

CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Thursday, February 28, 2019

7:00 PM

Council Chambers

Planning Commission

MEMBERS OF THE AUDIENCE WISHING TO ADDRESS THE PLANNING COMMISSION

Obtain a speaker's identification card, fill in the requested information, and give the card to the Commission Secretary. The Secretary will give the card to the Commission Chair who will call on you when the item in which you are interested is being considered. When your name is called, walk to the rostrum, state your name and address for the record and proceed with your comments. The Chair may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens for organization. Speakers are expected to honor the allotted time.

CALL TO ORDER Pledge of Allegiance**ROLL CALL****PUBLIC COMMENTS**

The PUBLIC COMMENTS section provides an opportunity to address the Planning Commission on items not listed on the agenda. The Commission welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Commission is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff for further action.

ACTION ITEMS

The Commission will permit comment as each item is called for Public Hearing. Please submit a speaker card to the Secretary if you wish to speak on a public hearing item.

WORK SESSION

Work Session items are non-action items. Although the Planning Commission may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.

1. [WS 19-015](#) Update on the Planning, Development, and Disposition of Former State Route 238 Corridor Lands Pursuant to the Purchase and Sale Agreement with the California Department of Transportation (Caltrans)

 Attachments: [Attachment I Staff Report](#)
 [Attachment II Parcel Group Maps](#)

2. [WS 19-013](#) Review of Proposed Updates to the Mission Boulevard Corridor and South Hayward BART Station Form Based Codes.

 Attachments: [Attachment I Staff Report](#)
 [Attachment II FBC Boundary Map](#)
 [Attachment III FBC Stakeholder Interview Summary](#)

PUBLIC HEARING

For agenda item No. 3 the Planning Commission may make a recommendation to the City Council.

3. [PH 19-014](#) Application to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from certain sensitive land uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code in the City of Hayward, Requiring Approval of a Zoning Text Amendment, Application No. 201900727.

Attachments: [Attachment I Staff Report](#)
[Attachment II Draft Text Amendment & Ordinance](#)
[Attachment III Findings](#)
[Attachment IV Cannabis Land Use Maps](#)

APPROVAL OF MINUTES

4. [MIN 19-025](#) Minutes of the Planning Commission Meeting of February 14, 2019

Attachments: [Attachment I Draft Minutes of February 14, 2019](#)

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters

Commissioners' Announcements, Referrals

ADJOURNMENT

NEXT MEETING, THURSDAY, MARCH 14, 2019, 7:00PM

PLEASE TAKE NOTICE

That if you file a lawsuit challenging any final decision on any public hearing item listed in this agenda, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.

PLEASE TAKE FURTHER NOTICE

That the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the Permit Center, first floor at the above address. Copies of staff reports for agenda items are available from the Commission Secretary and on the City's website the Friday before the meeting.****

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.



CITY OF HAYWARD

Hayward City Hall
777 B Street
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File #: WS 19-015

DATE: February 28, 2019

TO: Planning Commission

FROM: Deputy City Manager

SUBJECT

Update on the Planning, Development, and Disposition of Former State Route 238 Corridor Lands Pursuant to the Purchase and Sale Agreement with the California Department of Transportation (Caltrans)

RECOMMENDATION

That the Planning Commission receive this report and provide feedback on the planning, development, and disposition of Former State Route 238 Corridor lands.

SUMMARY

The City entered into a Purchase and Sale Agreement with the California Department of Transportation (Caltrans) in January 2016 to manage the disposition and development of former right of way for the now defunct Route 238 Bypass. This land is divided into 10 parcel groups and must be disposed of by 2022. Two parcel groups have sold, four are under exclusive negotiations, and the remaining four are undergoing master site planning prior to disposition via a request for qualifications or proposals. This report provides an update on the status of negotiations as well as master site planning.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Parcel Group Maps



SUBJECT

Update on the Planning, Development, and Disposition of Former State Route 238 Corridor Lands Pursuant to the Purchase and Sale Agreement with the California Department of Transportation (Caltrans).

RECOMMENDATION

That the Planning Commission receive this report and provide feedback to staff on the planning, development, and disposition of Former State Route 238 Corridor lands.

SUMMARY

In January 2016, the City entered into a Purchase and Sale Agreement with the California Department of Transportation (Caltrans) to manage the disposition and development of former right of way for the now defunct Route 238 Bypass. This land is divided into 10 parcel groups and must be disposed of by 2022. Two parcel groups have sold, four are under exclusive negotiations, and the remaining four are undergoing master site planning prior to disposition via a request for qualifications or proposals. This report provides an update on the status of negotiations as well as master site planning.

BACKGROUND

In the mid-1960s, the California State Department of Transportation (Caltrans) purchased more than 400 parcels of property for construction of a 14-mile Route 238 Corridor Bypass Freeway to run through the City of Hayward and parts of unincorporated Alameda County. Over the ensuing decades, the 238 Bypass would face numerous legal challenges, ultimately resulting in the project being abandoned in 2005.

In 2011, the City approached Caltrans with a proposal to allow the City to take responsibility for the disposition and development of the remaining Caltrans-owned property. This would ensure thoughtful planning and assemblage for the development of the parcel groups rather than the auctioning off individual parcels. After initial disinterest Caltrans agreed to negotiate, and eventually a Purchase and Sale Agreement was approved by the City Council and the California Transportation Commission (CTC) in January 2016.

The Agreement with Caltrans consists of the following major elements and benefits:

- The City may buy 10 different parcel groups from Caltrans over a six-year period that expires in January 2022;
- Properties that have not been resold by the City to developers can be returned to Caltrans without penalty;
- During the six-year period, the City will pre-plan and partially entitle each parcel group to ensure maximum value and conformance with city land-use plans, policies and vision;

- An appraisal process shall determine property values. These amounts will be paid to Caltrans. If the City can negotiate a higher land value on resale to developers, due to its preplanning and entitlement process, the excess proceeds will be allocated to the City;
- The City will require parcels to be developed and not resold for speculation;
- The City has control over the public input process on proposed development plans; and
- The City can plan the appropriate infrastructure upgrades needed to support the sale of the combined parcel groups, and establish infrastructure funding districts as appropriate

DISCUSSION

To date, the City has sold two parcel groups and has four under exclusive negotiations. This section outlines the status of those parcel groups while detailing the master site planning activities for the remaining four parcel groups. Attachment II provides a map of each parcel group discussed below

Parcel Group 1 & 10 - SoHay

The City Council approved a 472 mixed-income, multi-family rental and for-sale townhome-style unit and retail development proposal from William Lyon Homes in May 2018.

Status Update

This project is currently under construction.

Parcel Group 2—The True Life Companies

Parcel Group 2 consists of one parcel located between the Tennyson Road extension on the north, Mission Blvd. and parcels fronting on Mission Blvd on the west, and the Ersted parcel (Parcel # 078-461-001-13) on the east. The parcel is approximately 8.75 acres or 381,182 gross square feet, which has been reduced by the extension of Tennyson Road at the north end of the parcel, and a storm drain easement on the west side. The parcel is currently vacant.

Proposal Overview and Status Update

The True Life Companies proposal contemplates a mixed-use development with 186 multi-family residential units with on-site affordable units and 11,000 sq. ft. of commercial space. The developer has submitted a formal planning application for the necessary land use entitlements and is currently under review. No General Plan amendments or zoning changes are anticipated.

Parcel Group 3—Eden Housing & The Pacific Companies (TPC)

Parcel Group 3 consists of three parcels located between the Tennyson Road on the south and Broadway St. on the north. The parcel group consists of approximately 28.5 acres. The main parcel is primarily open space with barns and corrals for horses. This parcel group also includes two smaller lots between Webster St. and Broadway St., which are currently vacant.

Proposal Overview and Status Update

The Eden Housing and The Pacific Companies proposal contemplates the development of 150 affordable housing units with a 49,000sf charter school, primarily located within the boundaries of Parcel Group 3. The developer is currently completing their site due diligence, including considerable geotechnical studies. Eden/TPC anticipate submitting a formal planning application in May 2019 for approval of a tentative map. No General Plan amendments or zoning changes are anticipated.

Parcel Group 4—Eden Housing & The Pacific Companies

Parcel Group 4 consists of approximately 80.7 acres. The majority of the land is undeveloped as open space/grasslands, with a cabin located in the middle of the parcel and a barn located at Calhoun Street, which is used by the Mellow Mule Company. This parcel group is deed restricted to two dwelling units, but may be increased to three units pending Caltrans approval.

Proposal Overview and Status Update

The Eden Housing and the Pacific Companies proposal contemplates the development of three single-family homes. The developer is currently completing their site due diligence. Eden/TPC anticipate submitting a formal planning application in May 2019 for approval of a tentative map. No General Plan amendments or zoning changes are anticipated.

Parcel Group 7—BMODDRE2, LLC

Parcel Group 7 is located at the southeastern corner of Mission Boulevard and Carlos Bee Boulevard. A vacant commercial building with a wireless transmission tower is located at the corner of Mission Boulevard and Carlos Bee Boulevard. An undeveloped hillside comprises a majority of the site east of the commercial lots along Mission Boulevard. The hillside slopes uphill to the east and has a relatively flat terrace near the middle of the 10-acre site. A 200-foot-wide PG&E utility corridor with high voltage electrical transmission lines forms the southeastern boundary of the site.

Proposal Overview and Status Update

The BMODDRE2 proposal contemplates the development of a two-story auto dealership. The developer is in the process of developing architectural and preliminary site plans in preparation for submitting a formal planning application. BMODDRE2 anticipates submitting this within the first half of this calendar year for their site plan review.

Parcel Groups Undergoing Master Site Planning

The City is currently working with a planning consultant, Design Workshop, to develop Master Site Plans for the remaining parcel groups. This process will allow the City to facilitate the public input process, plan associated infrastructure upgrades, and conduct the environmental analysis needed. Once drafted, these Master Site Plans will be presented to the Planning Commission and City Council for consideration. Upon approval of the Master Site Plans, the parcel groups will be offered for sale through a Request for Proposals or Qualification process to evaluate specific development plans submitted. The following Parcel Groups will be undergoing this process.

Parcel Group 5—Bunker Hill

Parcel Group 5 includes the Bunker Hill streets, Maitland Drive and Central Boulevard. The California State University East Bay (CSUEB) sports fields are located east of the site, and multifamily residential uses are located north of the site, across Carlos Bee Boulevard. The 37.5-acre area is sloped and previously developed with 24 single-family homes, of which 22 units have been vacated. Demolition of these units will begin within the next month.

Vision, Land Use, and Next Steps

The master site planning activities are focused on the development of single-family homes, utilizing the current Residential Natural Preserve zoning. The planning effort will aim to preserve open space while facilitating the construction of the 238 Foothill Trail, pursuant to the SD7 overlay for this parcel. This master site plan should be completed by the end of April.

Parcel Group 6—Carlos Bee Quarry

Parcel Group 6 is located north of Carlos Bee Boulevard, south of Highland Boulevard, approximately 1,500 feet northeast of Mission Boulevard and approximately 2,000 feet northwest of CSUEB. A dirt access road within a Pacific Gas & Electric (PG&E) utility corridor connects the site to Carlos Bee Boulevard. Overlook Avenue and Palisade Street terminate at the southwestern corner of the site. The site was previously used as a sand/gravel quarry and is characterized by a large, relatively level area devoid of landscaping in the center surrounded by steep slopes. A densely vegetated drainage area forms the northeastern border of the 29.6-acre site. Single-family homes fronting Highland Boulevard surround the northern side of the site. Multi-family residential uses are located to the east and single-family residences are located to the west of the site. The parcel is currently vacant.

Vision, Land Use, and Next Steps

This parcel is predominately zoned Sustainable Mixed Use (SMU), which allows for over 1000 residential units. Given this, the master site plan is envisioning a development with multiple residential product types, including standard townhomes, stacked flats, and student housing. The development will also include a new neighborhood park as well as the construction of the 238 Foothill Trail. This master site plan should be completed by the end of May or early June, 2019.

Parcel Group 8—Grove Way

Parcel Group 8 is located to the south of Grove Way and traverses both the City and County jurisdictional borders. The Site is 18.86 acres with 5.6 acres located within the City boundary. The site has limited access available through either Gary Drive, or through narrow alleyways abutting Bridge Court and to the north of East Bay Motors on Foothill Blvd. The site includes 7.25 acres of designated open space. The parcel contains 12 apartment units, located on Bridge Court. The City currently has no plans to vacate these units.

Vision, Land Use, and Next Steps

This parcel group contains several land use challenges, given the limited site access to a portion of developable space and county land use and zoning. The current City zoning of General Commercial, Medium Density Residential, and Neighborhood Commercial Residential would allow the development of townhomes and higher density affordable housing products; however, the County's zoning designation of Suburban Residential and Single Family Residential may preclude the development of denser products on portions of the Parcel within unincorporated Castro Valley.

