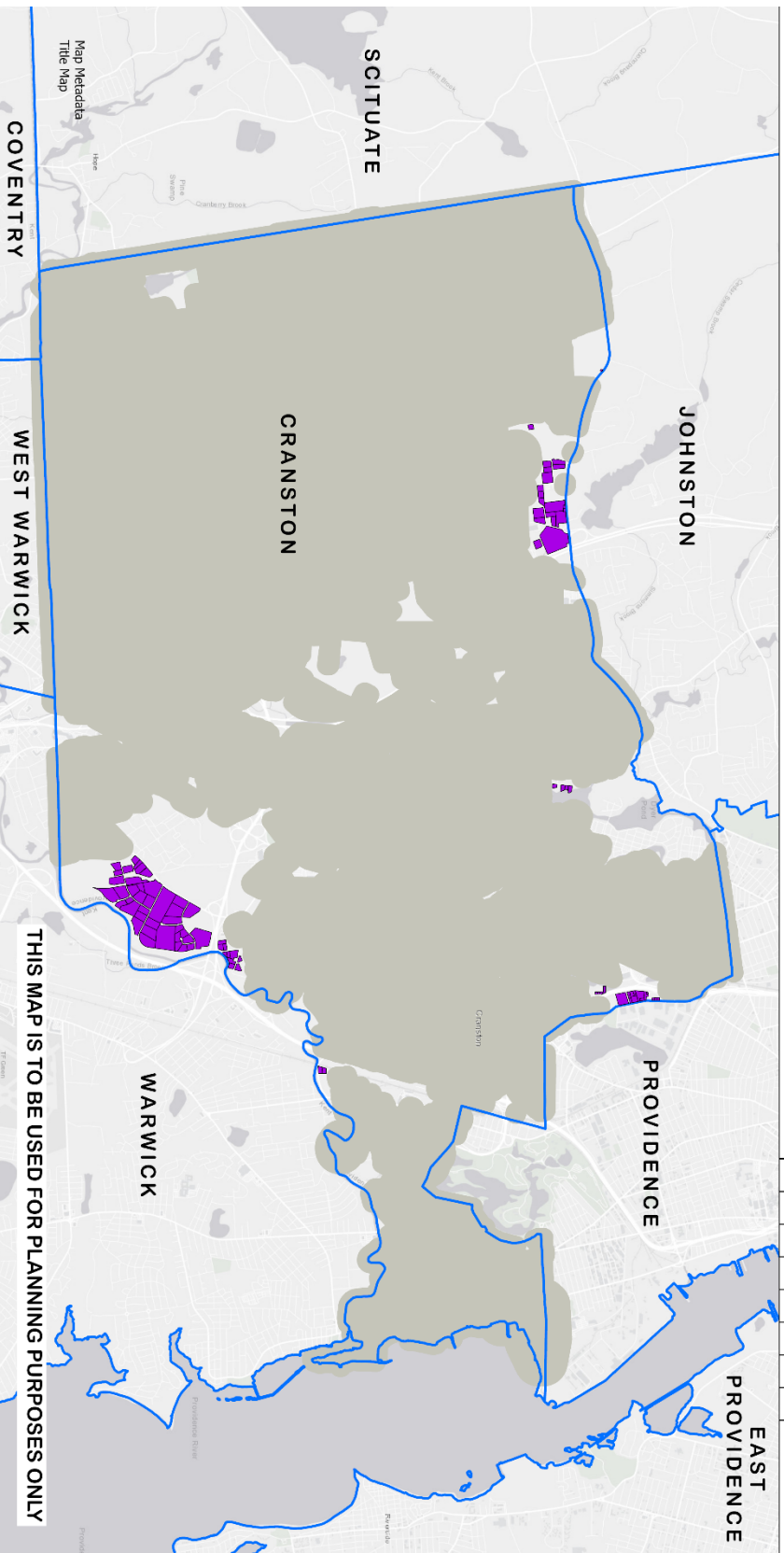
An estimated 93 individual industrial properties have been identified as being located 400 feet from residential properties, 500 feet away from other land uses (commercial day care, library, municipal park/playground, outdoor sports field, youth centers, athletic and recreational facilities), and 1000 feet away from Schools within the City of Cranston.

