



MAY 17, 2016

CITY COUNCIL STUDY SESSION

POLICY DISCUSSION ON MEDICAL CANNABIS
CULTIVATION FACILITIES

Staff Presentation

1. Overview of Ordinance 1083 and 1084 and discussion on allowing medical cannabis cultivation facilities in industrial zones other than the M-W (Auto-Wrecking) zone
2. Proposed ballot measure and taxation amounts
3. Discussion and Questions

Background

Ordinance 1083 amending various sections of Title 17 of the Coachella Municipal Code (Zoning) regarding medical cannabis dispensaries, mobile dispensaries and cultivation was adopted by the City Council on January 27, 2016.

Ordinance 1084 adding Chapter 5.68 to the Coachella Municipal Code, which requires qualified applicants to obtain regulatory permits prior to operating medical cannabis cultivation, manufacturing, distribution, testing, and transportation facilities was adopted by the City Council on January 27, 2016.

Permitted locations and standards as stated in Ordinance 1083

- A. Medical cannabis cultivation facilities may be located in any Wrecking yard zone (M-W) in the City, upon issuance of a conditional use permit and a regulatory permit.
- B. Medical cannabis cultivation facilities should be restricted to a site having a minimum of five acres in size, with a minimum paved street frontage of 250 feet.
- C. Medical cannabis cultivation facilities must be served by municipal water and sewer services.
- D. Medical cannabis cultivation facilities shall be located a minimum distance of 1,000 feet away from any residential zone. The distance requirement shall be measured from the cultivation facility structures to the zoning district boundary.
- E. Medical cannabis cultivation facilities may not be established on a multi-tenant industrial park or business park site that is existing on the effective date of this ordinance. A conditional use permit to develop a new stand-alone medical cannabis cultivation facility or a multi-tenant cultivation facility within a minimum site area of five acres may be pursued.
- F. Medical cannabis cultivation facilities shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of carbon filtration systems and other mitigation measures shall be used on all cultivation facilities and operations.

Ordinance 1084 Requiring a Regulatory Permit obtained from the City Manager

- A. Prior to initiating operations and as a continuing requisite to operating a medical cannabis cultivation, manufacturing, distribution, testing, or transportation facility, the legal representative of the persons wishing to operate a medical cannabis facility shall first obtain a conditional use permit pursuant to the applicable provisions of this Code and then obtain a regulatory permit from the City Manager or designee under the terms and conditions set forth in this Chapter. The legal representative shall file an application with the City Manager or designee upon a form provided by the City and shall pay an application fee as established by resolution adopted by the City Council as amended from time to time. An application for a regulatory permit shall include, but shall not be limited to, the following information:
 - 1. An estimate of the size of the group of primary caregivers and/or qualified patients who will be served by the medical cannabis facility.
 - 2. Whether delivery service of medical cannabis to any location outside the medical cannabis facility will be provided and the extent of such service.
 - 3. The address of the location of the medical cannabis facility.
 - 4. A site plan and floor plan of the medical cannabis facility denoting all the use of areas of the medical cannabis facility, including storage, cultivation, exterior lighting and dispensing.

Ordinance 1084 (P.2)

- 5. A security plan that addresses how the following measures shall be implemented or complied with:
 - a. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the City Manager or designee. The cameras shall be in use 24 hours per day, seven days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the City Manager or designee.
 - b. The medical cannabis facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the City Manager or designee that is operated and monitored by a recognized security company, deemed acceptable by the City Manager or designee. Any change in the security company shall be subject to the approval of the City Manager or designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.
 - c. Entrance to the cultivation areas and any storage areas shall be locked at all times, and under the control of medical cannabis facility staff.
 - d. All medical cannabis shall be securely stored, and a reliable, commercial alarm system shall be installed and maintained where the medical cannabis is secured.