The City is currently evaluating several development options, including a mix of either market rate apartments, senior/assisted living facilities, and affordable housing. Staff is also coordinating with the Hayward Area Recreation and Park District on a potential expansion of Carlos Bee Park on the designated open space portion of this parcel group. This master site plan will be completed later this year, following additional community outreach and discussions with the County.

Parcel Group 9—Apple & Oak

Parcel Group 9 is located at the intersection of Apple and Oak Streets and shares a western border with the I-580 on-ramp in north Hayward. This 4.26-acre parcel traverses both the City and County jurisdictional borders with 2.67 acres within the City boundary. The parcel is currently vacant.

Vision, Land Use, and Next Steps

The City is evaluating the development of a "business concept" hotel and is no longer developing a master site plan for the site. Developing a hotel on this parcel will require a zoning change from Commercial Office (CO) to General Commercial (CG). The City anticipates bringing this zone change request to the Planning Commission for consideration later this year.

ECONOMIC IMPACT

No property taxes are currently being paid on these parcel groups. Resale of the parcel groups may partially return them to the tax rolls, provide an opportunity for new residential development needed to address the goals of the Housing Element and provide new commercial development opportunities.

The sale of the parcel groups will be made pursuant to SB 470, which allows cities to sell public land for private development if the sale creates economic opportunity. Economic opportunity includes the creation and retention of jobs, increasing property tax revenues to all taxing entities, creation of affordable housing, implementation of a sustainable communities strategy, and implementation of a transit related project. The disposition agreement for the project will need to include one or more of these elements as an obligation and/or outcome of the development.

STRATEGIC PRIORITIES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities strategic initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This item supports the following goals:

Goal 1: Improve the quality of life for residents, business owners, and community members in all Hayward Neighborhoods

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.


In addition, the sale and development of the parcel groups will support the policies in the Economic Development Strategic Plan for the Central Mission Boulevard Corridor.

Prepared by: John Stefanski, Management Analyst II

Recommended by: Jennifer Ott, Deputy City Manager


Approved by:




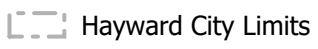
Sara Buizer, AICP, Planning Manager


Laura Simpson, AICP, Development Services Director


CalTrans (238) Property
Group 1


 Manhole


 Water Main

 Hayward City Limits



 Parcels

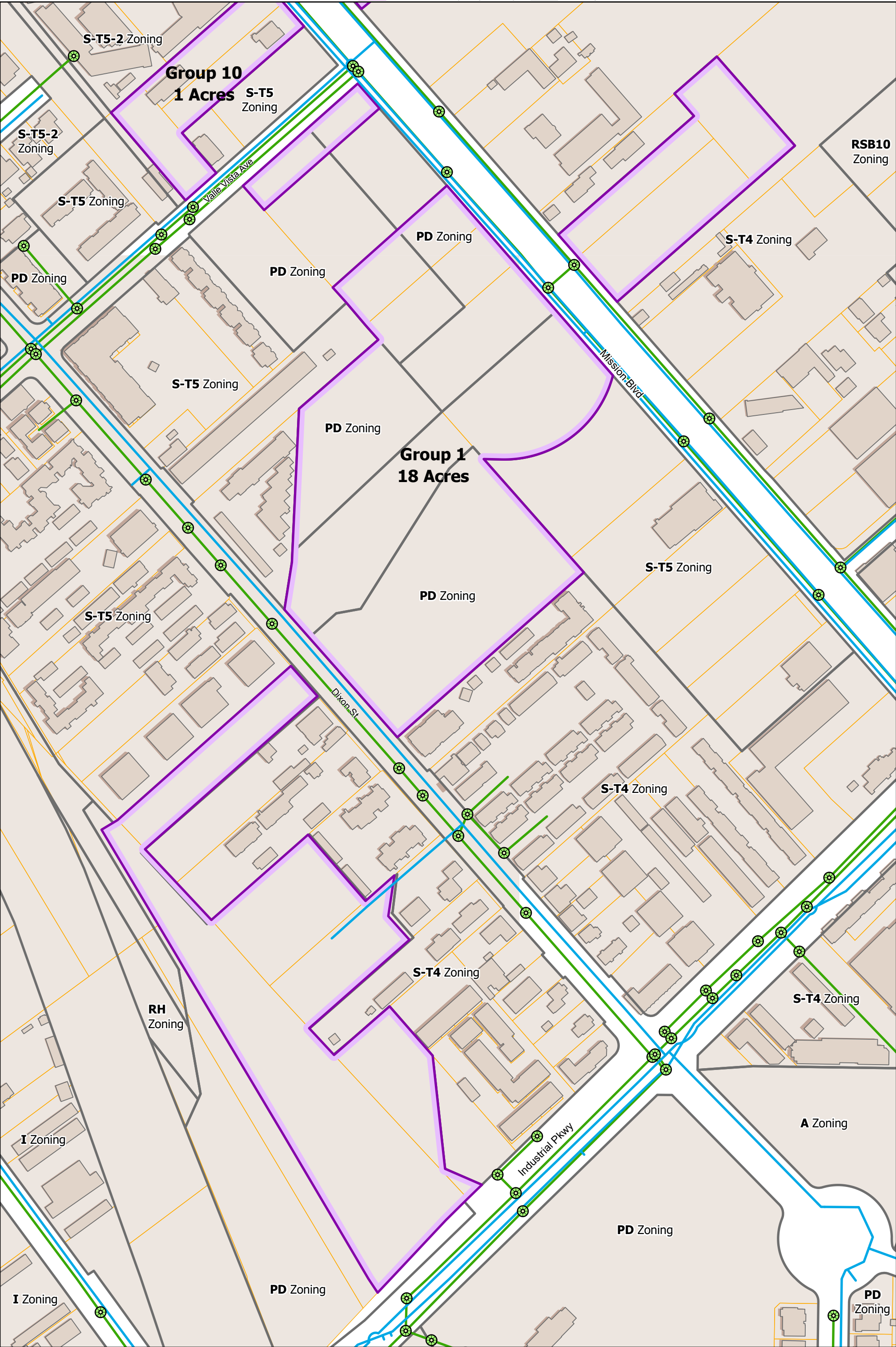
 Sewer Main

 CalTrans Property Group


 Zoning


Attachment II
Scale: 1:2,000
9/20/2018

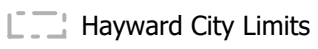






CalTrans (238) Property Group 2


 Manhole


 Water Main

 Hayward City Limits



 Parcels

 Sewer Main

 CalTrans Property Group


 Zoning


Attachment II
Scale: 1:1,000
9/20/2018

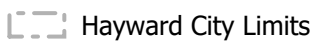






CalTrans (238) Property
Group 3



-  Manhole

 Water Main

 Hayward City Limits


 Sewer Main

 CalTrans Property Group

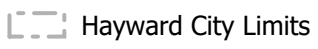
 Zoning
-  Parcels




CalTrans (238) Property
Group 4


 Manhole


 Water Main

 Hayward City Limits


 Parcels

 Sewer Main

 CalTrans Property Group


 Zoning


Attachment II
Scale: 1:3,600
9/20/2018

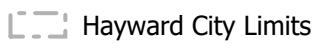






CalTrans (238) Property
Group 5



-  Manhole


 Water Main


 Hayward City Limits

 Sewer Main

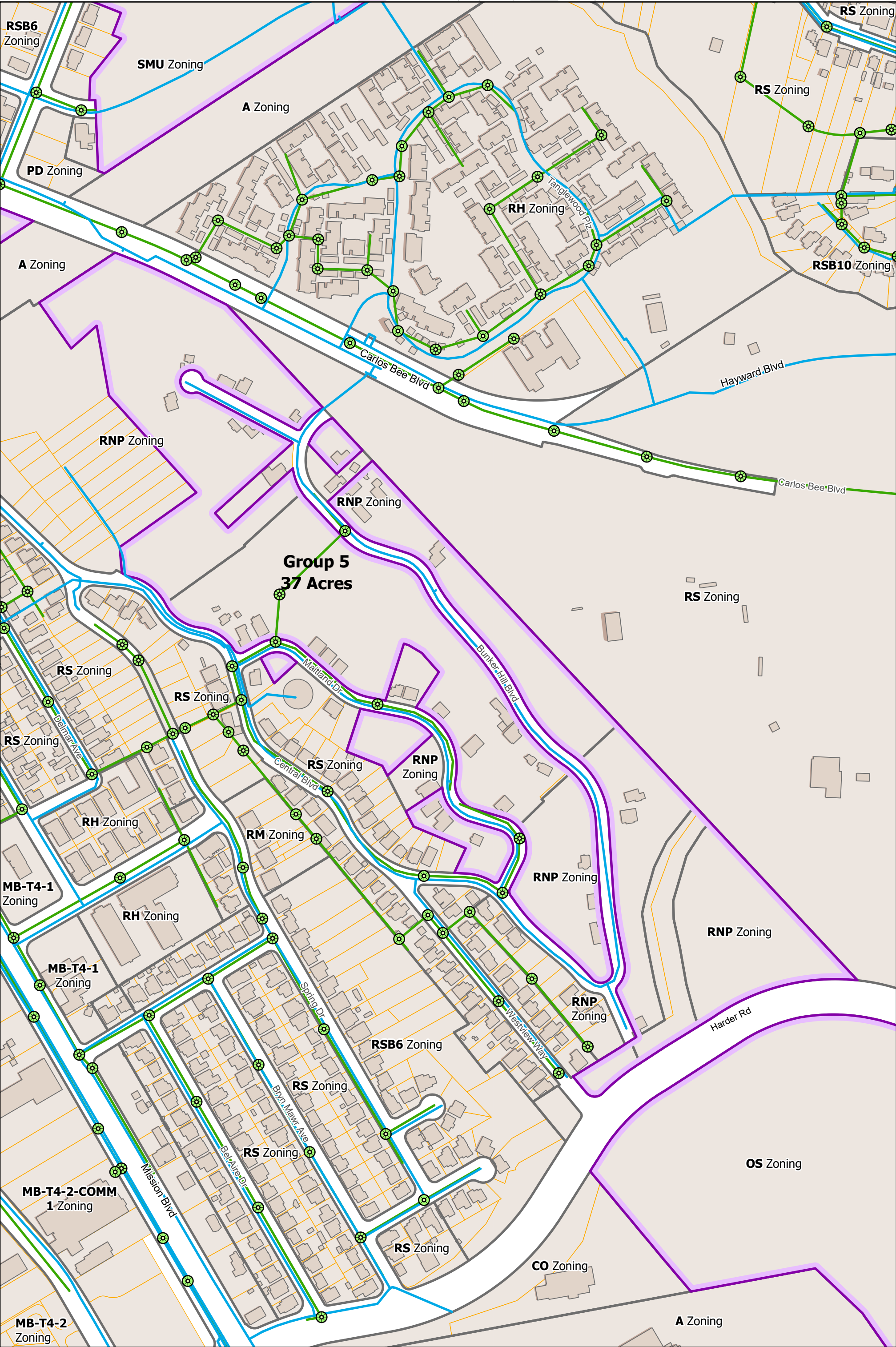
 CalTrans Property Group

 Zoning
-  Parcels







Attachment II
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9/20/2018

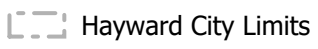



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CalTrans (238) Property
Group 6


