

CITY COUNCIL MEETING
TUESDAY, OCTOBER 17, 2017

Presentations

ITEM # 7 – WS 17-049

**Prioritization of Housing Affordability and
Anti-Displacement Strategies**

Prioritization of Housing Affordability and Anti-Displacement Strategies

City Council | October 17, 2017

Recommendation

- That Council receives a status update on the housing affordability and anti-displacement strategies and provides feedback and direction on any desired re-prioritization of current workplan.

Background

- **Work session 1/31/17: Housing affordability strategies and resources in Hayward and Alameda County.**
- **Council explored four overarching strategy areas, and directed staff to develop five action strategies for further Council review.**

Purpose of this presentation

- Review a summary timeline and status update for Council's five action strategies
- Confirm Council's desired prioritization of the strategies, and whether Council wishes to add, remove, or reorder items on the list.

Four Major Strategy Areas

City of Hayward's overarching affordable housing strategies and programs may be grouped into four major strategy areas.

Anti-
Displacement

Regulation
and Land Use
Policies

Housing
Preservation
and
Rehabilitation

Acquisition
and
Construction

Four Major Strategy Areas

City of Hayward's overarching affordable housing strategies and programs may be grouped into four major strategy areas.

Anti-Displacement

- Strategies and programs to prevent displacement of current residents from their homes, especially the most vulnerable sectors of the community. This includes fair housing activities such as tenant/landlord mediation and anti-discrimination programs, and local regulations such as the rent stabilization ordinance.

Four Major Strategy Areas

City of Hayward's overarching affordable housing strategies and programs may be grouped into four major strategy areas.

Regulation and Land Use Policies

- Local regulatory or planning strategies to expedite and incentivize the construction and preservation of housing. This includes regulatory strategies such as the density bonus regulation and the accessory dwelling unit (ADU) ordinance.

Four Major Strategy Areas

City of Hayward's overarching affordable housing strategies and programs may be grouped into four major strategy areas.

Housing Preservation and Rehabilitation

- Programs and services to help preserve and upgrade the existing stock of housing to help lower income homeowners stay in their homes. This strategy area includes the Brace and Bolt Program, the Housing Rehabilitation Program, and the Rental Inspection Program.

Four Major Strategy Areas

City of Hayward's overarching affordable housing strategies and programs may be grouped into four major strategy areas.

Acquisition and Construction

- Development-oriented strategies to create new long-term deed-restricted affordable housing units, including the acquisition, new construction, preservation, and rehabilitation of both homeownership and rental housing, both permanent and transitional.

Five Action Strategies

Council directed staff to further research and develop the following five action strategies to be brought back to Council for review, discussion and/or potential implementation.

- Jan. 31: Council directed staff to focus efforts on increasing education and outreach activities designed to connect tenants to existing programs such as tenant-landlord mediation services
- Council also directed staff to review anti-displacement strategies and bring them back for Council consideration at a future date. Work session scheduled January 2018.

Action Strategy #1

Residential Rent Stabilization Ordinance – Additional Study and Review



- Council approved the addition of staff positions and creating a new Housing Division effective July 1
- The recruitment for the Housing Manager is underway and an anticipated hiring date is Dec./Jan.
- Administration of the City's rent review programs, including the rent stabilization ordinance, was transferred from the City Attorney Office to the Housing Division on October 1.

Action Strategy #1

Residential Rent
Stabilization
Ordinance –
Additional Study
and Review



- On March 14, Council reviewed potential changes to the ADU Ordinance designed to bring the City into compliance with SB 1069
- Staff study and analysis, Council direction, applicable policies such as 2040 General Plan, community outreach with Hayward Empathy Action Response (HEART) team
- Introduction of amendments to the Ordinance on October 17.

Action Strategy #2

Accessory Dwelling Unit Ordinance – Update to Comply with SB 1069

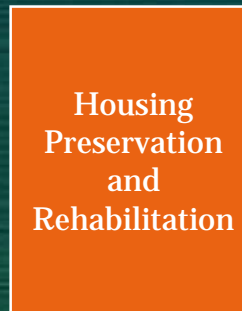
Regulation
and Land Use
Policies



- July 18: Council expanded City's housing rehabilitation program to assist low-income senior or disabled homeowners who need ADU code corrections in Tennyson Corridor.
- Program gives grants and loans to upgrade non-compliant garage conversions into ADUs.
- Program progress update is tentatively scheduled for Council review in February 2018.

Action Strategy #3

Explore Options to
Create a New
Housing
Rehabilitation
ADU Program



- Jan 31: Council directed staff to issue NOFA and/or RFP to solicit Measure A1 project proposals for affordable housing developments
- Council placed emphasis on rental housing affordable to lower-income households with special needs (e.g., seniors, persons with disabilities, and extremely low-income households), transit-oriented development, jobs/housing balance, emergency shelters and transitional housing.

Action Strategy #4

Issue NOFA/RFP
for Measure A1
Affordable Rental
Housing
Development
Projects

Acquisition
and
Construction

- Staff is coordinating with County of Alameda to help develop the Measure A1 criteria
- Issuance of the first round of bonds by the County is anticipated in March 2018
- The County will issue its own RFP in early 2018
- Council review of prospective Measure A1 affordable rental housing projects in Hayward is scheduled on November 28.

Action Strategy #4

Issue NOFA/RFP
for Measure A1
Affordable Rental
Housing
Development
Projects

Acquisition
and
Construction



- Jan. 31: Council directed staff to explore options for revising the AHO to potentially increase its requirements
- Staff commissioned a Nexus Study and conducted stakeholder outreach to inform potential amendments to the AHO.
- Council review of the study and preliminary recommendations scheduled October 17.

Action Strategy #5

Update and Revise the Affordable Housing Ordinance (AHO)

Regulation
and Land Use
Policies

Acquisition
and
Construction



Next Steps

- Council's feedback on the five strategies and other housing related items planned through the rest of this calendar year.
- Council's comment on any desired prioritization of the strategies mentioned in this staff report, or other strategies Council may desire to explore further.

Questions / Discussion

Prioritization of Housing Affordability and
Anti-Displacement Strategies

ITEM # 8 – WS 17-046

**Potential Amendments to Affordable
Housing Ordinance (AHO) and AHO Fees**

Residential Nexus and Financial Feasibility Study Findings and Recommendations for Affordable Housing Ordinance Amendments

Council work session
Oct. 17, 2017



Introduction



✓ Rising Housing Costs

Since the adoption of the AHO, rising home prices and rents have strengthened the housing market in Hayward.

✓ Affordability Challenges

The escalation in prices and rents has exacerbated local housing affordability challenges.

✓ AHO and Nexus Study

Council directed staff to re-evaluate the AHO for potential requirement increases. Staff commissioned a Nexus and Feasibility Study

Background

✓ Affordable Housing Ordinance

On January 27, 2015, the City Council adopted the current Affordable Housing Ordinance (the "AHO") and fees.

✓ Requirements and Fees

The current AHO requirements apply to residential developments of twenty units or more. Developers have the option to build affordable units on-site or pay Affordable Housing Impact Fees

✓ Comparatively low requirements

Current AHO fees and requirements are lower than those of nearby jurisdictions. They reflect Relief Ordinance levels which Council decided to keep at the time of adoption of the AHO.



Summary of Current AHO Requirements

The current AHO requires developers of projects with twenty (20) units or more to mitigate the impact of new residential development on the need for affordable housing through the following requirements:

1

“By Right” Impact Fees

Permits developers to pay AHO Fees “by right” rather than providing units on site, at the developers’ option.

2

Onsite Minimums

If for-sale housing developers elect to build units on-site, at least 7.5% of attached and/or 10% of detached dwelling units must be affordable to moderate income households

3

Per Square Foot Basis

Provides that the Fees be calculated on a per-square-foot basis.

4

Annual Adjustments

Fees for for-sale housing are adjusted annually based on the % change (+/-) in 3-year trailing median home prices.

5

Fee Payment Options

Fees can be paid when building permits are pulled, or at issuance of certificates of occupancy plus a 10% increase.

Summary of Current AHO Requirements

The current AHO requires developers of projects with twenty (20) units or more to mitigate the impact of new residential development on the need for affordable housing through the following requirements:

6

Rental Housing Fees

Removed previous onsite requirements for rental housing and adopted Fees to comply with the Palmer court decision and the Costa Hawkins Act.

7

Rental Onsite Minimums

If rental housing developers elect to provide units instead of fees, a minimum of 7.5% of the units must be made available at affordable rents to low- and very low-income households for a minimum of 55 years.

8

Market-Based Adjustments

Fees for rental housing are adjusted based on change in local market rents.

9

Administration

Sets aside 10% of the Fees to cover costs of administering the AHO.