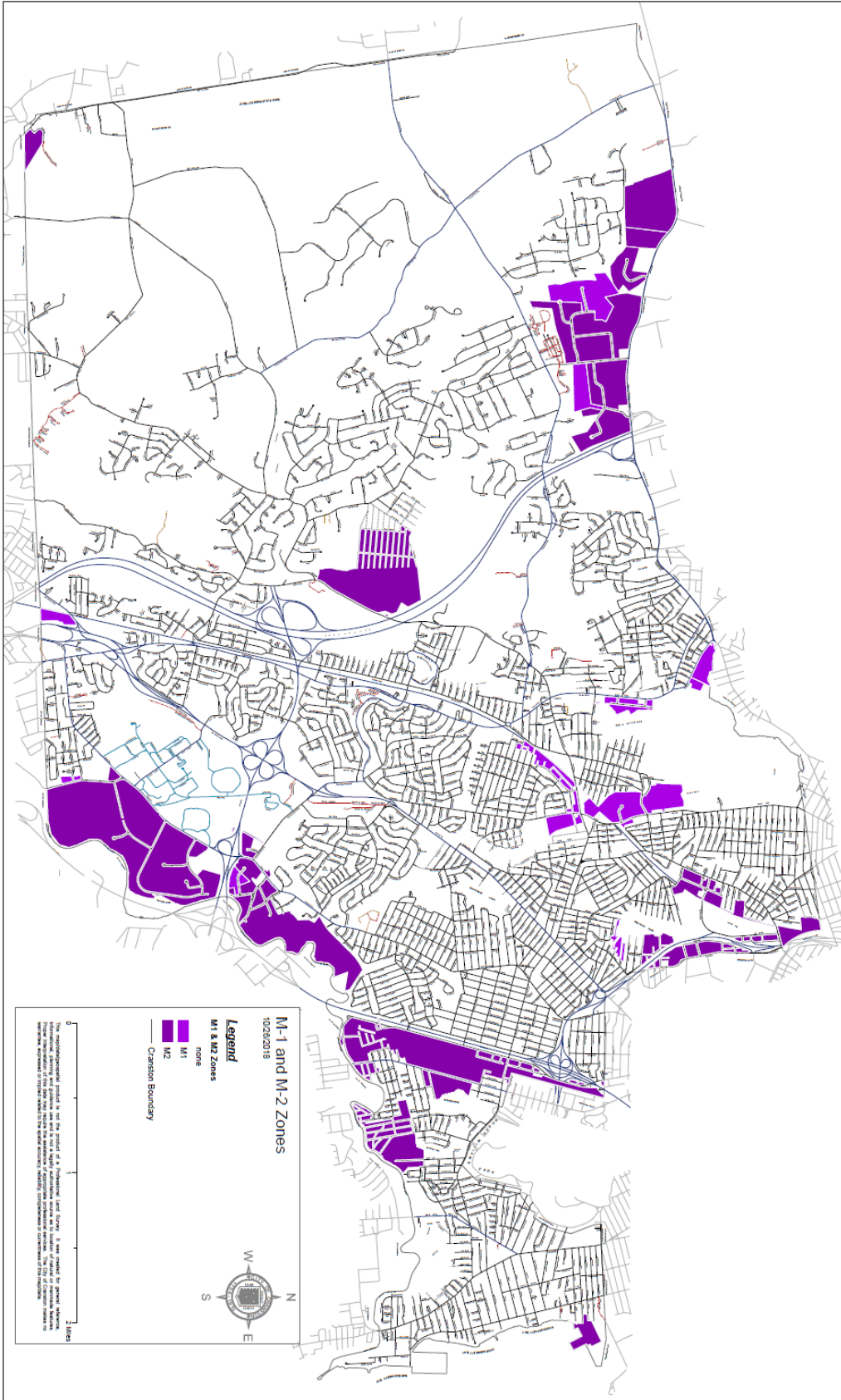
It should be noted that planning staff were unable to confirm the location of substance abuse treatment facilities & halfway houses. It should also be noted that Planning staff can not guarantee that all properties identified as one of the aforementioned land uses are still operational and meet the criteria set forth in the ordinance.