 Manhole


 Water Main

 Hayward City Limits



 Parcels

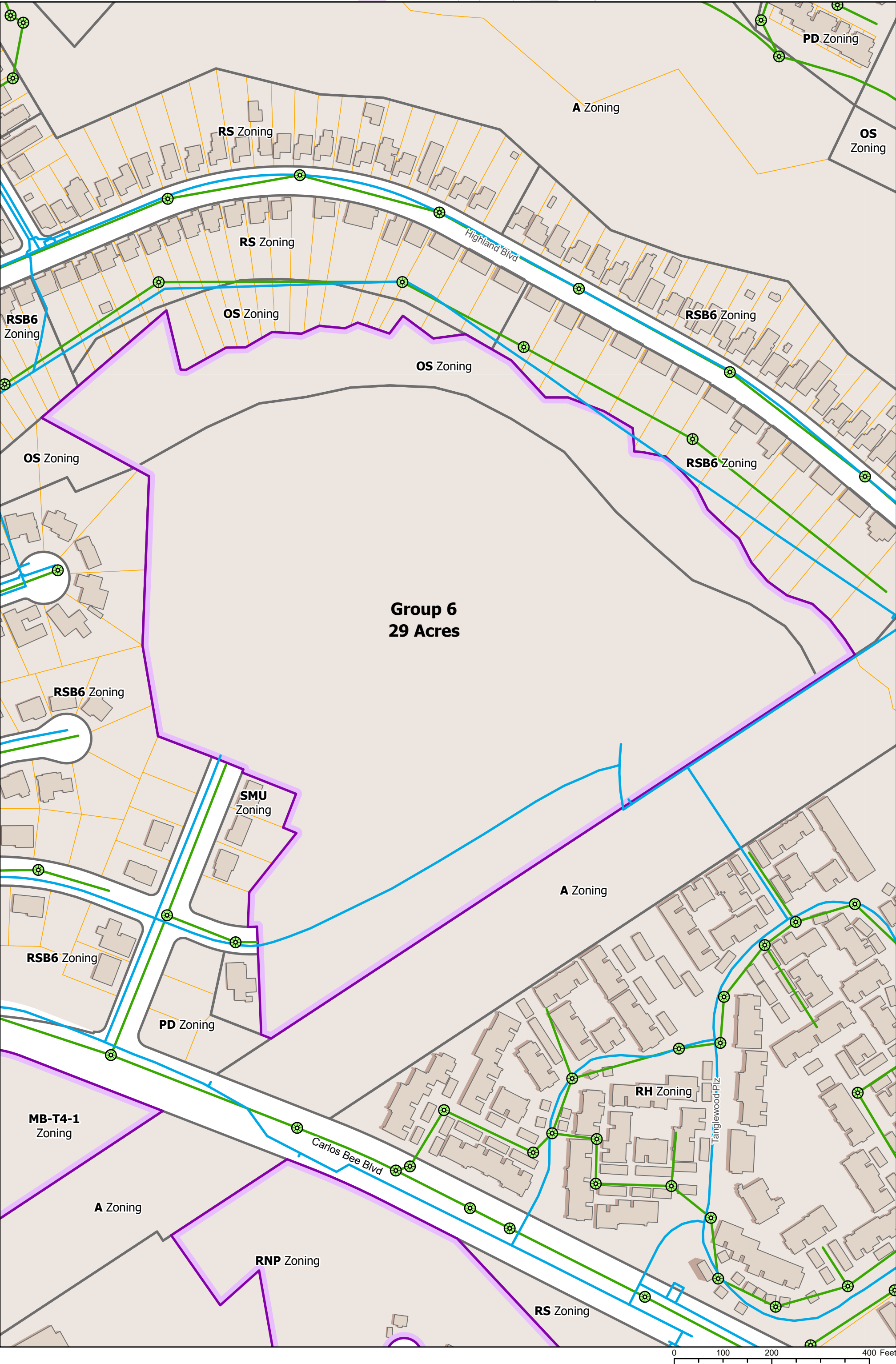
 Sewer Main

 CalTrans Property Group


 Zoning


Attachment II
Scale: 1:2,100
9/20/2018







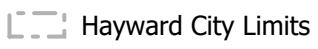
CalTrans (238) Property
Group 7


 Manhole


 Water Main

 Sewer Main



 CalTrans Property Group

 Hayward City Limits

 Parcels

 Zoning

Attachment II
Scale: 1:1,500
9/20/2018






CalTrans (238) Property Group 8

 Manhole

 Water Main

 Hayward City Limits

 Parcels

 Sewer Main

 CalTrans Property Group

 Zoning


Attachment II
Scale: 1:2,500
9/20/2018



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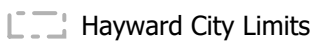
HAYWARD GIS





CalTrans (238) Property
Group 9


 Manhole


 Water Main

 Hayward City Limits

 Parcels


 Sewer Main


 CalTrans Property Group

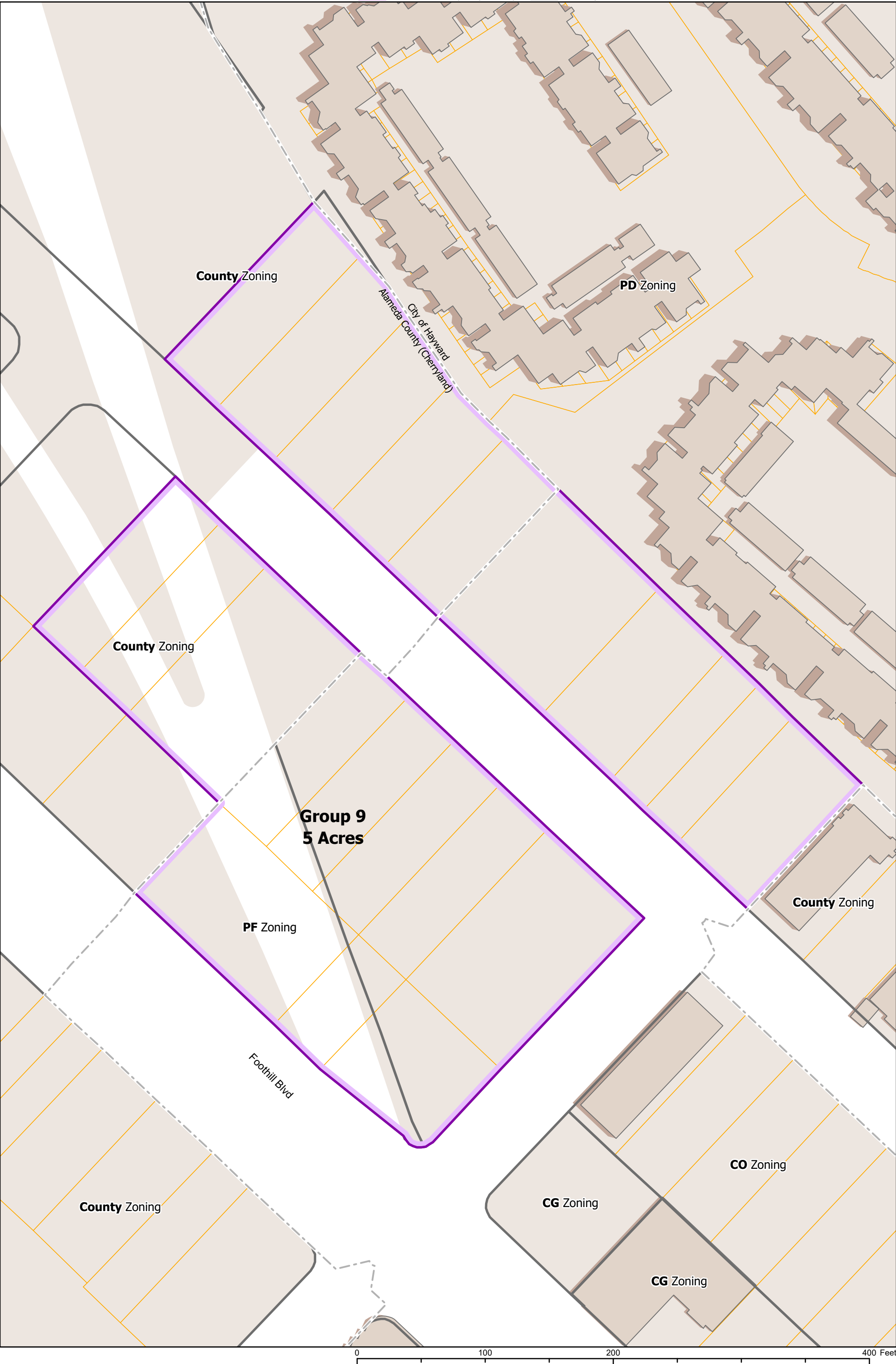
 Zoning

Attachment II
Scale: 1:800
9/20/2018

N







CalTrans (238) Property
Group 10

-  Manhole

 Water Main

 Hayward City Limits

 Parcels
-  Sewer Main

 CalTrans Property Group

 Zoning





CITY OF HAYWARD

Hayward City Hall
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File #: WS 19-013

DATE: February 28, 2019

TO: Planning Commission

FROM: Planning Manager

SUBJECT

Review of Proposed Updates to the Mission Boulevard Corridor and South Hayward BART Station Form Based Codes.

RECOMMENDATION

That the Commission provides feedback and direction on the updates to the Mission Boulevard Corridor and the South Hayward BART/Mission Boulevard Form Based Codes.

SUMMARY

This is a work session to obtain feedback and direction from the Planning Commission on the future updates to the City's two form-based codes: Mission Boulevard Corridor; and South Hayward BART/Mission Boulevard Form Based Codes (FBC). The goal of this project is to take both form-based codes and adapt each code into clear and understandable regulatory sections that intuitively make sense to residents, developers, and City staff.

The updated Codes will continue to regulate development to ensure high-quality public spaces defined by a variety of building types and uses including housing, retail, and office space. The updated Codes may modify the regulating plan, building form standards, street standards (plan and section), land use regulations, and other elements needed to implement the principles of urbanism, planning, and practical growth management consistent with the community vision established in the *Hayward 2040 General Plan*.

ATTACHMENTS

Attachment I Staff Report
Attachment II FBC Boundary Map
Attachment III FBC Stakeholder Interview Summary

File #: WS 19-013



SUBJECT

Review of Proposed Updates to the Mission Boulevard Corridor and South Hayward BART Station Form Based Codes.

RECOMMENDATION

That the Commission provides feedback and direction on the updates to the Mission Boulevard Corridor and the South Hayward BART/Mission Boulevard Form Based Codes.

SUMMARY

This is a work session to obtain feedback and direction from the Planning Commission on the future updates to the City's two form-based codes: Mission Boulevard Corridor¹; and South Hayward BART/Mission Boulevard² Form Based Codes (FBC). The goal of this project is to take both form-based codes and adapt each code into clear and understandable regulatory sections that intuitively make sense to residents, developers, and City staff.

The updated Codes will continue to regulate development to ensure high-quality public spaces defined by a variety of building types and uses including housing, retail, and office space. The updated Codes may modify the regulating plan, building form standards, street standards (plan and section), land use regulations, and other elements needed to implement the principles of urbanism, planning, and practical growth management consistent with the community vision established in the *Hayward 2040 General Plan*.

BACKGROUND

In September 2011, the City Council adopted the South Hayward BART/Mission Boulevard Form Based Code and certified the Environmental Impact Report and related Mitigation and Monitoring Reporting Program for a total area of approximately 240 acres from Harder Road to Garin Avenue on parcels to the east and west of Mission Boulevard.

In October 2013, the City Council adopted the Mission Boulevard Corridor Specific Plan and Form-Based Code and certified the Environmental Impact Report with Mitigation Monitoring and Reporting Program for a total area of approximately 240 acres from areas east and west along Mission Boulevard in two separate segments. The northern segment spans along Mission Boulevard from the northern City boundary south to A Street, and the southern

¹ Mission Boulevard Corridor Form-Based Code:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART25HAMIBOCOF0SECO

² South Hayward BART/Mission Boulevard Form-Based Code:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART24SOHABAMIBOFOSECO

segment extends along Mission Boulevard from Jackson Street south to Harder Road. A map of the two FBC planning areas is included as Attachment II.

Since adoption of the FBCs, there have been few revisions or modifications to the Codes and like any zoning ordinance, specific plan, or general plan, regular updates and/or amendments are required to reflect new policies, development standards, and land uses. As part of the approved FY2018 budget, the Development Services Department-Planning Division established a goal of revising and updating the City's two form-based codes and has earmarked the funds to initiate this project. The project requires a thorough review of each Code to remove inconsistencies, update policies and land uses, and streamline the development review process in an effort to make the Codes easier to understand and administer.

On April 9, 2018, the City issued a Request for Proposals (RFP) to update the Mission Boulevard Corridor and South Hayward BART-Mission Boulevard Form Based Codes. On May 22, 2018, the City Council adopted Resolution No. 18-085, which authorized the City Manager to execute an agreement with Lisa Wise Consulting, Inc. (LWC) for the preparation of a comprehensive update to the two Codes. Since May 2018, LWC has been meeting with City staff, conducting public outreach with key stakeholders, and evaluating the existing FBCs to identify issues related to Code administration and implementation.

Stakeholder Interviews: On December 10-11, 2018, LWC conducted numerous stakeholder interviews with staff representing public agencies, transit providers, neighborhood associations, community stakeholders, developers, design professionals, and city departments. Several similar opinions emerged among interviewees regarding issues with the current form-based codes. While the interviewees may ultimately differ on the exact recommended changes, there was clear agreement that the Codes need to be reorganized and simplified to make them easier to use and understand. Following is a list of common themes from the interviews:

1. **Complexity.** The Codes are too complex and hard to interpret, and the document format and layout is difficult to navigate.
2. **Development Standards.** The Codes should focus development standards on key elements of building form. The two FBC are overly prescriptive in some instances, such as roof pitch and building articulation, and offer too many options in other instances.
3. **Parking Supply.** A balance should be struck between providing parking to ensure accessibility and limiting parking to encourage and support transit use and the development of vibrant, walkable, and mixed-use areas. Parking management and enforcement could help alleviate parking problems in the project area and adjacent neighborhoods.
4. **Ground Floor Uses.** The Codes should ensure activity at the ground floor along street frontages. However, restricting the ground floor area to "retail" uses is onerous and likely not viable. Active ground floor uses could include a variety of restaurant, entertainment, and service uses, and in some areas residential and community uses, all of which contribute to a 24-hour street presence and 'eyes on the street'.

5. **Thoroughfares.** Connectivity is important but the thoroughfare standards in the FBCs are overly prescriptive, do not reflect Complete Street best practices and other City standards for the design of accessways/pathways and in some cases, render new development infeasible.
6. **Flexibility.** The Codes should incorporate flexibility to address irregular lot sizes, unique site conditions, or specific issues while still ensuring the intent of the regulation is satisfied. This process can replace warrants/exceptions, which often has a negative connotation, with a new streamlined and simplified process that encourages creativity in design.