10

Acquisition & Rehab

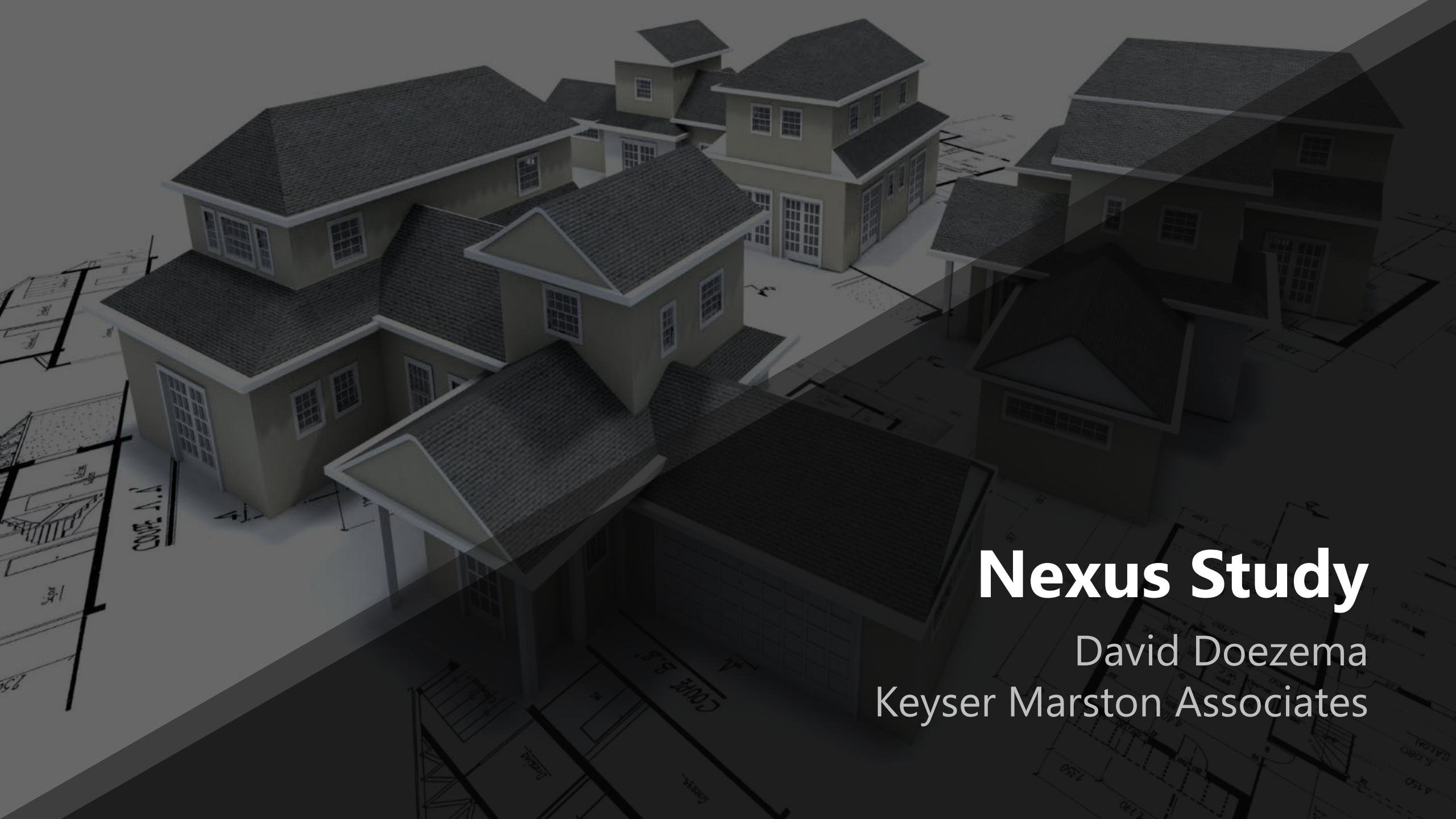
Allows the use of the Fees for the acquisition and rehabilitation of existing housing for affordable housing purposes.

Summary of Current AHO Fees

When Council adopted the AHO in 2015, by separate resolution the Council also established the AHO Fees. The current Fees, which became effective January 1, 2017, are:

Type of Housing and Timing of Fees*	Detached		Attached	
	At Building Permit	At Cert. of Occupancy	At Building Permit	At Cert. of Occupancy
For-sale	\$4.61	\$5.06	\$3.87	\$4.26
Rental	N/A		\$3.63	\$3.99

**Per-square-foot of habitable space fees*



Nexus Study

David Doezema
Keyser Marston Associates

Analysis Tasks

- ✓ **Financial Feasibility**
Economic feasibility of projects and ability to sustain increased requirements

- ✓ **Residential Nexus**
Establishes maximum fees for rental projects

- ✓ **Requirements in Other Cities**
Review of other jurisdictions' requirements

- ✓ **Onsite Compliance Costs**
Cost to include affordable units onsite

DESIRED OUTCOME

Recommendations for Updates to AHO



Legal Context



San Jose (June 2015)

- Inclusionary programs upheld
- For-sale requirements not bound by nexus analysis
- Status of inclusionary clarified since prior update (Feb. 2015)



Palmer (2009)

- Removed ability to require onsite units in rental projects
- Hayward adopted rental impact fees as alternative
- AB 1505 restores ability to require onsite units in rental projects

Financial Feasibility Analysis



1

“Prototypical” project analysis

2

Near term time horizon

3

Residual value analysis

Evaluates amount projects can afford to pay for sites vs. land costs in Hayward

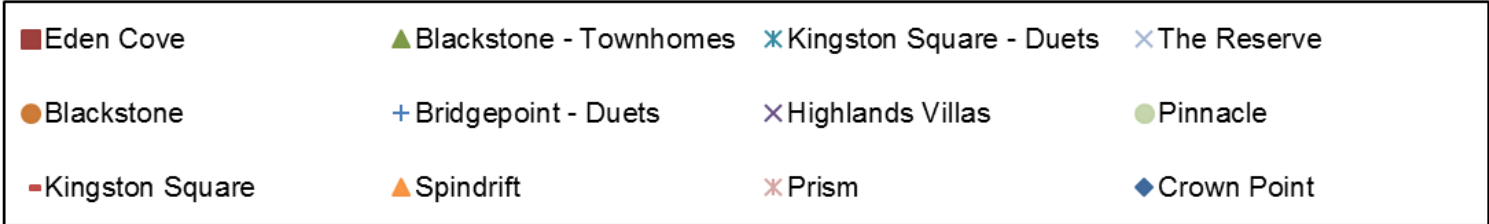
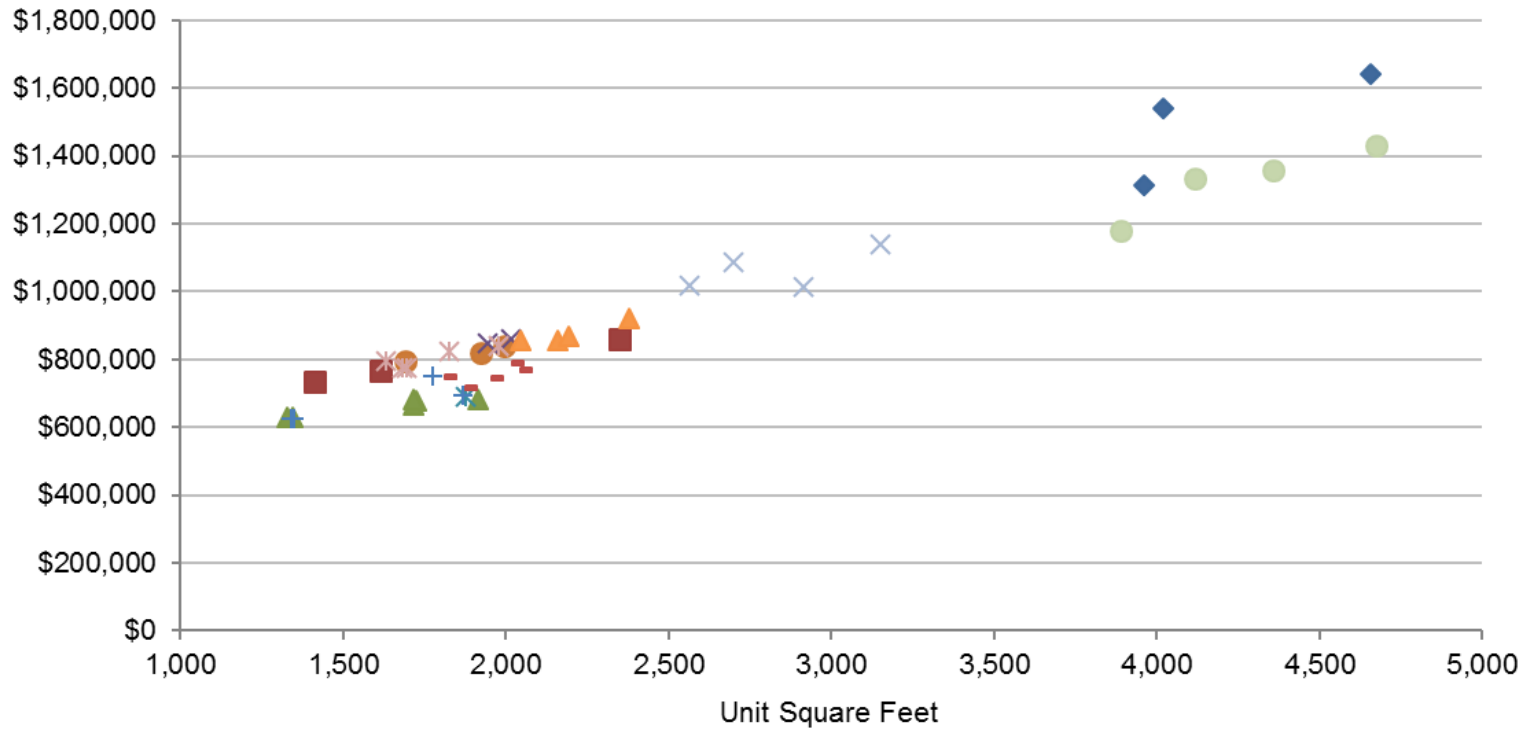
Residential Prototypes and Pricing Estimates



	Typical Density	Average Unit Size	Average Price/Rent	Price / Rent \$/SF
Single Family Detached	10 du/acre	2,500 sq. ft.	\$950,000	\$380/SF
Townhomes/Attached	20 du/acre	2,000 sq. ft.	\$800,000	\$400/SF
Condominiums (Stacked Flats)	50 du/acre	1,000 sq. ft.	\$590,000	\$590/SF
Apartments	60 du/acre	900 sq. ft.	\$2,800	\$3.11/SF

New Home Sale Prices

Sale Prices of New Home Developments
City of Hayward



Source: Real Estate Economics (July 2017)