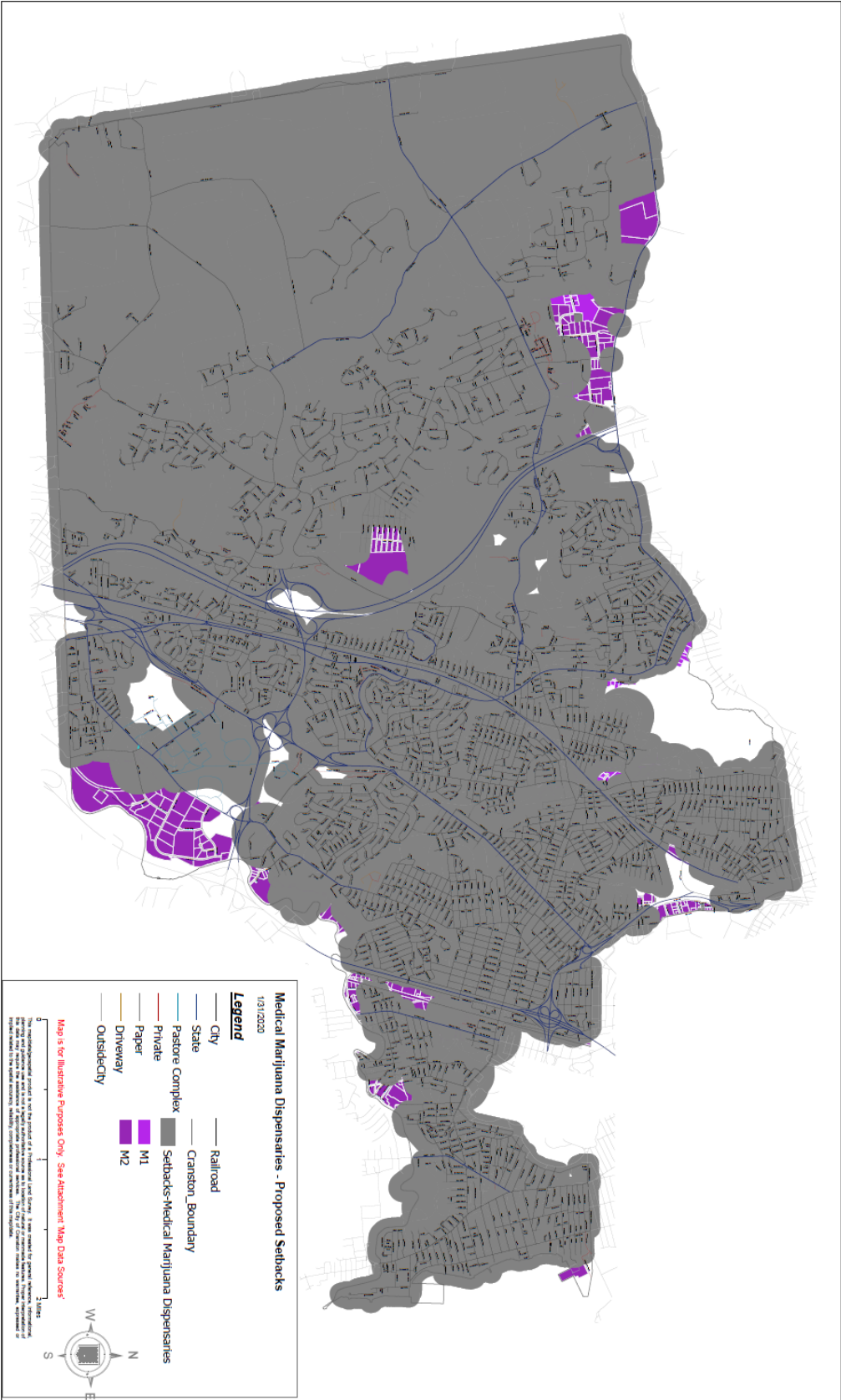
Map Key

-  Municipal Boundaries
-  Industrial Parcels Meeting Buffer Requirements
-  Residential 400 FT Buffer
-  Other Land Uses 500 FT Buffer
-  Schools 1000 FT Buffer

0 0.5 1 2 Miles







D. Restrictions

- Staff finds the restrictions outlined in this section to be **more than sufficient** in regulating potential nuisances imparted by Cannabis Retailers. Given that the proposed use is a retail operation and not an industrial activity, it is unclear to staff as to why this use has been relegated to the industrial zones (M1 and M2). Restricting these businesses to industrial zones might curtail consumer access and reduce foot traffic, which typically benefits businesses. Industrial zones typically do not have adequate public transit access, making it challenging for individuals without personal vehicles to patronize these establishments. Additionally, industrial zones lack the kind of supporting businesses, like restaurants or other retail, that can create a mutually beneficial economic environment. Staff would recommend that, if this ordinance is approved as written, this subject be revisited and further explored to either allow this use by-right in some of the cities commercial zones or to establish specific performance standards which would allow for this use to operate within commercial zones by Special Use Permit.
- The Administration, recognizing the retail-oriented nature of the potential use, chose to apply the C-3 signage regulations. The C-3 sign requirements are similar to M-1 & M-2, with the main difference being the freestanding and sign height is 35' instead of 50' and that billboards are not allowed. The prohibition of billboards is explicitly stated in the ordinance.
- The ordinance regulates "light cast by exterior fixtures to be downcast, shielded and hooded, and not spill onto adjacent lots." No other land use in the city has more restrictive lighting requirements.
- Restricting the hours of operation to between 10AM and 7PM appears to be more restrictive than neighboring communities. A brief survey of closing times for nearby Cannabis Retailers in both RI and MA shows that most of these businesses have a closing time between 8PM and 10PM.
- Staff have no comments or concerns regarding the other restrictions as outlined in the ordinance.