A complete summary of comments received from the Stakeholder Interviews are included as Attachment III.

City Council Work Session: On January 22, 2019, the City Council held a work session on the updates to the Form Based Codes and provided feedback to staff on the topics highlighted from the Stakeholder interviews in December. The Council noted that many of the original goals that were identified when the FBCs were adopted are not currently being achieved and as such, the FBCs may no longer be an appropriate land use framework to guide development. The Council expressed concerns with the complexity of the existing Code, the inconsistent development pattern of new projects along the Corridor, and the number of PD Rezoning approved since the FBCs were adopted are evidence that the Codes are not achieving the goals and objectives originally envisioned. The Council also confirmed that all the issues raised by the stakeholders are valid and should be addressed as part of the Code update.

DISCUSSION

The two Form-Based Codes are designed to be used as a set of guidelines for property owners and the development community to understand the vision that the community has established for development along the Mission Boulevard corridor and near the South Hayward BART Station. The Codes were to provide a framework and a systematic checklist for the City as it plans its investments in capital projects and evaluates the design of new building projects. The Codes are intended to improve the quality of design proposals that the City receives and the value of the City's cumulative investments in the public realm.

Although both FBCs established a framework for new development along the Corridor, the downturn in the local and national economy between 2008-2012 limited the number of new development applications along the Corridor. Over the past several years, the amount of development activity has increased, and the Planning Division has experienced a rise in the number of new, large-scale planning applications within the Code Area and, in the process, determined that inconsistencies within and between the adopted Codes and the City's Zoning Ordinance have resulted in significant warrants and exceptions granted for projects and inconsistent development patterns along the Corridor. The main objectives of the FBC updates are the following:

- Be consistent with and help implement the *Hayward 2040 General Plan*³ and Economic Development Strategic Plan⁴;
- Promote high quality design through clear and effective regulations;
- Use clear and consistent terms and definitions;
- Establish a clear development review and permitting process to increase efficiency and predictability;
- Be consistent with State and Federal law; and
- Be clear, concise, and easy to use and understand.

Although both FBCs are generally consistent with the *Hayward 2040 General Plan* and seek to carry out many of the General Plan goals and policies, the Codes differ from the existing and traditional zoning in that it emphasizes urban design and provides more flexibility for uses (or functions), encouraging (not requiring) mixed use. In an effort to assist LWC with the updates, staff is requesting specific feedback from the Planning Commission on the following:

- Does the Commission have general comments on the Form Based Codes that the Consultant should consider moving forward?
- Are there specific land uses that should or should not be allowed in the FBC areas?
- Is there anything, in particular, that is working well or not working well related to development standards or the process for granting exceptions and warrants?
- Are any of the “common themes” identified in the Stakeholder Interviews expected or were there any surprises?

NEXT STEPS

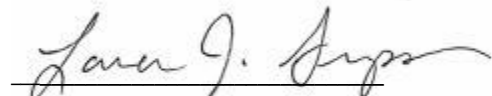
Following the PC work session, LWC will incorporate any comments received and update the FBCs accordingly. Staff anticipates the draft updated FBCs will be released later this Spring 2019, with public hearings by the Planning Commission and City Council shortly thereafter. Following completion of the environmental analysis, the updated Codes will be presented to the Planning Commission for full review and recommendation to the City Council.

Prepared by: Jeremy Lochirco, Principal Planner

Approved by:



Sara Buizer, AICP, Planning Manager



Laura Simpson, AICP, Development Services Director

³ Hayward 2040 General Plan:
<https://www.hayward2040generalplan.com/>

⁴ Economic Development Strategic Plan:
<https://www.hayward-ca.gov/your-government/documents/economic-development-strategic-plan>





MEMO

To: City of Hayward

From: Lisa Wise Consulting, Inc.

Date: December 17, 2018

Subject: City of Hayward Form Based Code Update-Stakeholder Interview Summary

Introduction

As part of the Hayward Form Based Code Update (Project), Lisa Wise Consulting (LWC) conducted interviews with a cross-section of “code-users”—people who have used the Mission Boulevard Corridor Form Based Code and South Hayward BART/Mission Boulevard Form Based Code (Form Based Codes) in Hayward or otherwise have knowledge of development in Hayward or of development regulation.

On December 10th and December 11th, LWC conducted ten interviews with 20 representatives, including City staff, design professionals, developers, neighborhood representatives, regional agencies, and the City Manager’s office.

The purpose of the interviews was to gain an understanding of an “insider’s” or “user” perspective of issues with the Form Based Codes, elements of the Form Based Codes that are working well, and opportunities for improvement. Interviews were conducted by senior staff from LWC. No staff members were present during the interviews to encourage candid responses.

Each interview began with an overview of the Project and purpose of the interviews. Then LWC asked open ended questions in conversational manner. No two interviews were alike, as individuals had unique experiences using the Form Based Codes and perspectives on opportunities for improvement.



Common Themes

Several similar opinions emerged among interviewees regarding issues with the current Form-Based Codes. While the interviewees may ultimately differ on the exact recommended changes, there was clear agreement that the Codes need to be reorganized and simplified to make them easier to use and understand. Following is a list of common themes from the interviews.

1. **Complexity.** The codes are too complex and hard to interpret, and the documents are difficult to navigate.
2. **Development Standards.** Focus development standards on key elements of form. The Form Based Codes are overly prescriptive in some instances, such as roof pitch and building articulation, and offer too many options in other instances.
3. **Parking Supply.** A balance should be struck between providing parking to ensure accessibility and limiting parking to encourage and support transit use and the development of vibrant, walkable, mixed-use areas. Parking management and enforcement could help alleviate parking problems in the project area and adjacent neighborhoods.
4. **Ground Floor Uses.** Ensure activity at the ground floor along street frontages. However, restricting the ground floor to retail uses is onerous and likely not viable. Active ground floor uses could include a variety of restaurant, entertainment, and service uses, and in some areas residential and community uses, all which contribute to a 24-hour street presence and 'eyes on the street'.
5. **Thoroughfares.** Connectivity is important but the thoroughfare standards in the Form Based Codes are overly prescriptive, do not reflect best practices and other City standards for the design of accessways, and in some cases, render new development infeasible.
6. **Flexibility.** Flexibility should be incorporated to address irregular lot sizes, unique site conditions, or specific issues while still ensuring the intent of the regulation is satisfied. This process can replace warrants/exceptions, which have a negative connotation, and help streamline the process while encouraging creativity in design.



Summary of Comments

A list of the comments received, organized by topic, follow.

Parking and Parking Management

One of the two most frequently discussed topics was parking and parking management, with stakeholders representing a range of perspectives on the parking regulations in the Form Based Codes and the supply of parking along Mission Boulevard. Comments include:

- There is too much/not enough parking along Mission Boulevard
- Increasing parking requirements is not consistent with intent for walkable corridor, increased transit use, or more density
- New projects do not supply enough parking for proposed residents and units w/o enough parking are difficult to sell/rent
- Parking maximums are a problem in certain cases, especially if not close to alternatives, such as transit
- New projects can't/are expected to solve existing parking problems in older neighborhoods
- Parking is expensive and high parking requirements make projects infeasible to build
- We should create space for people not for cars
- The main concern is 'spillover parking' into neighborhoods where street parking is unregulated
- Parking management, through parking permits, metered parking, or similar mechanisms can reduce strain of new development on existing areas
- Parking cannot be solved by the Form Based Codes alone, need management and transportation demand management strategies

Allowed Land Uses

The other topic most frequently mentioned by stakeholders was the type of uses that should or shouldn't be allowed within the Form Based Code area. While many uses were discussed, key feedback pertained to non-residential uses and the requirement for (and feasibility of) ground floor retail uses in parts of the project area. Comments include:

- It is unrealistic to expect ground floor retail along the entire Mission Boulevard corridor, there is not a market for this much retail space

- The requirement for ground floor retail should include other commercial uses
- One challenge to development is the requirement for commercial ground floor space
- Residential uses on the ground floor contribute to vibrancy, sometimes more so than offices or other non-residential uses
- Desire for more commercial uses in general, specifically higher end hotels, stores, and grocery stores
- Residential and general commercial and service are better than vacant storefronts
- Bars with appropriate controls and more residential add to 'eyes on the street' or 'natural surveillance' (part of CPTED)
- Mixed-uses are OK if residents understand noise potential, or are not near quieter neighborhoods

Development Standards

Stakeholders provided input on the development standards of the Form Based Codes, including height, density, architectural standards, roof pitch, ground floor dimensions, and others. This item is related to uses, as it considers standards for ground floor uses. Comments include:

- Concept of layer 1, layer 2, and layer 3 is difficult to understand and implement. It doesn't make sense on lots without frontage along Mission Boulevard
- Lot width maximums are too restrictive, walkability can be regulated through block length instead
- Articulation requirements perpetuate single-family aesthetic, rather than accommodating larger building types
- Glazing requirements are too low/too high
- Regulating building materials is/is not appropriate
- Roof pitch regulations are challenging, making construction more difficult
- Frontage requirements are difficult to meet for internal streets
- Ground floor non-residential should have minimum dimensions to ensure viability (suggestions included range of ground floor depth and minimum height)
- Buildings are too tall and restrict scenic views from adjacent neighborhoods
- Minimum open space requirement is/is not appropriate. There is a benefit to regulating by percent of lot, allowing more units w/o increasing open space



Thoroughfares and Connectivity

Unlike other topics where the stakeholders represented a range of views, most stakeholders deemed the thoroughfare standards problematic for one reason or another. However; most stakeholders supported alternative methods for improving connectivity for pedestrians and bicycles, especially routes to/from transit stops. Comments include:

- Thoroughfare requirements render properties undevelopable due to the placement and/or the need for an easement or land dedication
- New thoroughfares are badly placed and cut through properties
- Intent of thoroughfares can be achieved through pedestrian paths or non-vehicular routes
- Standards are not consistent with City complete streets policy
- Many projects receive warrants and/or map amendments to remove, relocate, or change the thoroughfare requirement
- Slip lanes do not make sense and are not aligned with intent of the project area. We should not be expanding right of ways, but rather increasing area for pedestrians
- Wide thoroughfares increase speed and accommodate cut through traffic
- Consider dedicating lanes to stormwater infrastructure or transit instead
- Add findings to ensure project improves/promotes connectivity without strict street design requirements or placement across parcels

Entitlement and Administration

Stakeholders discussed the various stages in the entitlement process, from initial submission, through the review process, and finally project approval. Comments include:

- Codes will not be perfect, need a good staff to interpret, apply, and enforce
- Should not have a custom, negotiated process for each project- need predictability
- Important to allow staff flexibility to modify standards as appropriate, it helps get projects entitled without going to Commission or Council
- More flexibility/modification at the staff level- they know more about development and it is more cost effective/streamlined than working through design committees or council
- Code should provide clear intent and method for deviation from standard while meeting objectives

- Lack of interdepartmental coordination through entitlement, creating conflicts in conditions of approval or working through problems
- Code should be flexible to apply to different contexts, conditions, and changes over time
- City should be required to follow codes as written, without exceptions to developers
- Warrants are perceived as negative, as though the developer is breaking the rules when the project aligns with City requests

Miscellaneous

Other topics discussed, in no particular order, include:

- Transit- preferred transit amenities, connections to transit, indicators of transit accessible development
- Community Character- existing character, historic context, design
- Safety- Crime Prevention through Environmental Design (CPTED) and crime
- Projects- projects approved, under construction, or pending approval
- Incentives- reduced parking or open space requirements, reduced fees
- Graphics- improved graphics, clarity of images/diagrams
- Complexity- ease of use of the codes
- Opportunity sites- areas for potential catalyst development
- Sustainability- elements of sustainable development



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: PH 19-014

DATE: February 28, 2019

TO: Planning Commission

FROM: Planning Manager

SUBJECT

Application to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from certain sensitive land uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code in the City of Hayward, Requiring Approval of a Zoning Text Amendment, Application No. 201900727.

RECOMMENDATION

That the Planning Commission recommend to the City Council approval of the proposed Zoning Text Amendments (Attachment II) to Chapter 10, Article 1, Section 10-1.3600, Cannabis, of the Hayward Municipal Code related to the setback requirements for commercial cannabis businesses and the over-concentration buffer for retail dispensaries in the City of Hayward, based on the required Findings (Attachment III).

SUMMARY

Pursuant to HMC Section 10-1.3600, the City requires a 1,000-foot separation between commercial cannabis retail dispensaries and a 600-foot separation between all commercial cannabis businesses and sensitive land uses that include schools, day care centers and youth centers. The proposed text amendments would reduce the over-concentration buffer between retail dispensaries from 1,000 feet to 500 feet and additionally provide the Planning Commission the ability to reduce the 600-foot buffer for commercial cannabis uses from sensitive land uses, if two additional findings are made.