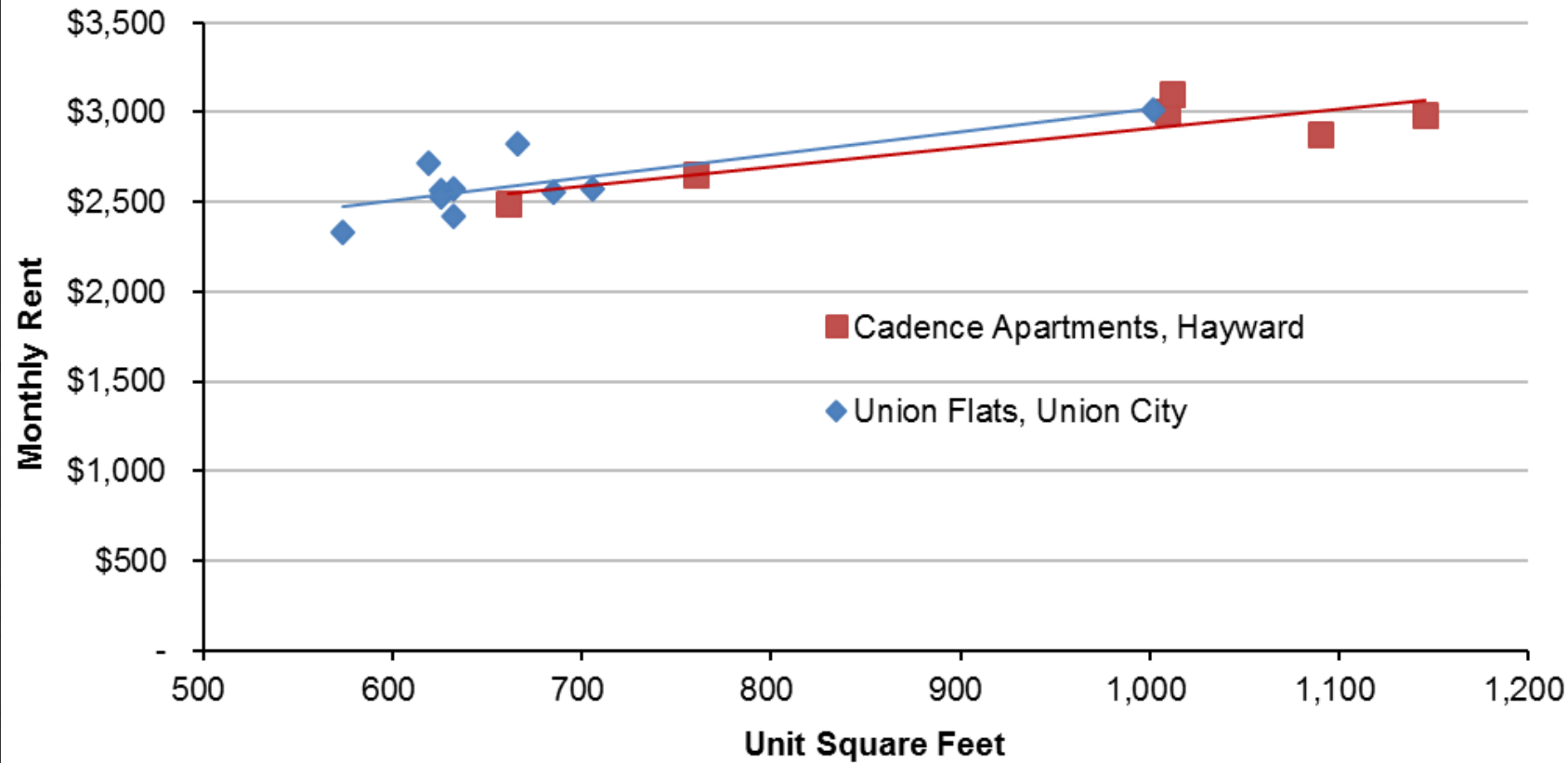


New Homes

Sale prices of new home developments in Hayward

Apartment Rent Comps

Apartment Rent Comparables - Newly Built Properties
Hayward, Union City



Source: Real Estate Economics (July 2017)



Apartments

Comparable newly built apartment properties

Financial Feasibility: Land Values

Residential Land Sale Comparables (2015-2017) City of Hayward

	Address	Acres	DU/Acre	Sale Price	\$/Unit (rounded)	Sale Price \$/ Sq.Ft.
1	22471-22491 Maple Ct	0.6	73	\$1,950,000	\$44,300	\$74
2	Mission Seniors	5.1	40	\$6,500,000	\$32,000	\$29
3	27794 Mission Blvd	0.2	38	\$400,000	\$44,400	\$39
4	21339 Oak St	1.7	35	\$2,050,000	\$35,300	\$28
5	25501 Mission Blvd*	7.6	31	\$15,800,000	\$66,700	\$47
6	22836 Watkins St	0.3	23	\$500,000	\$83,300	\$43
7	24755 O'Neil Ave	0.8	20	\$735,000	\$45,900	\$21
8	396 Grove Way	0.4	11	\$505,000	\$101,000	\$26
9	1332 E St	0.2	10	\$240,000	\$120,000	\$26

Source: CoStar, RealQuest, Loopnet

*Mission Crossings project. Density figure based on 140 residential units and 93 hotel rooms.



Land Sales

Comparable residential
land sales, 2015-17

Financial Feasibility: Residual Values

Feasibility Prototypes	Sales Price / Supported Investment	(Less) Total Development Cost Per Unit	Residual Value Per Unit	Residual Value Per Square Foot of Land	Feasibility Conclusion
Single Family	\$950,000	(\$804,400)	\$145,600	\$33	Feasible
Townhomes	\$800,000	(\$722,300)	\$77,700	\$36	Feasible
Condos (Stacked)	\$590,000	(\$563,600)	\$26,400	\$30	Marginal
Apartments	\$418,000	(\$381,800)	\$36,200	\$50	Feasible

Note: development costs include existing fees



Residual Values

Derived from feasibility prototypes

Sensitivity Testing

Market Adjustments Sufficient to Absorb Increased Requirement
Representing Cost of \$20/sq. ft.

	Single Family	Townhome	Condo	Apartments
Rent / Sales Price Increase	4.1%	4.0%	2.7%	2.3%
Land Values Decrease	26%	42%	37%	41%



Sensitivity Testing

Market adjustments to absorb increased requirement

Residential Nexus: Concept



**Residents in
new market
rate units**



**New demand
for goods and
services**



**New workers:
retail, restaurant,
other services**



**New lower income
households need
affordable housing**

Residential Nexus Findings



Maximum Supportable Fees

	Single Family	Townhomes	Condo	Apartment
Maximum Fee Per Unit	\$72,200	\$63,400	\$44,900	\$40,400
Maximum Fee Per Sq.Ft.	\$28.90	\$31.80	\$44.90	\$44.90

Other Cities – For Sale Requirements



Other Cities' For-Sale Requirements

City	Affordable Percentage	Fee By Right?	Fee Amount
Hayward	7.5% (attached) 10% (detached)	Yes	\$3.87* psf (attached) \$4.61 psf* (detached)
San Leandro	15%	small projects only	Based on affordability gap calculation
Union City	15%	Yes**	\$22 psf (Year 2 full phase-in level)**
Fremont	Attached 3.5% + fee Detached: 4.5% + fee	Yes	Attached: \$27 psf (w/ no on-site units) Detached: \$26 psf (w/ no on-site units)
Alameda	15%	small projects only	\$19,076 / unit
Oakland	5% at Very Low or 10% at Low- Mod	Yes	MF: \$12-\$22,000 / unit (varies by zone) SF: \$8-\$23,000 / unit (varies by zone)
Berkeley	20%	Yes	Based on affordability gap calculation

*Add 10% if developer elects to defer payment until certificate of occupancy.

**Reflects Council direction for update. Amendment to ordinance not yet adopted.

Other Cities – Rental Fees



Other Cities' Rental Fees

City	Fee Level	Minimum Project Size Subject to Fee
Hayward	\$3.63/sq. ft.*	20 units
Union City	\$14 / Square Foot (Year 3 full phase-in level)**	1 unit
Oakland	\$12,000 to \$22,000 per unit (varies by zone)	1 unit
Fremont	\$17.50/sq.ft.	2 units
Berkeley	\$34,000 per unit (\$37,000 if pay at C/O)	5 units

*Add 10% if developer elects to defer payment until certificate of occupancy.

**Reflects Council direction for update. Amendment to ordinance not yet adopted.

Onsite Compliance Cost



Onsite Compliance Cost Analysis

Developer Cost (\$/Sq.Ft.)	Single Family Detached	Town-homes	Stacked Condos	Apts
For Each 1% of Units Made Affordable	\$2.10	\$2.05	\$2.47	\$3.64
Current Onsite Requirement / Option (10% detached, 7.5% attached)	\$21	\$15.35	\$18.50	\$27.33
KMA Recommended (10% ownership, 7.5% stacked condos, 7.5% @80% or 5-6% VL/Low for rentals)	\$21	\$20.50	\$18.50	\$20

Evaluates forgone developer revenue from inclusion of affordable units
Existing fees (\$3.63 - \$4.61/SF) are well below cost to provide units

Considerations: On-Site Units vs. In-Lieu Fees



Advantages of On-site Units

- **Promotes mixed-income communities**, affordable units integrated with market rate developments
- **Affordable units built concurrently** with market rate units
- **Avoids need to accumulate funds** before affordable units can be built



Advantages of In-Lieu Fees

- **Source of local match to leverage outside funding** such as County Measure A1 & tax credits to provide affordable units at a deeper level of affordability (i.e. lower rent) in stand-alone affordable projects
- **Ability to provide housing for special populations** (seniors, homeless, disabled, etc.)

KMA: Ownership Program Recommendations

Assumption: City's goal is to prioritize on-site units rather than fees.

	For-Sale Units Attached and Detached	Higher Density Stacked Condos
On-site Requirement	10%	7.5%
Allow Fee payment?	No except for larger lot single family and projects under 10 units	Consider allowing
Fee Level Range (\$/SF)	\$15 to \$20	\$15 to \$20



Ownership Program Recommendations

Smaller Projects (2 – 9 units)

- Expand program to cover projects of two units or more
- Step in fees for projects of 2 - 9 units

KMA: Rental Program Recommendations

Assumption: City's goal is to prioritize on-site units rather than fees.

Rentals	
On-site Requirement	5% - 6% @ Low / Very Low or 7.5% @ 80% AMI
Allow Fee payment?	Only for projects under +/- 100 units
Fee Level Range (\$/SF)	\$15 to \$20



**Rental
Program
Recommendations**

Additional Considerations

✓ Fee Options and Payment Timing

Following are two fee alternates within the recommended range that maintain the 10% incentive for payment at Building Permit (BP) rather than Certificate of Occupancy (CO).

	Alternative A	Alternative B
Fee at Building Permit (\$/SF)	\$15.00	\$18.15
Fee at Certificate of Occupancy (\$/SF) <i>[add 10%]</i>	\$16.50	\$19.97

✓ Grandfathering

Council could include a provision that avoids a negative impact to projects currently in the pipeline. KMA and staff recommend including a grandfathering provision (rather than a phase-in provision) as this is the approach that is consistent with the City's past practices.