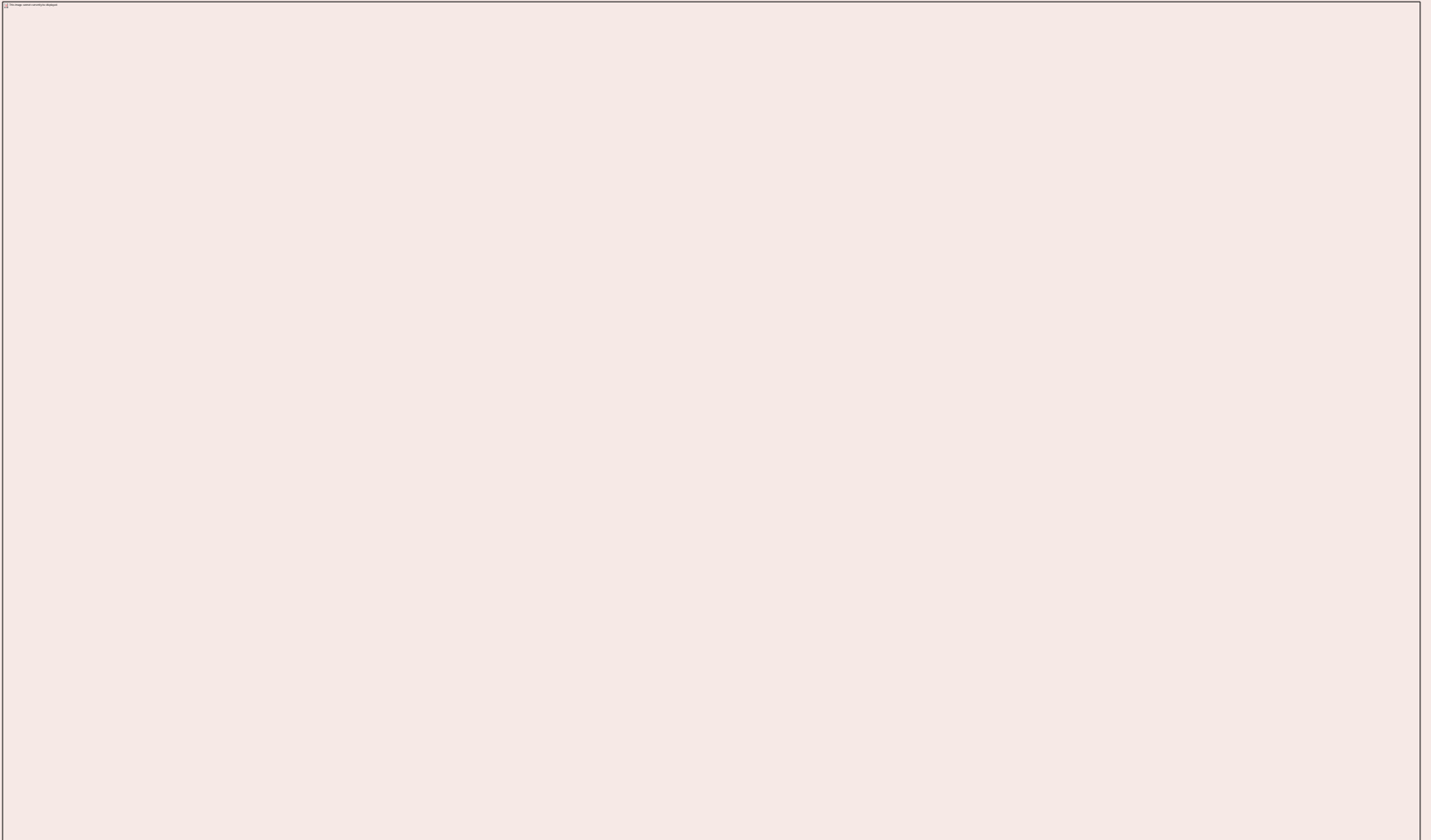


Ordinance 1084 (P.3)