ATTACHMENTS

Attachment I Staff Report
Attachment II Draft Text Amendment and Ordinance
Attachment III Findings
Attachment IV Cannabis Land Use Maps

File #: PH 19-014



SUBJECT

Application to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from certain sensitive land uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code in the City of Hayward, Requiring Approval of a Zoning Text Amendment, Application No. 201900727.

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SUMMARY

Pursuant to HMC Section 10-1.3600¹, the City requires a 1,000-foot separation between commercial cannabis retail dispensaries and a 600-foot separation between all commercial cannabis businesses and sensitive land uses that include schools, day care centers and youth centers. The proposed text amendments would reduce the over-concentration buffer between retail dispensaries from 1,000 feet to 500 feet and additionally provide the Planning Commission the ability to reduce the 600-foot buffer for commercial cannabis uses from sensitive land uses, if two additional findings are made.

BACKGROUND

On November 8, 2016, the voters of the state adopted Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized adult cannabis use, possession and cultivation for non-medicinal purposes and created a regulatory framework for non-medicinal cannabis businesses. The intent of MCRSA and AUMA was to establish a comprehensive regulatory system for cultivation, production and sale of cannabis and cannabis products, thereby weakening the illicit market for cannabis.

On June 15, 2017, the State enacted Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which consolidated provisions of MCRSA into the regulatory framework of the AUMA, thereby creating a unified regulatory scheme for

¹ Cannabis Land Use Ordinance: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3600CA

medicinal and adult use cannabis. MAUCRSA specifically authorizes local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses licensed pursuant to state law, including local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed pursuant to MAUCRSA.

On October 30, 2017² and November 28, 2017³, respectively, the City Council adopted Ordinance 17-14 and 17-15, which enacted the regulatory and land use ordinances authorizing cannabis businesses in the City, subject to compliance with the local and state regulations. Since 2017, several municipalities have adopted similar land use and regulatory ordinances but have modified or eliminated the State's buffering recommendations in an effort to focus more on the quality of cannabis operators within a mixed-use environment, where the strict observation of land use buffers would limit the areas available to establish these businesses. While the existing Ordinance requires a minimum separation from sensitive land uses and other retail dispensaries, the City has adopted an RFP process that already provides for an independent and comprehensive evaluation of the cannabis operators prior to filing any land use applications.

On January 15, 2019⁴, City Council directed staff to process a text amendment to reduce the over-concentration buffer from 1,000-foot to 500-feet. While this reduction could result in several dispensaries locating in closer proximity to one another, it would expand the number of sites in the downtown area that are available to accommodate retail dispensaries.

Public Outreach. On February 15, 2019, a Notice of Public Hearing for the Planning Commission meeting was sent to interested stakeholders and published in The Daily Review newspaper.

DISCUSSION

Over-Concentration Buffer for Retail Dispensaries. The purpose of the over-concentration buffer is to limit the proximity of retail cannabis dispensaries from one another to mitigate potential cumulative land use impacts associated with traffic, noise and public safety for those adult-only uses. The proposed text amendment would reduce the over-concentration buffer for retail cannabis dispensaries from 1,000 feet to 500 feet. When the City Council adopted the cannabis land use ordinance in November 2017, there was a requirement that approved retail dispensaries recognize a 1,000-foot buffer between dispensaries to minimize potential over-concentration of these uses within the downtown area. At the time the land use ordinances were adopted, it was not known where specific dispensaries would be located, however, it was discussed that even with a 1,000-foot buffer requirement, a significant number of parcels could accommodate a dispensary within the downtown area.

² October 30, 2017 Council Minutes <https://hayward.legistar.com/MeetingDetail.aspx?ID=570110&GUID=1F62F795-56FA-4667-9BD1-E5FDA22CB8C5&Options=info&Search=>

³ November 28, 2017 Council Minutes <https://hayward.legistar.com/MeetingDetail.aspx?ID=573134&GUID=C82D348A-0412-4741-854C-23697F2AE444&Options=info&Search=>

⁴ January 15, 2019 Council Minutes <https://hayward.legistar.com/View.aspx?M=E3&ID=655077&GUID=C658C300-8AAA-4581-94DC-28AC5D713F7D>

Following the issuance of the Request for Proposals (RFP) in December 2017, the City selected three applicants to operate retail dispensaries in the City. When the Council reviewed the business proposals in July 2018, two applicants, Jiva Life and Hayward Station, identified possible locations downtown and one applicant, Aunty Honey's, did not. Since the Council's initial review and selection of these proposals, all three applicants have submitted planning applications to operate retail dispensaries. While all three applications are incomplete and pending resubmittal, all three applications are within 1,000-feet of one-another and within the buffer adopted last year. The proposed text amendment would reduce the distance separation required from each retail dispensary, but the applicants would still be subject to the sensitive land use requirements discussed below and required to obtain a Conditional Use Permit, which would assess any environmental, physical or safety impacts related to the use.

Buffer from Sensitive Uses. Another proposed text amendment would provide a consistent application of the required buffer from commercial cannabis businesses and additionally provide the Planning Commission with flexibility to reduce the 600-foot buffer from all sensitive land uses, if additional findings of necessity are made. Currently, cannabis operators can apply for a Conditional Use Permit if they desire to locate within 600 feet of parks, libraries and open space areas that contain children's playgrounds only if the Planning Commission can make findings of necessity to demonstrate that the proposed location is suitable and demonstrate that appropriate measures have been taken to mitigate any safety impacts. The proposed amendments would uniformly extend that provision to include the other sensitive land uses that primarily serve children and provide a consistent land use standard throughout the City.

The existing 600-foot buffer requirement between commercial cannabis businesses and sensitive land uses is based on a State recommendation to minimize possible exposure of cannabis uses from areas that primarily serve children and minors. The setback requirement is from the sensitive land uses described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, unless the local jurisdiction establishes an alternative setback requirement. These uses include kindergarten, any schools (grades 1 through 12), day care centers, and youth centers, which includes both public and private facilities, businesses and clubs that primarily serve youth. Additionally, the City requires a 600-foot buffer from other public areas where children congregate, including public parks, libraries and designated open space areas. Public parks and open space areas that do not contain children's playground or similar amenities are exempt from this requirement.

Per Section 10-1.3603.B⁵, the Planning Commission has the ability to reduce the buffer around parks and open space areas upon making two findings of necessity. In order to approve a reduction from the 600-foot buffer, the Planning Commission must issue a Conditional Use Permit and find that: 1) the public convenience and necessity will be served by an alternate distance requirement; and 2) alternative measures have been taken by the applicant to assure public health and safety are in place with respect to a commercial cannabis business. Staff is recommending this flexibility be broadened and uniformly applied to all other sensitive land

⁵ Commercial Cannabis Setback Requirement: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3600CA_S10-1.3603COCABU

uses that primarily involve children, including schools, day care centers and youth centers in order to provide consistency throughout the development review process. As part of the regulatory toolkit established by the State of California and the land use ordinances adopted by the City in 2017, staff believes that the current regulatory framework is sufficient to ensure that any impacts related to sensitive land uses are evaluated and minimized as part of a Conditional Use Permit process. Additionally, as part of the current RFP process, all commercial cannabis businesses are required to submit a business plan, which is reviewed and scored by an independent, outside consultant who determines whether or not the commercial cannabis operator has met several of the city's objectives related to best practices for the cannabis industry.

POLICY CONTEXT AND CODE COMPLIANCE

Permitted Zoning Districts. The zoning districts that administratively or conditionally permit the commercial cannabis uses would remain unchanged. For most commercial cannabis activities, including distribution, manufacturing and cultivation, the City's Industrial District is the only district where those uses are administratively or conditionally permitted. For retail operators, cannabis dispensaries are conditionally permitted in downtown and isolated areas around the City zoned General Commercial (CG), Central Business (CB), Central City Commercial (CC-C), Central City Residential (CC-R), and Center City Plaza (CC-P). As currently proposed, any commercial cannabis activity which is located within 600 feet of a sensitive land use would be required to obtain a use permit by the Planning Commission upon making additional findings of necessity, regardless of zoning district or land use activity. The proposed text amendments would provide applicants with more options when locating their business in the City, but it also adds a higher level of discretionary review by the Planning Commission on Use Permit applications near sensitive use areas that otherwise could have been processed administratively at staff level. Copies of the Cannabis Land Use Maps that reflect the 600-foot land use buffers from sensitive land uses is included as Attachment IV.

Per Section 10-1.3425(a)⁶, the Planning Commission may recommend approval of or deny a text amendment, reclassification, or pre-zoning to the City Council. Recommendations for approval shall be based upon all the following findings:

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;
2. The proposed change is in conformance with all applicable, officially adopted policies and plans;
3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and
4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

Staff does not believe the proposed text amendments would heighten or exacerbate any impacts associated with cannabis uses or operations as any activity would be subject to a

⁶ Zoning Text Amendment Process: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3400AM

thorough environmental and impact analysis as part of the discretionary planning process. Detailed findings on the proposed text amendments are included as Attachment III.

Hayward 2040 General Plan. The proposed zoning amendments contained herein are consistent with the goals and policies of all elements of the *Hayward 2040 General Plan*, including the following goals and policies:

LU-5.2 Flexible Land Use Regulations

The City shall maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.

LU-5.6 Adaptive Reuse, Renovation or Redevelopment

The City shall support the adaptive reuse, renovation or redevelopment of community and regional shopping centers that are no longer viable due to changing market conditions, demographics, or retail trends. The City shall consider alternative land uses if market conditions limit the feasibility of commercial uses.

LU-6.1 Land Uses

The City shall encourage employee-intensive uses, such as professional office, corporate campuses, research and development, traditional and specialized manufacturing, throughout the Industrial Technology and Innovation Corridor.

ED-1.6 Advances and Specialized Manufacturing

The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.

ED-1.11 Local Serving Retail

The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to local residents and businesses.

ED-3.2 Fast Growing Industries

The City shall monitor industry and market trends to identify fast-growing industries, and coordinate with local businesses within those industries to proactively assist with potential business expansion plans.

ED-6.2 Land Use Certainty

The City shall strive to enhance land use certainty for businesses by identifying and removing unnecessary regulatory barriers that discourage private-sector investment.

Commercial Cannabis Permits. As part of the Commercial Cannabis Business⁷ regulatory framework approved by the City, cannabis operators are required to obtain multiple approvals through a two-step process at the local level in addition to State licensing. First, an applicant is required to obtain approval of a Commercial Cannabis Business Permit by the City to assure that all regulatory requirements are met. Second, the applicant is required to obtain

⁷ Commercial Cannabis Businesses: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU

the necessary land use entitlements, that consider the location, size and types of proposed uses allowed, consistent with the Zoning Ordinance standards. Any cannabis business operating in the City pursuant to City-issued permits must also obtain a cannabis license from the State. Failure to obtain the State license would be grounds for revoking the City's permit.

Commercial Cannabis Permits issued by the City are good for one year and must be renewed annually following the completion of a mandatory safety inspection and demonstrated compliance with all local and State regulations, including any conditions of approval adopted as part of a Use Permit process.

ENVIRONMENTAL REVIEW

The proposed text amendments are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Zoning Text Amendment to the Hayward Zoning Ordinance would reduce the over-concentration buffer between retail dispensaries to 500 feet and require additional findings for commercial cannabis uses locating within 600 feet of sensitive land uses. Commercial cannabis operators would still be subject to the RFP review and selection process and subject to the land use entitlement process, which would evaluate applications on a case-by-case basis for environmental impacts pursuant to CEQA.

NEXT STEPS

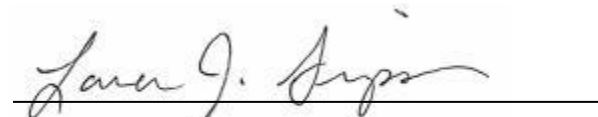
Following Planning Commission review and recommendation, this item will be forwarded to the City Council for a first reading and consideration on March 19, 2019. If approved, the proposed text amendments would become effective in April 2019.

Prepared by: Jeremy Lochirco, Principal Planner

Approved by:

A handwritten signature in blue ink, appearing to read "Sara M. Buizer", is written over a horizontal line.

Sara Buizer, AICP, Planning Manager

A handwritten signature in black ink, appearing to read "Laura J. Simpson", is written over a horizontal line.

Laura Simpson, AICP, Development Services Director

ORDINANCE NO. ____

ORDINANCE OF THE COUNCIL OF THE CITY OF HAYWARD AMENDING THE HAYWARD MUNICIPAL CODE, CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE); SECTION 10-1.3603(B) RELATED TO A PROPOSED MODIFICATION OF THE REQUIRED SETBACKS FOR COMMERCIAL CANNABIS BUSINESSES FROM CERTAIN SENSITIVE LAND USES; AND AMENDMENT OF CHAPTER 10, ARTICLE 1, SECTION 10-1.3607(C).1 RELATED TO REDUCTION OF OVERCONCENTRATION BUFFER FOR COMMERCIAL CANNABIS RETAIL DISPENSARIES.