Additional Considerations

✓ “Combination of Alternatives” provision

AHO allows any combination of on-site construction, off-site construction, in-lieu fees, and land dedication if it furthers affordable housing opportunities to a greater extent.

Allows the City to comply with AB 1505 requirement that developers of rental housing be provided an alternative to providing affordable units on-site.

Additional Considerations

✓ Fee Adjustments by CPI or ENR

Recommendation is to adjust fees annually based on a published index such as the Consumer Price Index (CPI) or the Construction Cost Index published by Engineering News Record.

Currently, the fee is indexed to sales prices and rents. This approach proved to be too complicated and the data was inconsistent.

✓ Consider Transit-Oriented Requirements

One of the stakeholder comments suggests, in the event Council decides not to remove the option to pay the Fees, that Council consider requiring all new residential developments within a half-mile or one mile of high frequency transit (defined as fifteen minutes or less headways) or within Downtown Hayward boundaries to include affordable units and not fee out, so as to ensure that these developments provide affordable housing opportunities to lower-income households within close proximity to transit and amenities.



Key Policy Questions

City Council



Key Policy Questions

1

Fees vs. Onsite Requirements

Does Council wish to require on-site affordable units but allow for alternative means of compliance for all projects? Should projects only be allowed to pay in-lieu fees upon petition to the Council (except for those smaller projects identified in the report – less than 100 units for rental projects and less than 9 units for for-sale projects)?

2

Fee Levels

Does Council wish to impose fees within the recommended range? What is Council's direction regarding desired fee levels?

3

Fee Adjustments

Does Council concur with the recommendation that Fees be adjusted annually based on the rate of increase in the Consumer Price Index (CPI) or on the ENR Historical Construction Cost Index?

Key Policy Questions

4

Grandfathering

Does Council concur with the recommendation to include a grandfathering provision to mitigate financial impacts to projects currently in the pipeline? What should the grandfathering criteria be?

5

Inclusionary Requirements - Rental

What is Council's direction regarding inclusionary requirements (on-site units) in rental projects – should in-lieu fee payments be allowed for projects with fewer than 100 units?

6

Inclusionary Requirements – Homeownership

What is Council's direction regarding inclusionary requirements in homeownership (for-sale) projects – should in-lieu fee payments be allowed for larger lot single family, higher density condos and small projects of 9 or fewer units?

Key Policy Questions

7

Geographic Requirements

What is Council's direction regarding the possibility of imposing inclusionary requirements for projects within specifically defined geographic areas, for example projects located in proximity to transit hubs?

8

Overall Recommendations

Does Council generally concur with the preliminary recommendations outlined in the Recommendations section of the staff report?

Should Council so direct, staff will develop AHO amendments that reflect Council's direction and feedback, and bring back an agenda item to introduce the amendments at a regular meeting in November 2017.

Next Steps

Intro

Introduction

Introduction of AHO Amendments at Council Public Hearing in Nov. 2017

Adoption

Adoption

Adoption of AHO Amendments at Council regular meeting in Nov. 2017

Effective

Effective

AHO amendments would take effect as early as thirty (30) days after adoption



Questions / Discussion

City Council

ITEM # 9 – PH 17-091

Cannabis

CANNABIS

CITY COUNCIL

OCTOBER 17, 2017



BACKGROUND

- In 2015, the State passed AB 243, 266, and SB 643, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA) which established the state-level licensing and regulatory framework for medical cannabis.
 - On November 8, 2016, Proposition 64, known as the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was approved by California voters and authorized the use, possession, cultivation and processing of marijuana and its products for non-medical (or recreational) uses.
 - On June 27, 2017, the Governor signed SB 94, known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) which repealed MCRSA and established a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medical cannabis and medical cannabis products and adult-use cannabis and adult use cannabis products.
 - On September 16, 2017 the Governor signed AB 133, which revised certain provisions of the regulatory framework established in MAUCRSA.
 - Cities have until January 1, 2018 to regulate or prohibit cannabis businesses.
-

HAYWARD & CANNABIS

- In November, Hayward voters passed Measure EE to place up to 15% sales tax on cannabis. Actual rate has yet to be determined by Council.
 - City Council Work Sessions:
 - March 21, 2017: Council generally supported cannabis uses with a focus on uses that compatible with the Industrial district. Council favored limiting the number of cannabis businesses and was open to considering more businesses in the future.
 - July 18, 2017: Draft Regulatory Ordinance Presented. Council directed staff to eliminate the proposed limit to the number of business permits and suggested that businesses be evaluated on a case-by-case basis following the issuance of an RFP to ensure that the business operations are consistent with the City's long-term economic, environmental and land use objectives. The Council also indicated a willingness to allow a variety of cannabis land uses in the City's commercial and industrial areas.
-

HAYWARD & CANNABIS

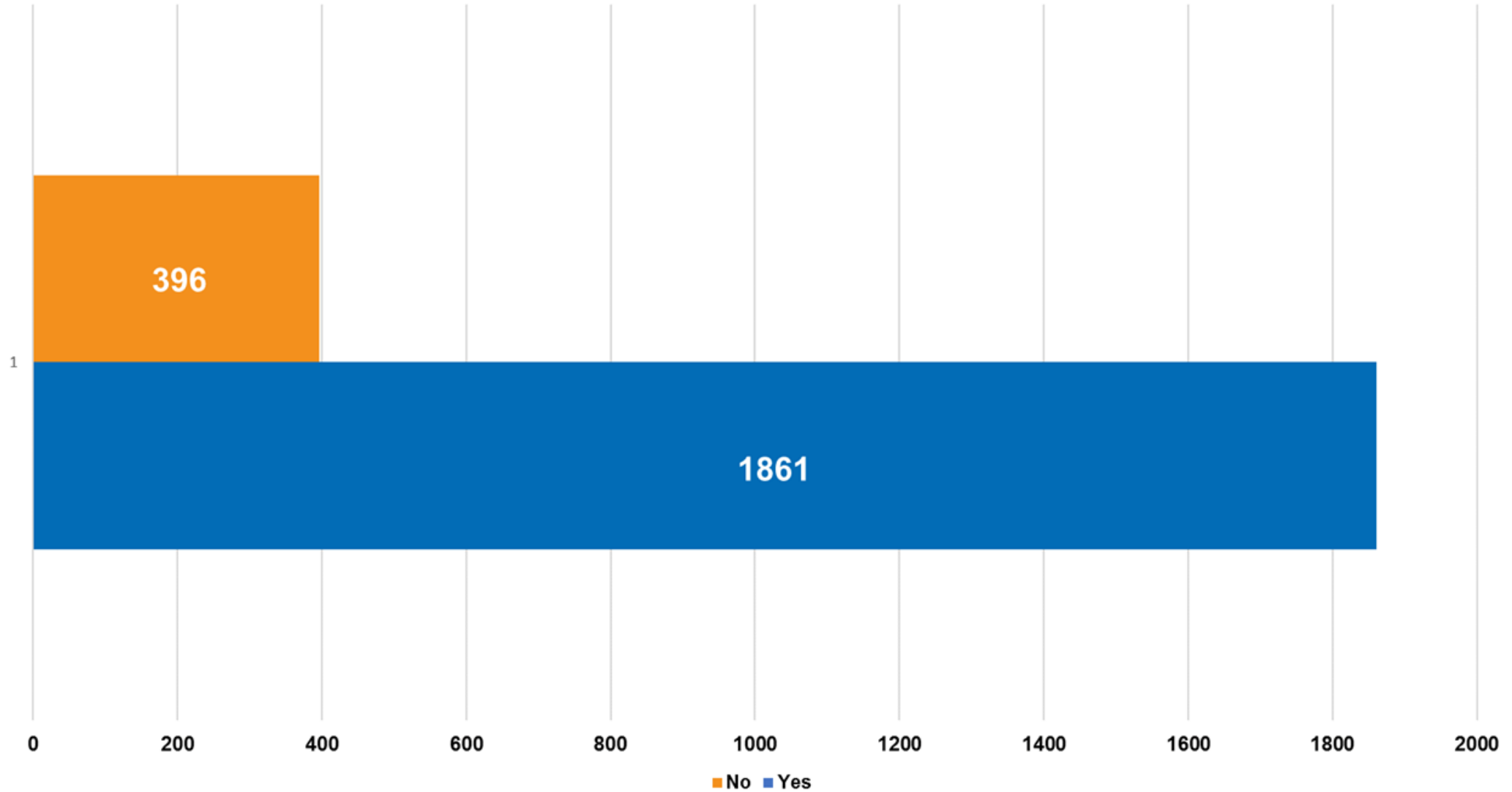
- Planning Commission Public Hearing:
 - September 14, 2017: The Commission voted unanimously to recommend approval of the proposed land use Ordinance to the City Council.
 - The Commission recommended the buffer requirements for “Park” and “Open Space” areas be clarified to provide guidance to potential operators.
 - Staff revised the ordinance to clarify buffers from park areas to specify those parks which contain children’s playgrounds and/or children’s activities.
 - Staff added a provision that provides some flexibility on the required buffer with the approval of a CUP. The provision allows the Planning Commission the ability to reduce the required 600-foot buffer from public parks and open space areas upon finding that the public convenience and necessity will be served by an alternate distance requirement and that alternative measures to assure public health and safety are in place with respect to a commercial cannabis business.
-