Additional Context:

At the time that the original medical marijuana ordinance first was introduced to the commission and city council, and again when recreational cannabis was legalized in Rhode Island (and neighboring Massachusetts), there was much uncertainty regarding the operations of these facilities. Due to this uncertainty, there were many concerns of potential nuisances and impacts that this land use could impose on the city which staff could not adequately reflect on and analyze. Since then, multiple recreational cannabis stores have opened for retail sales throughout the state and have done [so without many of those concerns coming to fruition](#) (namely significant increases in traffic, long lines extending out into parking lots, etc.). Although demand for this product is growing, market realities point to a plateauing of demand as "[there is a relatively fixed number of cannabis consumers](#)," much like alcohol or other retail products. This ordinance was drafted to be restrictive and cautious of those potential impacts and others. Given newer information and having been able to observe this subject as it has developed, staff would strongly encourage the administration, city council and the plan commission to revisit this subject in the near future to reassess the provisions of this ordinance to ensure that the restrictions imposed therein reflect the seemingly unobtrusive impacts of this land use.

III. RECOMMENDATION

Ordinance #9-23-01 appears to be consistent with the Comprehensive Plan and serves to protect the health and general welfare of the City, and therefore staff recommends the Plan Commission forward a **positive recommendation** on the Ordinance to the Ordinance Committee.

Respectfully submitted,
 Gregory S. Guertin, MA
 Senior Planner / Administrative Officer

Map Data Sources

The maps in this report are not authoritative, but are for illustrative purposes only.

Many of the categories of land uses involved in the analysis of this report did not have previously compiled data layers. Planning Staff worked with the GIS Manager to gather and employ data that most accurately conveys its respective land use type. Some data was not available at all, one category was left out to protect privacy, cross-jurisdictional data was not incorporated (with one exception), and some data may not be exhaustive or current.

Category	Source / Explanation
M-1 & M-2 Zoning	GIS database (October 10/12/2018)
Residential Zoning	GIS db (October 10/12/2018)
Residential Land Uses	GIS db (October 10/12/2018)
Parcels > 6,000 ft ²	GIS database (October 10/12/2018)
Religious Institutions	12/31/2017 Parcels allocated Vision State Code = '72'
Educational Institutions (pre-school, primary, secondary, charter)	Cranston Schools - GIS database Private Pre-Schools https://www.privateschoolreview.com/schools-by-location/Cranston%2C%20RI-original-address-cranston%2C%20ri/41.7798226/-71.43727960000001/1/None/0/0/None/None/0 http://www.ride.ri.gov/StudentsFamilies/EducationPrograms/Non-PublicSchools.aspx <i>No List Available at this site</i>
Commercial Day Cares	State-Licensed Child Care Centers: http://www.dcyf.ri.gov/child_care_provider.php Downloaded 10/12/2018
Libraries	GIS database
Municipal Park/Playground	GIS database Rec Facility Points (2014)
Outdoor Sports field	GIS database Rec Facility Points (2014)

Athletic Facilities	GIS database Rec Facility Points (2014)
Substance Abuse Treatment Facilities	Licensed Treatment Providers: http://www.bhddh.ri.gov/substance_use/index.php Downloaded 10/12/2018; Last updated 06/27/2018
Halfway Houses	Data not published on the maps for privacy purposes. Locations were disclosed to staff as sensitive information, which staff confirmed do not impact potential sites beyond the other buffers in each scenario.
Youth Centers	No existing data or codified definition. Sites used to create data were YMCA, CLCF Property, City Youth Center.
Compassion Centers or Cooperative Cultivators	Data not available - locations redacted to protect businesses. http://www.dbr.state.ri.us/divisions/medicalmarijuana/approvals.php