THE CITY COUNCIL OF HAYWARD DOES ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that:

A. Pursuant to its police powers, and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act ("MCRSA"), the Adult Use of Marijuana Act ("AUMA"), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transporting, and testing within its jurisdiction.

B. The City has previously prohibited, through exclusionary zoning ordinance, both medical and non-medical adult cannabis land uses and regulations within the City.

C. The City wishes to establish a uniform regulatory structure for all medical and non-medical adult cannabis uses in the City in accordance with state law.

Section 2. Amend Chapter 10 (Planning, Zoning and Subdivisions), Article 1 (Zoning Ordinance) to read as follow:

10-1.3603 Commercial Cannabis Businesses.

Commercial Cannabis Businesses shall be administratively and conditionally permitted only in compliance with the provisions of Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and shall be subject to the following standards and limitations.

A. Land Use. All Commercial Medical and Non-Medical Cannabis Businesses shall be located in compliance with the requirements of Chapter 10, Article 1 (Planning, Zoning and Subdivisions), as amended, and as designated in the Zoning Code. For purposes of this Chapter, Commercial Cannabis Businesses shall include the following land use classifications, all of which are further defined in Chapter 10, Section 10.1-3500 (Definitions):

1. Commercial Cannabis Cultivation, up to 5,000 sf

2. Commercial Cannabis Cultivation, 5,001 sf or greater
3. Commercial Cannabis Dispensaries (Retail)
4. Commercial Medical and Non-Medical Cannabis Distribution
5. Commercial Medical and Non-Medical Cannabis Manufacturing–Level 1
6. Commercial Medical and Non-Medical Cannabis Manufacturing–Level 2
7. Commercial Medical and Non-Medical Cannabis Testing Laboratory

B. Required Setbacks. All Commercial Cannabis businesses operating within the City of Hayward shall be subject to a 600-foot minimum setback from sensitive land uses as described in California Business and Professions Code Section 26054 and California Health and Safety Code Section 11362.768, including libraries, designated public open space areas and designated public parks that contain a children's playground(s) or similar area dedicated towards children activities, including but not limited to sports fields and swimming pools. The required 600-foot setback ~~for public parks and open spaces~~ may be reduced as part of the issuance of a Conditional Use Permit from the Planning Commission if it is found 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. The distance shall be measured from the closest boundary line of the property on which the Commercial Cannabis Business is located to the closest boundary line of the property on which the school or sensitive land use is located.

10-1.3607 Commercial Cannabis Retail Dispensaries and Delivery.

In addition to the General Operating Requirements set forth in Section 10-1.3604, this section provides location and operating requirements for Commercial Cannabis Retail Dispensaries and Delivery Businesses:

- A. Conditional Use Permit or Administrative Use Permit Required. A Conditional Use Permit shall be required for Commercial Cannabis Retail dispensaries, pursuant to the land use and development regulations contained within Chapter 10, Article 1 (Zoning Ordinance), as amended. An Administrative Use Permit shall be required for Commercial Cannabis Delivery businesses, pursuant to the land use regulations contained within Chapter 10, Article 1 (Zoning Ordinance).
- B. Drive-Through Dispensaries. Drive-through, Drive-up or walk-up window services in conjunction with Commercial Cannabis Retail Dispensaries is prohibited.
- C. Setbacks and Buffers. In addition to the zoning requirements and development regulations contained in Chapter 10 (Zoning Ordinance), all Commercial Cannabis Retail dispensaries shall be subject to the following:

1. Overconcentration. To avoid overconcentration, a Commercial Cannabis Retail Dispensary shall not be located within ~~1,000~~500 feet of any other Commercial Cannabis Retail Dispensary within the City of Hayward.

Zoning Text Amendment to Amend Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3603(B) related to a Proposed Modification of the Required Setbacks for Commercial Cannabis Businesses from certain sensitive land uses; and Chapter 10, Article 1 (Zoning Ordinance), Section 10-1.3607(C).1 related to a Reduction of the Overconcentration Buffer from 1,000 feet to 500 feet for Commercial Cannabis Retail Dispensaries of the Hayward Municipal Code. Application No. 201900727.

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDING:

The proposed text amendments are exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed Zoning Text Amendment to the Hayward Zoning Ordinance would reduce the over-concentration buffer between retail dispensaries to 500 feet and require additional findings for commercial cannabis uses locating within 600 feet of sensitive land uses. Commercial cannabis operators would still be subject to the RFP review and selection process and subject to the land use entitlement process, which would evaluate applications on a case-by-case basis for environmental impacts pursuant to CEQA.

ZONING TEXT AMENDMENT FINDINGS:

Per Section 10-1.3425(a), the Planning Commission shall hold a public hearing on all text amendments, reclassifications and pre-zonings. The Planning Commission may recommend approval of or deny a text amendment, reclassification, or pre-zoning to the City Council. Recommendations for approval shall be based upon all the following findings:

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;

The proposed text amendments will ensure public health, safety, convenience, and general welfare of the residents of Hayward through the review and evaluation of cannabis operations as part of the RFP process, the State's regulatory framework, and the Use Permit process, which ensures any impacts resulting from commercial cannabis operations be minimized. Additionally, the proposed text amendments will promote additional employment and business opportunities with the allowance of commercial cannabis businesses in Hayward.

The amendments will result in land uses in the commercially and industrially zoned areas that are compatible with existing and future uses. Specifically, the proposed amendments will ensure that any cannabis business will operate in such a manner to minimize public safety and public nuisance impacts while incorporating appropriate measures to mitigate possible environmental impacts associated with business activities. The State, through the passage of the MAUCRSA, has found substantial evidence that cannabis has medicinal value for many health conditions that otherwise would result in a compromised quality of life for residents.

2. The proposed change is in conformance with all applicable, officially adopted policies and plans;

The proposed zoning amendments contained herein are consistent with the goals and policies of all elements of the *Hayward 2040 General Plan*, and any applicable specific plan in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses. The proposed text amendments are internally consistent with other applicable provisions of Chapter 10 of the Municipal Code in that the entirety of the Code will apply to cannabis uses located within proximity to other sensitive land uses, as defined by the City and State. The proposed amendments are consistent with the following policies and actions of the *Hayward 2040 General Plan*:

LU-5.2 Flexible Land Use Regulations: The City shall maintain flexible land use regulations that allow the establishment of economically productive uses in regional and community centers.

LU-5.6 Adaptive Reuse, Renovation or Redevelopment: The City shall support the adaptive reuse, renovation or redevelopment of community and regional shopping centers that are no longer viable due to changing market conditions, demographics, or retail trends. The City shall consider alternative land uses if market conditions limit the feasibility of commercial uses.

LU-6.1 Land Uses: The City shall encourage employee-intensive uses, such as professional office, corporate campuses, research and development, traditional and specialized manufacturing, throughout the Industrial Technology and Innovation Corridor.

ED-1.6 Advances and Specialized Manufacturing: The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.

ED-1.11 Local Serving Retail: The City shall encourage the establishment and expansion of commercial businesses that increase local spending within Hayward and provide needed goods and services to local residents and businesses.

ED-3.2 Fast Growing Industries: The City shall monitor industry and market trends to identify fast-growing industries, and coordinate with local businesses within those industries to proactively assist with potential business expansion plans.

ED-6.2 Land Use Certainty: The City shall strive to enhance land use certainty for businesses by identifying and removing unnecessary regulatory barriers that discourage private-sector investment.

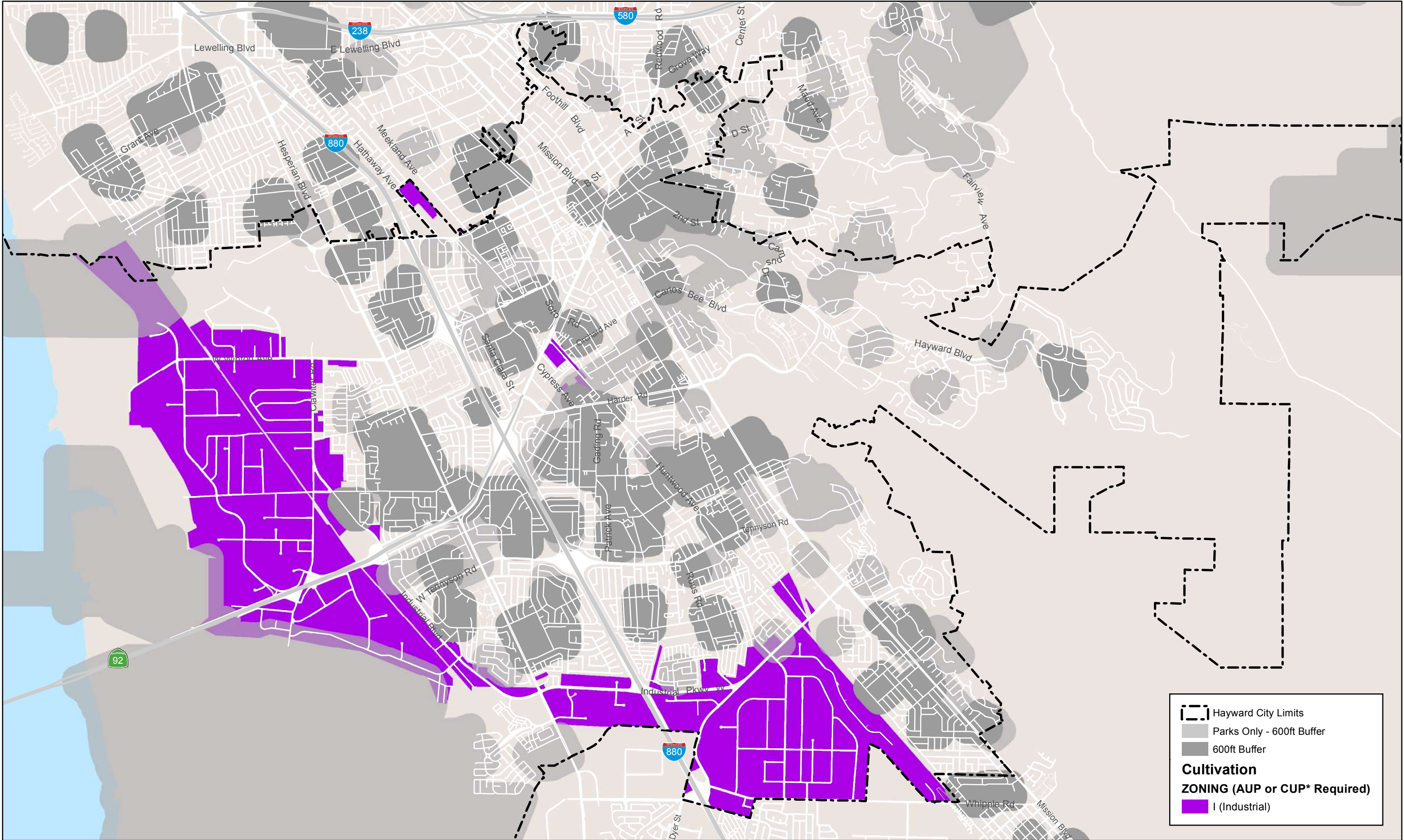
3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and