PUBLIC SURVEY



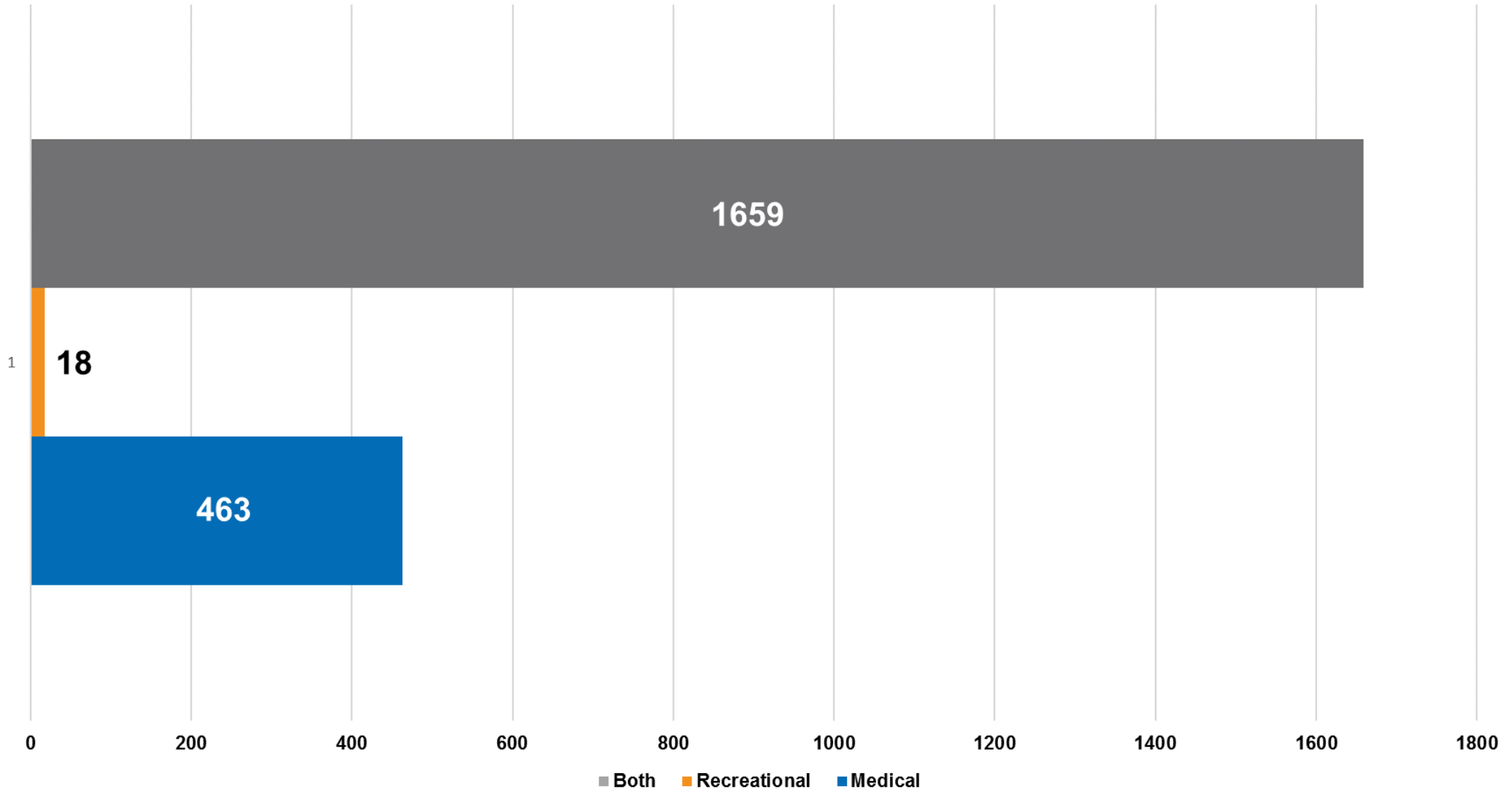
Should Hayward allow cannabis businesses in the City?

2,257 total responses

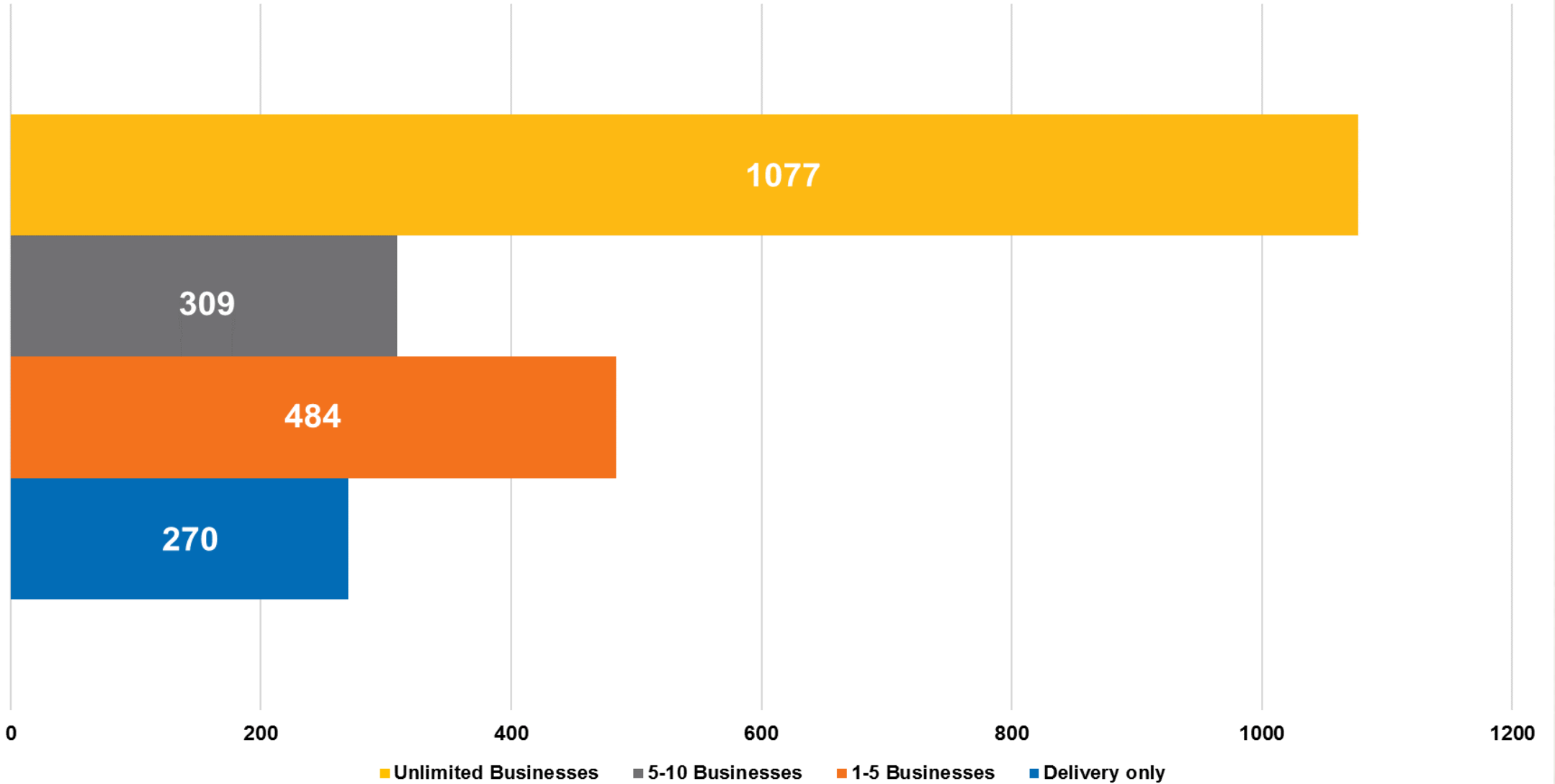


Which kind should the City allow

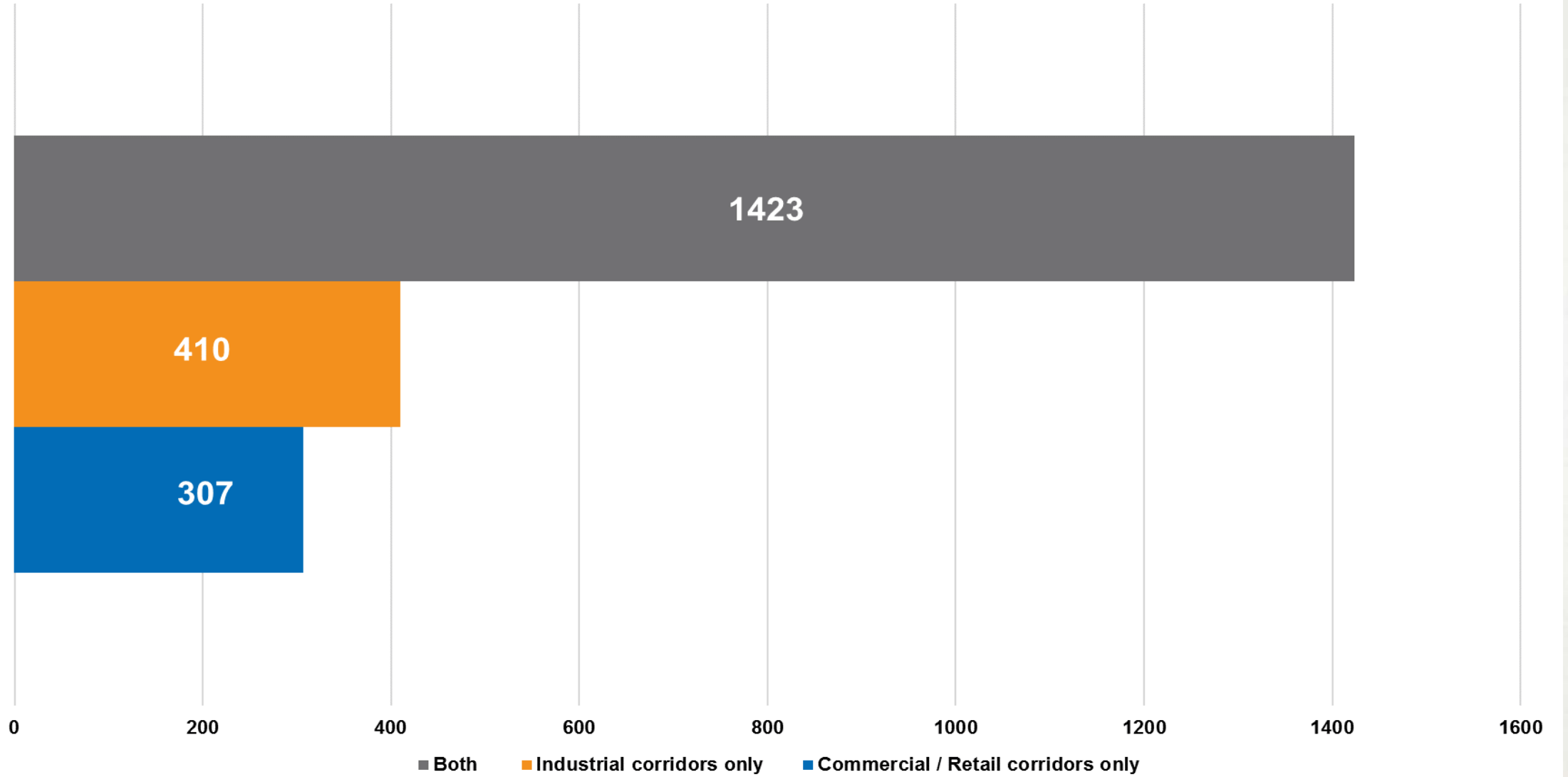
2,140 responses



How many retail businesses should the City allow? 2,140 responses



Where should the City allow them? 2,140 responses



REGULATORY FRAMEWORK



KEY FEATURES OF CANNABIS REGULATORY ORDINANCE

- Applications accepted pursuant to an RFP process, scored based on specific criteria, and ranked.
 - Applicants required to submit detailed operational/business plans, security plans, and submit to criminal background investigations.
 - Staff will present a report and recommendation to Council regarding award of permits to applicants.
 - Applicants must also obtain land use approval and appropriate state cannabis licenses and pay applicable fees prior to commencing operation.
 - In conjunction with conditions of approval imposed through land use entitlement process, regulatory ordinance imposes specific performance/operational standards on permittees.
-