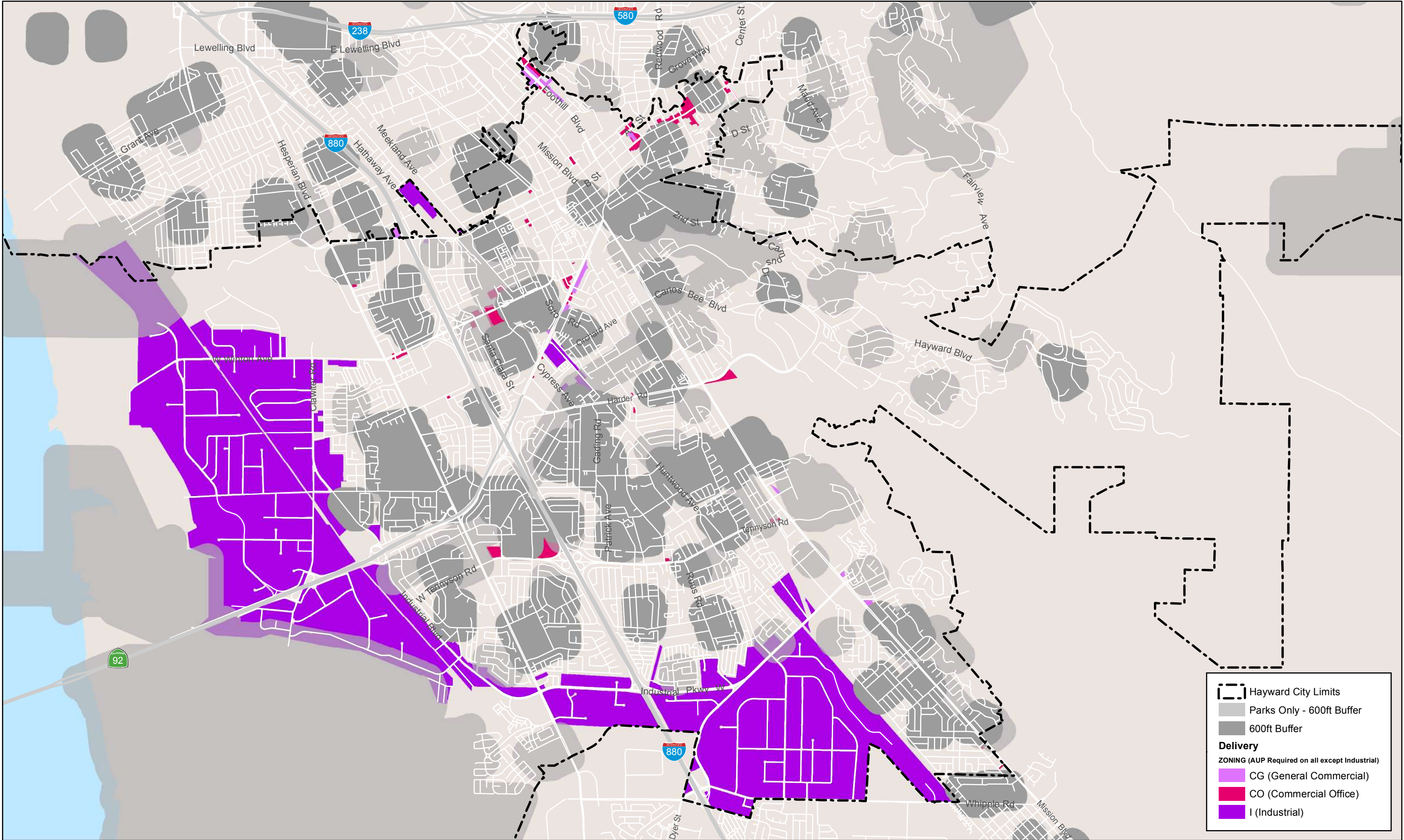
As conditioned, the streets and public facilities that currently serve the City are not expected to be significantly impacted with the proposed text amendments or the additional cannabis uses. Much of the land use activities associated with cannabis are consistent and compatible with the other land uses that are currently permitted or conditionally permitted in the zoning districts. No properties are proposed to be reclassified or rezoned with the proposed text amendment. As such, the streets and public facilities, both existing and proposed, would be adequate to serve the potential development of new cannabis and cannabis-related businesses in the City.

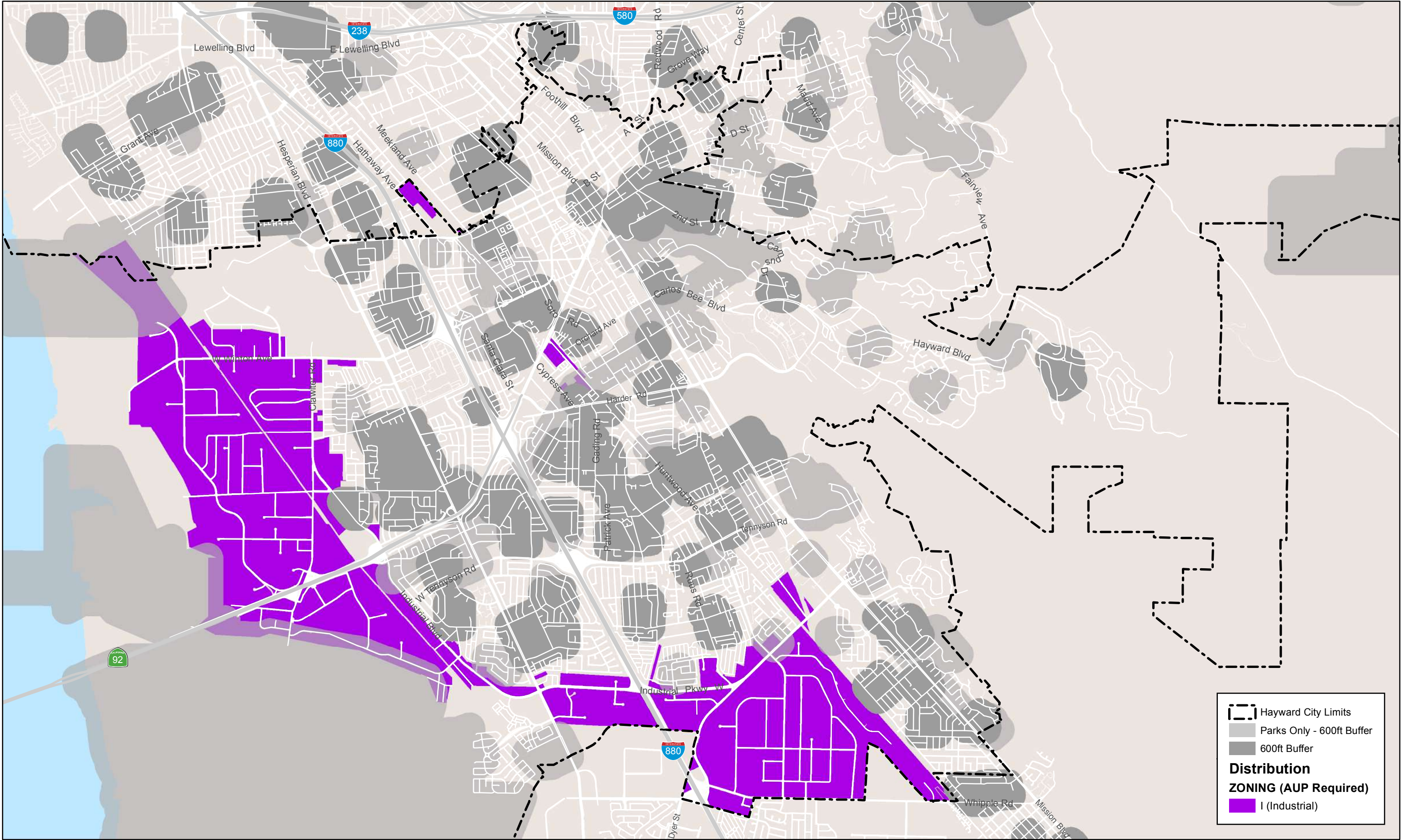
4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.

No properties are proposed to be reclassified with the proposed text amendment pertaining to cannabis. A beneficial effect will be achieved with the proposed revision to the HMC, as it will allow for cannabis uses greater flexibility to locate within the City upon demonstrating that: 1) the public convenience and necessity will be served by an alternate distance requirement; and 2) alternative measures have been taken by the applicant to assure public health and safety are in place with respect to a commercial cannabis business.

The adopted State regulations, along with the additional local regulations with special findings and operational requirements, will ensure that any proposed cannabis business will operate in a manner which is compatible with present and potential future land uses.

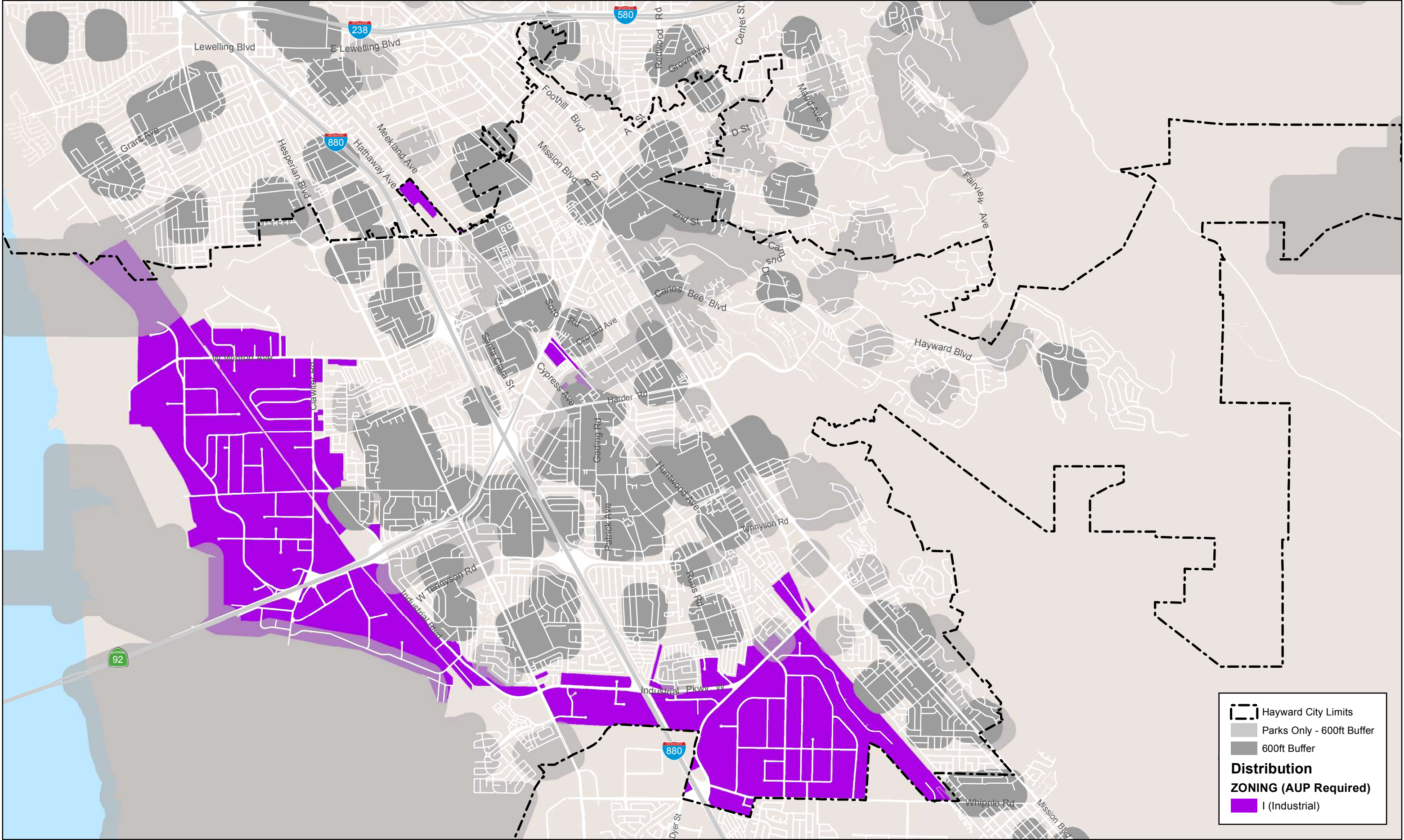






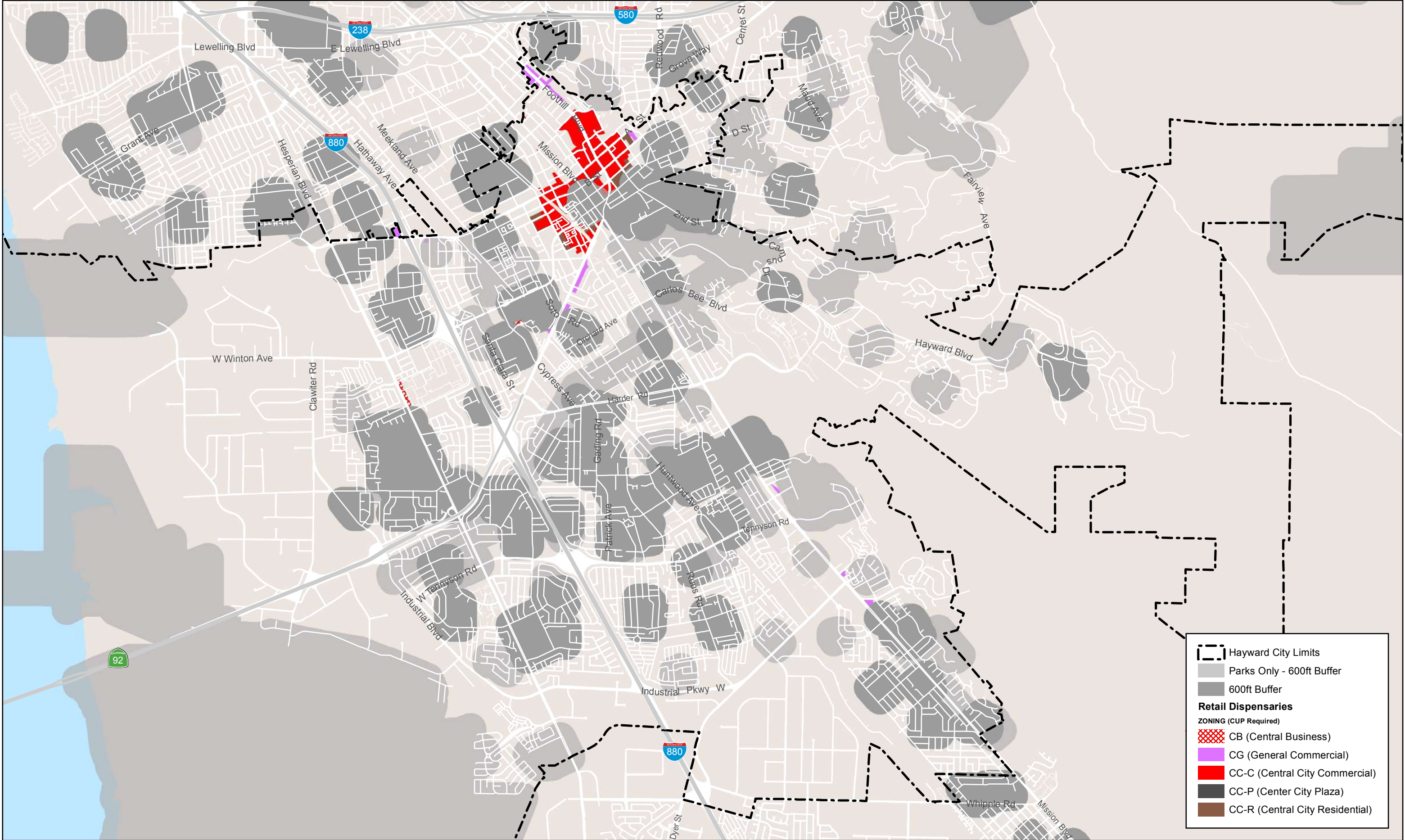


Commercial Cannabis Manufacturing (Level 1*) – Zoning Districts



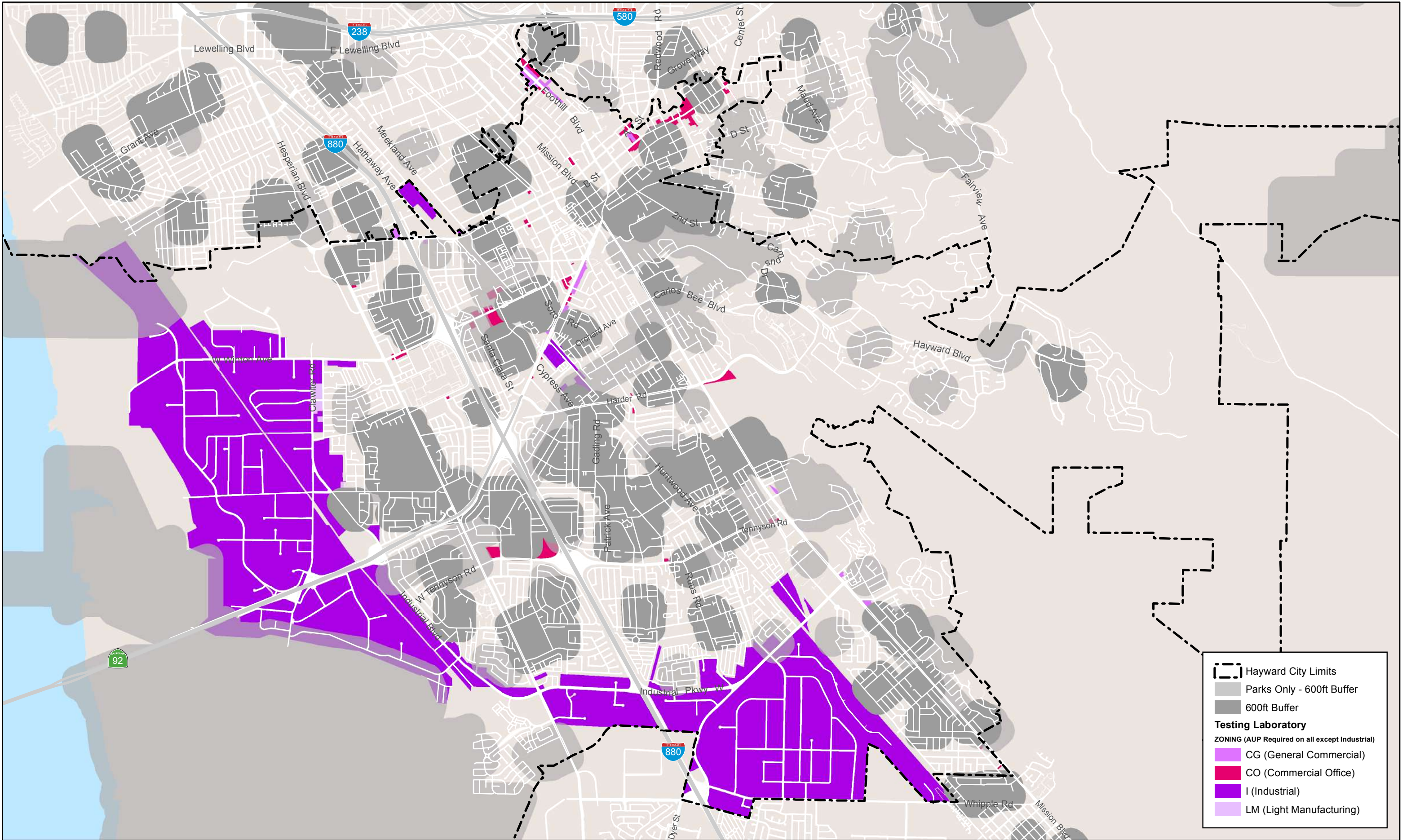


Commercial Cannabis Retail Dispensaries – Zoning Districts





Commercial Cannabis Testing Laboratory – Zoning Districts





CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: MIN 19-025

DATE: February 28, 2019

TO: Planning Commission

FROM: Director of Development Services

SUBJECT

Minutes of the Planning Commission Meeting of February 14, 2019

RECOMMENDATION

That the Planning Commission approve the minutes of the Planning Commission meeting of February 14, 2019

SUMMARY

The Planning Commission held a meeting on February 14, 2019

ATTACHMENTS

Attachment I Draft Minutes of February 14, 2019



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, February 14, 2019, 7:00 p.m.
777 B Street, Hayward, CA 94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Faria.

CALL TO ORDER Pledge of Allegiance

Commissioner Bonilla led in the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: Willis, Andrews, Bonilla, McDermott, Goldstein
CHAIRPERSON: Faria
Absent: COMMISSIONER: Patton

Staff Members Present: Brick, Buizer, Chan, Golubics

General Public Present: 18

PUBLIC COMMENT:

Ron Meyers
Mitchell Medeiros
Claire Dugan
Bob Riendeau
Suzanne Luther
Mahir Parlas
Hal Marshall
Bob Williams

The above Hayward residents spoke against the Abode Housing project to be built on the corner of Depot Road and Monte Vista for the following reasons: the project will bring a dangerous element into their neighborhood which poses a danger for their children, bring down home prices, it is too close to schools and parks, some homeless population has shown aggressive behavior, the project will be housing homeless, mentally ill and drug addicted individuals, and this is not an effective method to spend City funds. The group requested the Commission listen to their concerns.

WORK SESSION:

1. Hayward Downtown Specific Plan Draft Environmental Impact Report



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
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Senior Planner Golubics provided the project overview and the purpose of the Work Session item and introduced the Downtown Specific Plan team which includes the following consultants: Charlie Knox, Principal with PlaceWorks, Kathryn Slama, Senior Associate with Lisa Wise Consulting and Damian Stefanakis, Principal with Kittelson and Associates.

Mr. Charlie Knox, Consultant with PlaceWorks, provided a synopsis of the staff report, the draft environmental review and presented a PowerPoint presentation. Mr. Knox spoke about the purpose of the Draft Environmental Impact Report (EIR) and next steps.

Commissioner Willis voiced concern about aesthetics and wants to ensure the Plan includes incentives/requirements for homeowners that puts in place appealing aesthetics. Mr. Willis expressed concern over the issues with the Loop, as many businesses have suffered and asked what type of businesses will be encouraged within the downtown area. Senior Planner Golubics responded that there are many specifics in the Plan that will be a guiding document for developers and property owners. Mr. Golubics said the Plan includes graduated remedies for the Loop, as funding will allow, and that there are some immediate remedies for the Loop, noting it is a high priority for City Council to change Foothill Boulevard and return it back to a grid pattern and less like a freeway. Mr. Golubics said the City wants to foster new businesses and still be able to regulate and attract more family friendly establishments.

Commissioner Andrews would like to see included in the Plan scooters and bikes as alternative transportation options and would like to see a transportation connection between the downtown area and south Hayward. Senior Planner Golubics said the Plan encourages alternative transportation options to create a lively downtown area and that this option was left open to allow businesses to come to Hayward to present their ideas. Ms. Lisa Wise, of Lisa Wise Consulting, spoke about how the team conducted research on how to attract the public to the downtown area and create an urban downtown area, and that the Downtown Specific Plan is a comprehensive package.

Commissioner Bonilla thanked staff for the comprehensive presentation, he liked the mobility portion and appreciated the community's input. Mr. Bonilla has concerns about the transportation and circulation issues and would like to have a more connected downtown area with the rest of the City via a public transportation alternative as opposed to driving.

Commissioner McDermott said this is exciting and asked if there are any plans for the empty buildings. Senior Planner Golubics said there have been meetings with stakeholders and once the Econ Development Division is fully staffed, the goal will be to offer incentives to bring businesses to the downtown area. Ms. McDermott concurred with Commissioner



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CITY OF HAYWARD PLANNING COMMISSION
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Willis about the issues with the Loop especially the harm it has caused for business owners which includes the lack of available parking.

Commissioner Goldstein asked if the Plan includes the impact of climate change on Hayward. Mr. Knox said the Plan does not address climate change as the Plan covers the inland area, and climate change regarding flooding applies more to the coastal area.

Commissioner McDermott asked about the plans for the Civic Center building. Assistant City Attorney Brick responded that the Civic Center Towers is under private ownership.

Commissioner McDermott said dynamics and demographics are changing and it is important to give consideration on pricing of new developments to be able to attract businesses to the downtown area.

Commissioner Willis suggested shuttle services be included in the Plan to provide access to the downtown area from other parts of Hayward. Senior Planner Golubics noted there have been previous shuttle studies between downtown and the Industrial area and this suggestion will be provided to Public Works, Engineering and Transportation.

Senior Planner Golubics confirmed for Commissioner Bonilla that the Loop is going to be reversed as this is a Council priority to be started as soon as possible. Mr. Golubics said the issue is funding and spoke about the immediate plans to slow traffic through the use of striping, bollards to create bike lanes and smaller lanes to slow vehicle traffic, and the second phase will be to install curved bulb-outs and the use of landscaping to soften the experience for pedestrians and bike riders. Mr. Golubics shared that the Foothill Boulevard merge is currently being studied.

Chair Faria thanked staff for incorporating the six previous plans into this one Plan and that it is important to ensure that there are results. Ms. Faria encouraged staff to look at the shuttle option to bring residents into the downtown area, the landscaping should include the variety of trees that will not buckle sidewalks and have accommodations for the disabled population. Mr. Faria said the Plan needs to mitigate traffic on the Loop as the majority is commuter traffic which causes problems for residents, issues with parking and residents being able to utilize downtown services. Mr. Golubics responded to Ms. Faria that the central parking design plan is a different method that can help make the downtown area more pedestrian and business friendly.

Commissioner Willis wants to maintain the Matt Jimenez legacy of free City owned parking lots and encouraged the central parking lot design, as this will create a calming effect by slowing down traffic which would be better for businesses and the public.



**MINUTES OF THE REGULAR MEETING OF THE
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Chair Faria opened the public hearing at 8:15 p.m.

Mr. Mahir Parlas, Hayward resident, spoke about his concerns for his children.

Mr. Tim Frank, Executive Director of the Center for Sustainable Neighborhoods and speaking on behalf of the Alameda County Building and Trades Union, said they supported the Downtown Specific Plan and noted transit-oriented developments are good for the environment. Mr. Frank said as the Plan is put into place, it is important to have the workforce in place to support the work that needs to be done.

Mark Wagner, Hayward resident, spoke about the Plan and the changes to the setbacks which will be decrease the buildable areas for homeowners and small builders. Senior Planner Golubics said staff is reviewing the proposed setbacks to make it workable for smaller builders and homeowners.

Chair Faria closed the public hearing at 8:21 p.m.

APPROVAL OF MINUTES

2. Approval of the Planning Commission Meeting Minutes of January 24, 2019.

Commissioner Willis made a motion, seconded by Commissioner Andrews, to approve the Planning Commission Meeting Minutes of January 24, 2019. The motion passed with the following votes:

AYES:	Commissioners Willis, Andrews, Bonilla, Goldstein
NOES:	None
ABSENT:	Patton
ABSTAIN:	Chair Faria and Commissioner McDermott

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Planning Manager Buizer noted that the Planning Commission calendar was sent out to inform the Commissioners of what is coming up for future meetings.

Commissioners' Announcements, Referrals:

Commissioner Bonilla congratulated Commissioner Andrews on her new baby girl.



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Council Chambers
Thursday, February 14, 2019, 7:00 p.m.
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ADJOURNMENT

Chair Faria adjourned the meeting at 8:25 p.m.

APPROVED:

Ray Bonilla Jr., Secretary
Planning Commission

ATTEST:

Denise Chan, Senior Secretary
Office of the City Clerk