KEY FEATURES OF CANNABIS REGULATORY ORDINANCE – CONTINUED

- Permittees are subject to inspection of records and premises by the City to ensure compliance with local regulations.
 - Violations of operating and performance conditions constitute a basis for potential revocation of a permit.
 - The City Council may adopt a resolution setting limits on the number of permits to be issued.
 - The City Council may adopt a resolution setting the local tax to be imposed pursuant to Measure EE.
 - The City Council may adopt a resolution to establish fees pursuant to the Ordinance.
-

PERSONAL CULTIVATION



OVERVIEW

- Personal Cultivation:
 - Up to six (6) plants per dwelling
 - Indoor and Outdoor allowed, unless regulated
 - Cities can impose “reasonable” regulations, but cannot prohibit indoor cultivation. Outdoor cultivation can be prohibited but is not recommended by staff.
 - Outdoor Cultivation: Staff recommending limits on location and additional screening requirements
 - Indoor Cultivation: Staff recommending residency requirement and building code compliance
 - Landlords can prohibit cultivation in lease agreements
-

LAND USE REGULATIONS



OVERVIEW

- The Ordinance establishes performance and operational standards for all commercial cannabis business activities in the City of Hayward.
 - Identifies **seven** new cannabis land use types:
 - Commercial Cannabis Cultivation, up to 5,000 sf
 - Commercial Cannabis Cultivation, 5,001 sf or greater
 - Commercial Cannabis Dispensaries (Retail)
 - Commercial Medical and Non-Medical Cannabis Distribution
 - Commercial Medical and Non-Medical Cannabis Manufacturing Level 1
 - Commercial Medical and Non-Medical Cannabis Manufacturing Level 2
 - Commercial Medical and Non-Medical Cannabis Testing Laboratory
 - Adds definitions for cannabis
 - Updates Off-Street Parking Requirements
-

GENERAL REQUIREMENTS

- Dual Licensing
 - Age Restriction
 - Inventory and Tracking
 - Multiple Permits/Licenses Per Site
 - Transfer of Ownership Operator
 - Security
 - Odor Control
 - Setback/Buffer Requirements

 - Use-Specific Requirements
-

SPECIAL USE PERMIT FINDINGS

In addition to the required findings in the City's Zoning Ordinance for Administrative Use Permits and Conditional Use Permits, staff is recommending four special findings be made for all cannabis land uses:

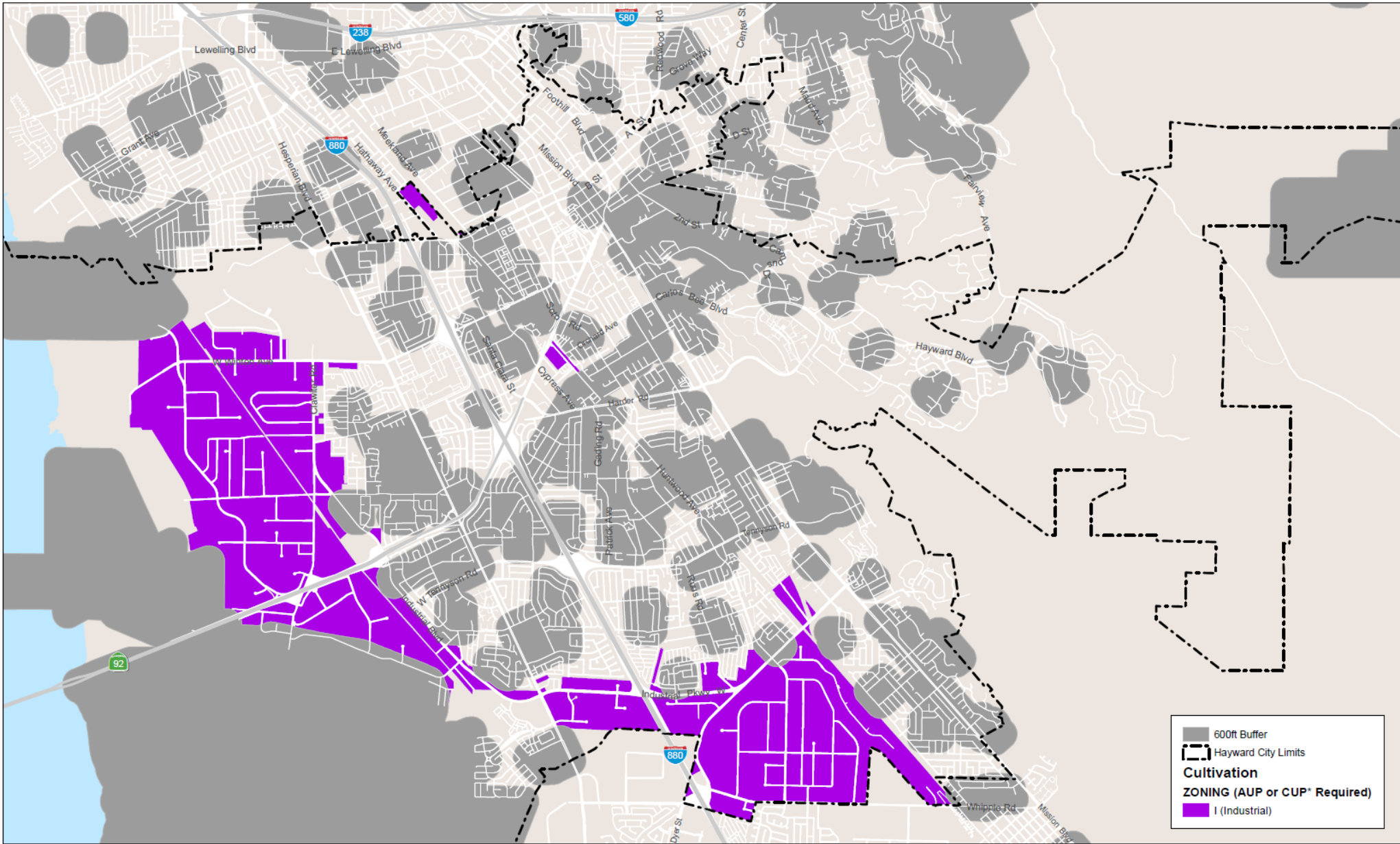
- The proposed cannabis use will not be detrimental to the public health, safety, or general welfare in that the cannabis operation is situated in an appropriate location where sensitive land uses will not be adversely impacted; and
 - Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste related to the cannabis operation; and
 - The cannabis operation is designed to be safe, secure and aesthetically compatible with the surrounding area; and
 - The cannabis operation will not place a burden on the provision of public services disproportionate to other industrial or commercial uses.
-

LAND USE PROCESS

	Cultivation	Deliveries	Dispensary (Retail)	Distribution	Manufacturing (Level 1)	Testing Laboratory
Hayward	AUP/CUP	Permitted/AUP	CUP	AUP	CUP	Permitted/AUP
Alameda County	CUP	Permitted	CUP	-	-	-
Berkeley	Cannabis Operator License Required; No Land Use Entitlement Process					
Emeryville	-	CUP	CUP	-	CUP	-
Oakland	Cannabis Operator License Required; No Land Use Entitlement Process					
Richmond	CUP	-	CUP	CUP	CUP	CUP
Sacramento	CUP	-	CUP	-	CUP	CUP
San Leandro	-	-	CUP	-	CUP	CUP
Santa Rosa	AUP/CUP	-	CUP	Permitted/AUP	Permitted/CUP	Permitted



Commercial Cannabis Cultivation – Zoning Districts



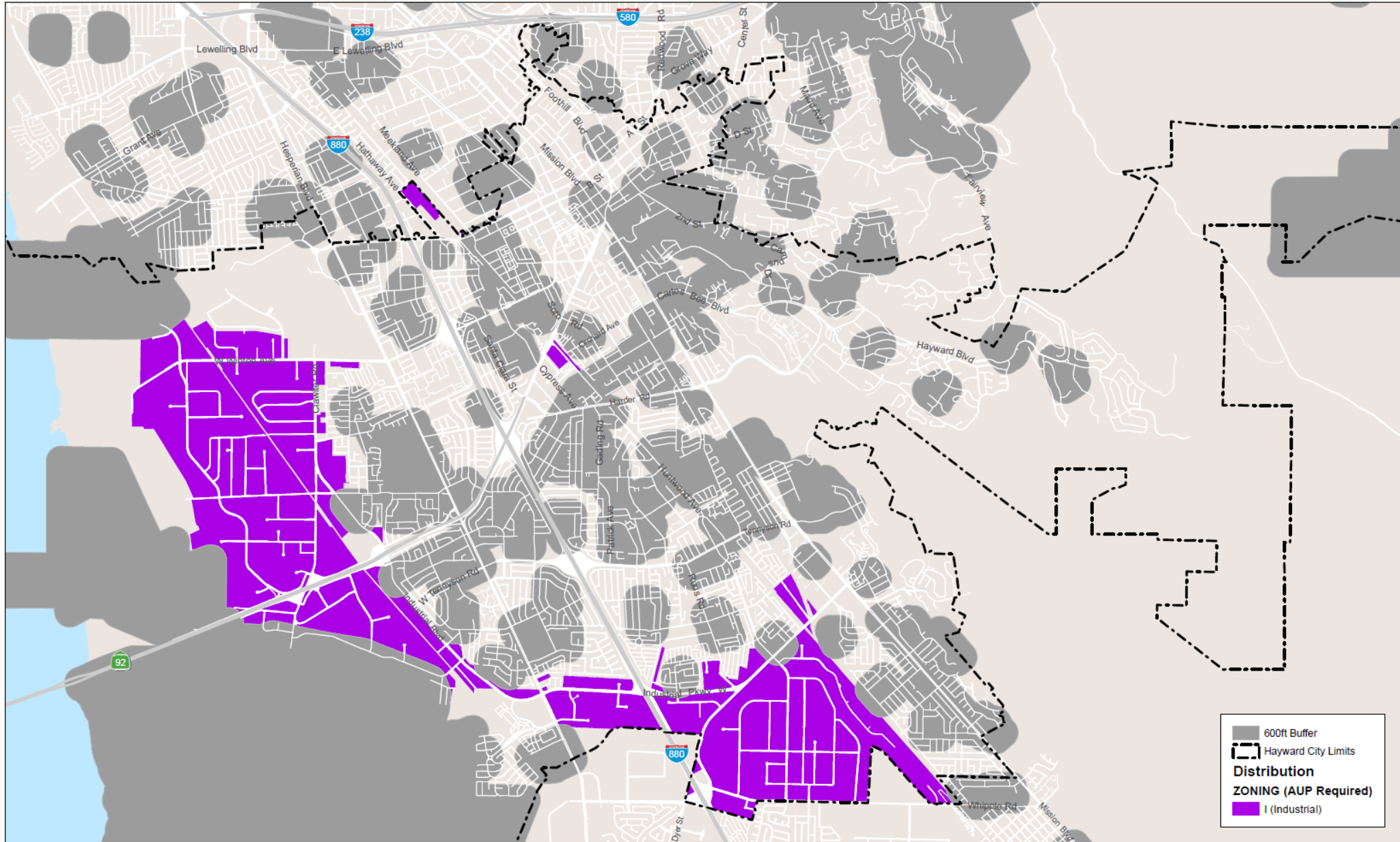
Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

*Entitlement process depends on the size of the cultivation operation.

September 2017



Commercial Cannabis Manufacturing (Level 1*) – Zoning Districts



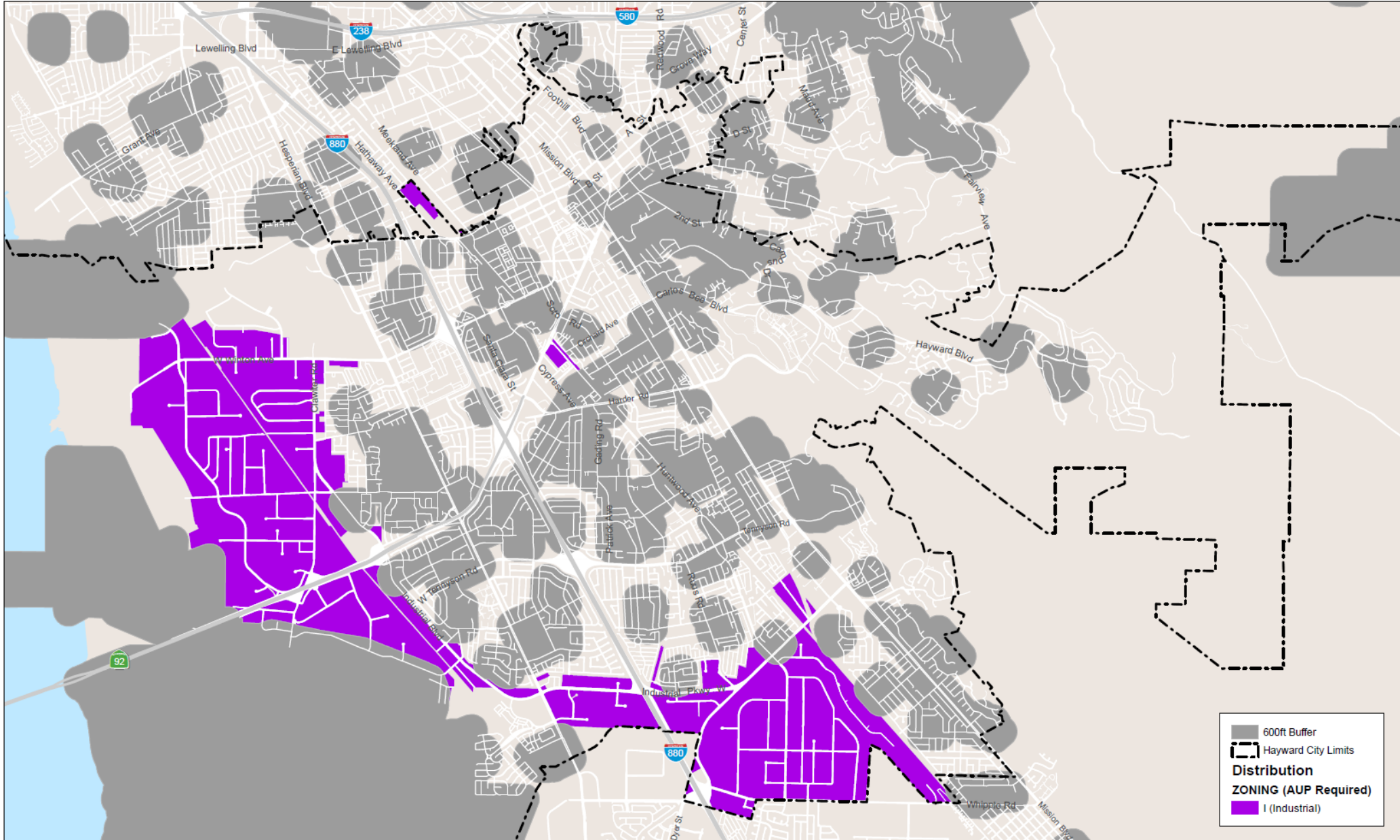
Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

*Level 2 manufacturing (using volatile substances) is prohibited

September 2017



Commercial Cannabis Distribution – Zoning Districts

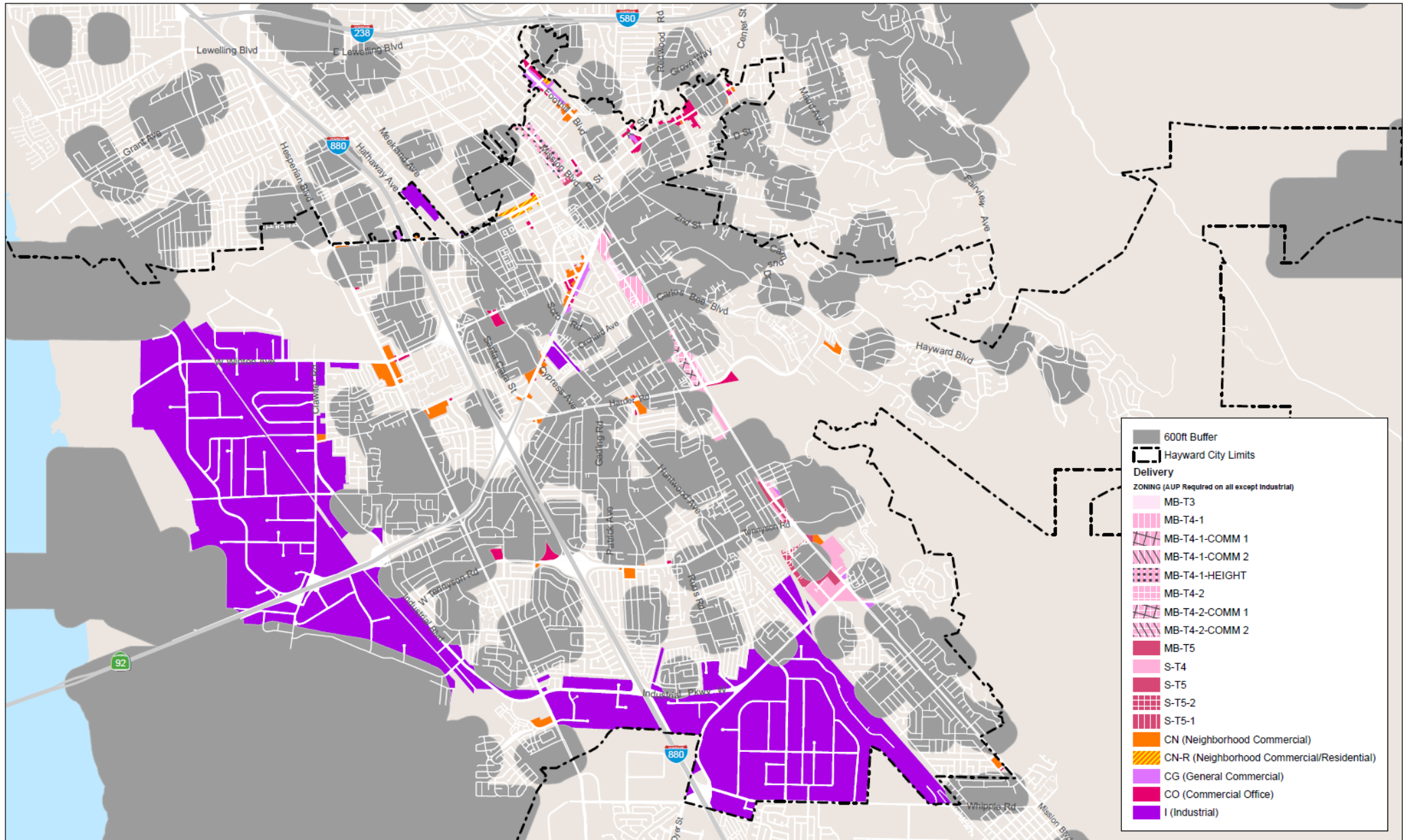


Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

September 2017



Commercial Cannabis Delivery – Zoning Districts

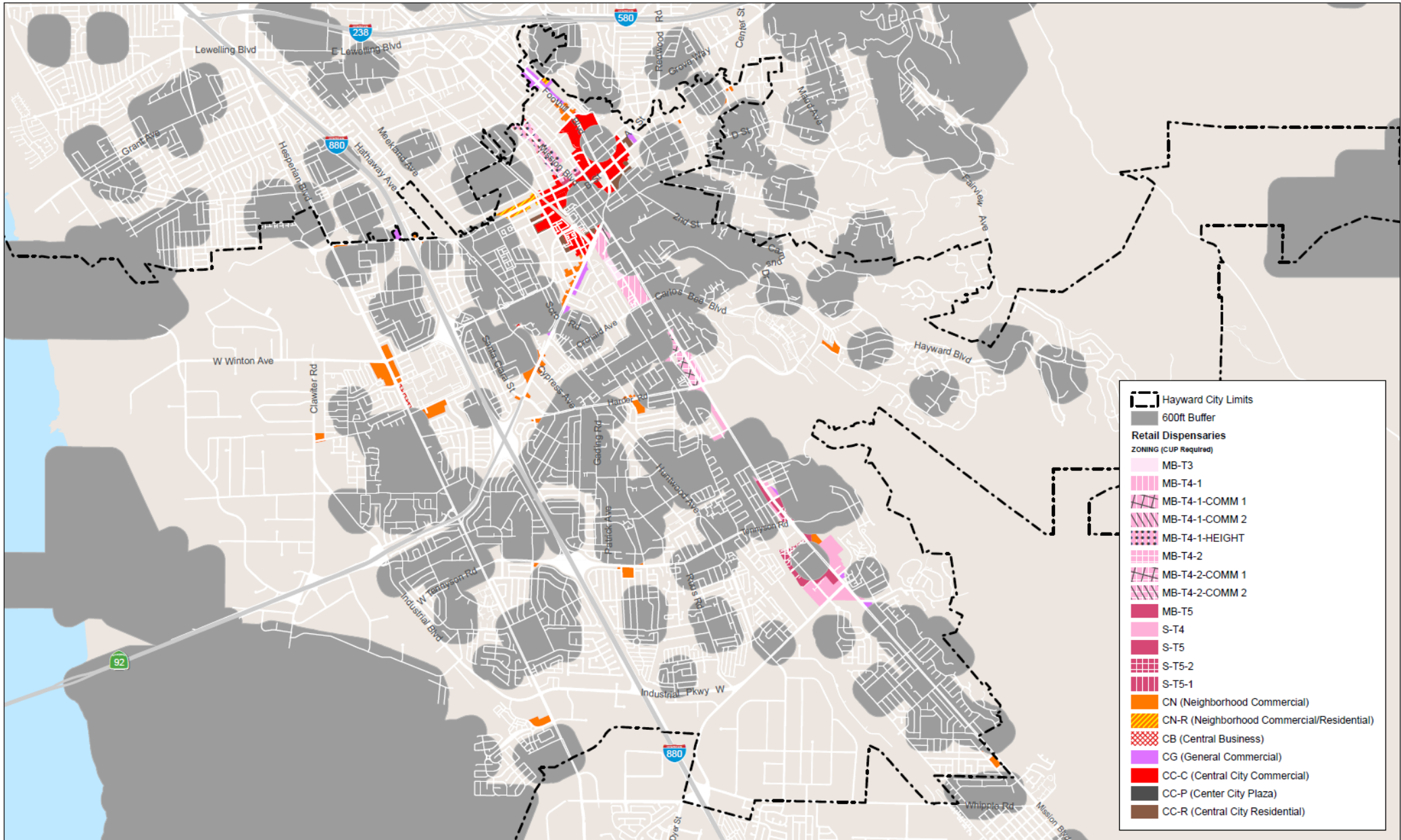


Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

For the purposes of land use classification, this land use is similar in nature to other Administrative and Professional Offices/Services September 2017



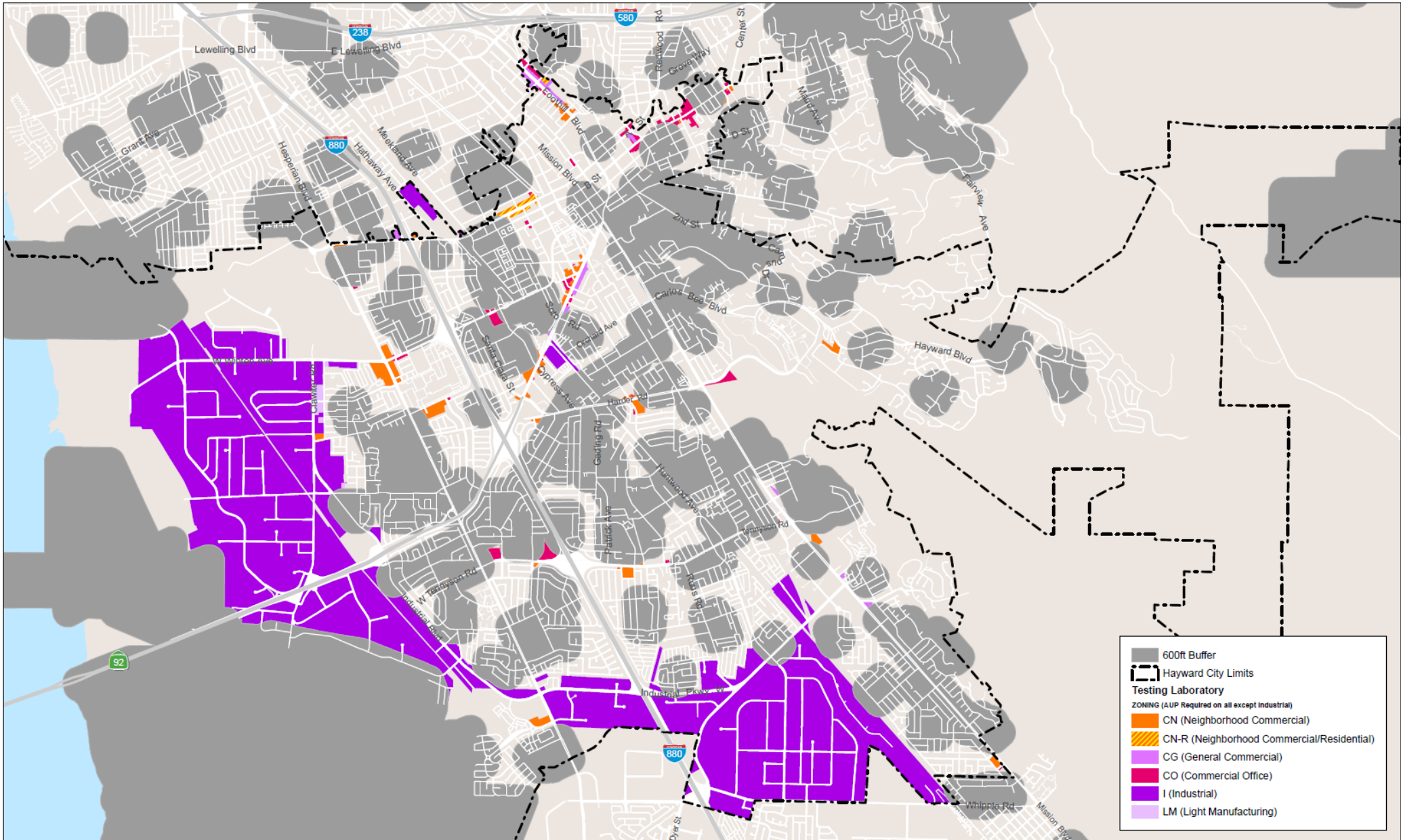
Commercial Cannabis Retail Dispensaries – Zoning Districts



Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.



Commercial Cannabis Testing Laboratory – Zoning Districts



Note: Sensitive Receptors include libraries, community centers, public parks, recreation centers, youth centers, K-12 schools, and day care centers.

For the purposes of land use classification, this land use is similar to other Medical/Dental Laboratories September 2017

MUNICIPAL CODE REVISIONS



SMOKING POLLUTION CONTROL

- Passage of Prop. 64/AUMA requires revision of smoking ordinance to account for legalization of recreational cannabis use.
- Effect of amendments is to prohibit smoking cannabis anywhere smoking tobacco is prohibited.
- Allows smoking of medical cannabis on premises of a licensed dispensary by qualified patients if in compliance with state law and permitted by a conditional use permit.

MASTER FEE SCHEDULE

- Proposed fee structure assumes annual inspections to ensure public safety and compliance
 - Inspection program assumes full cost recovery, similar to tobacco selling establishments
-

NEXT STEPS



TIMELINES

- **City Council Meeting** **October 17, 2017**
Land Use Ordinance
Regulatory Ordinance
Smoking Pollution Control Ordinance Revisions
Master Fee Structure Revisions
 - **Special City Council Meeting** **October 30, 2017**
RFP Selection Criteria Discussion/Presentation
Cannabis Tax Rate Discussion
 - **Finalize & Release RFP** **early-November 2017**
 - **RFP Deadline** **mid-December 2017**
 - **RFP Review, Scoring & Recommendation** **late-January 2018**
 - **Interviews & Selection** **February 2018**
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RECOMMENDATION



That the City Council adopts the attached resolution and introduces the following ordinances related to cannabis:

1. Zoning Text Amendment to Chapter 10, Planning, Zoning, and Subdivisions, of the Hayward Municipal Code;
 2. Land Use Regulations for Medical and Adult Use Cannabis for Personal Cultivation and Commercial Cannabis Businesses;
 3. Ordinance adding Article 14 to Chapter 6 of the Hayward Municipal Code regarding Commercial Cannabis Businesses;
 4. Ordinance amending Article 6 of Chapter 5 of the Hayward Municipal Code regarding Smoking Pollution Control; and
 5. Master Fee Schedule revisions for the annual inspections related to Commercial Cannabis Businesses.
-

QUESTIONS?

JEREMY LOCHIRCO
MICHAEL VIGILIA

PRINCIPAL PLANNER
SENIOR ASST. CITY ATTORNEY