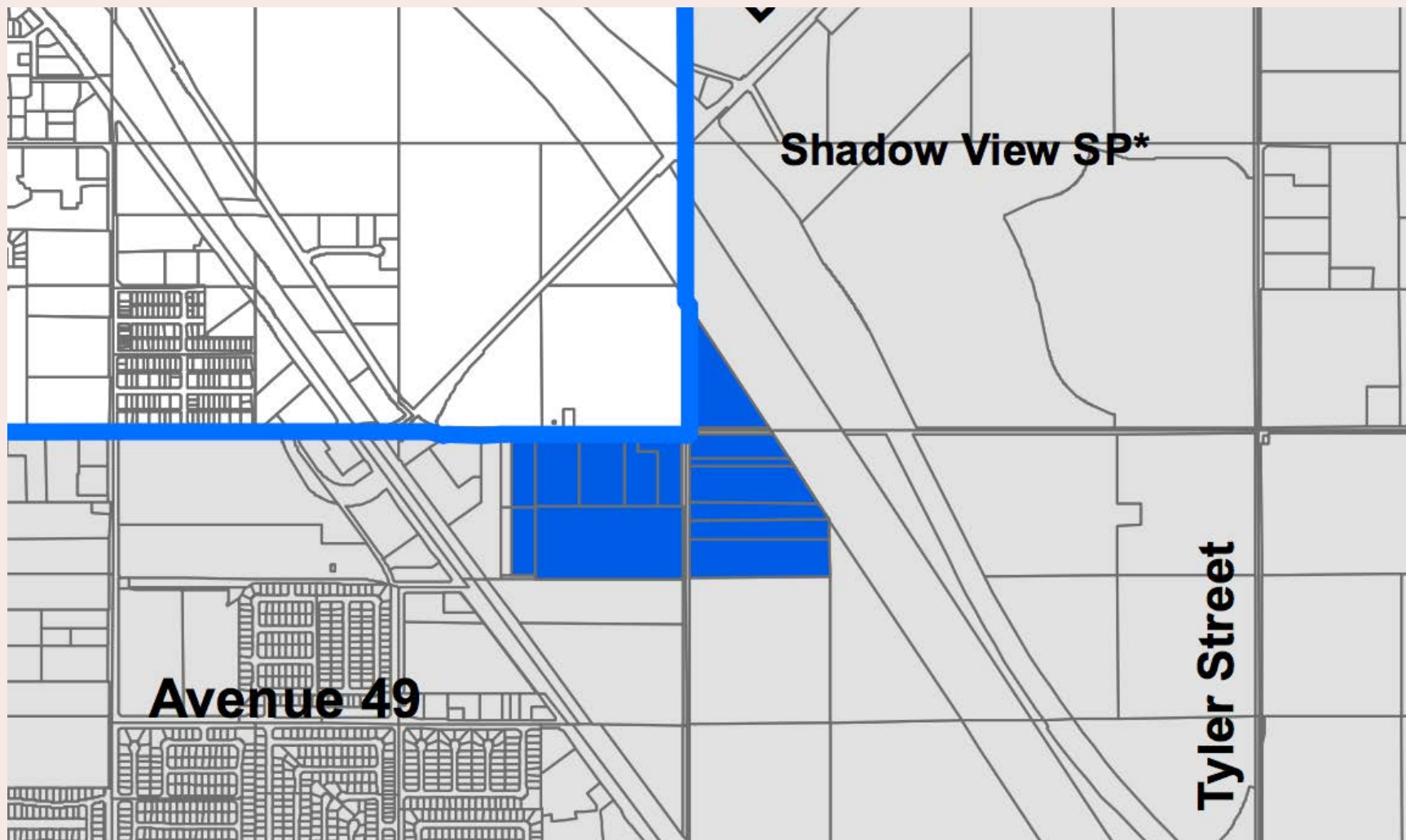
- e. A licensed security guard, licensed by the California Department of Consumer Affairs, shall be present at the medical cannabis facility during all hours of operation. If the security guard is to be armed, then the security guard shall possess at all times a valid Security Guard Card and Firearms Permit issued by the California Department of Consumer Affairs.
- 6. The name and address of the owner and lessor of the real property upon which the medical cannabis facility is to be operated. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a medical cannabis collective or cooperative medical cannabis facility will be operated on his or her property.
- 7. Authorization for the City Manager or designee to seek verification of the information contained within the application.
- 8. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- 9. Any such additional and further information as is deemed necessary by the City Manager or designee to administer this section.

City of Coachella M-W (Wrecking Yard) Zone

93 Acres located south of Avenue 48th, on either side of Harrison Ave.



MW Zoning illustrating parcels



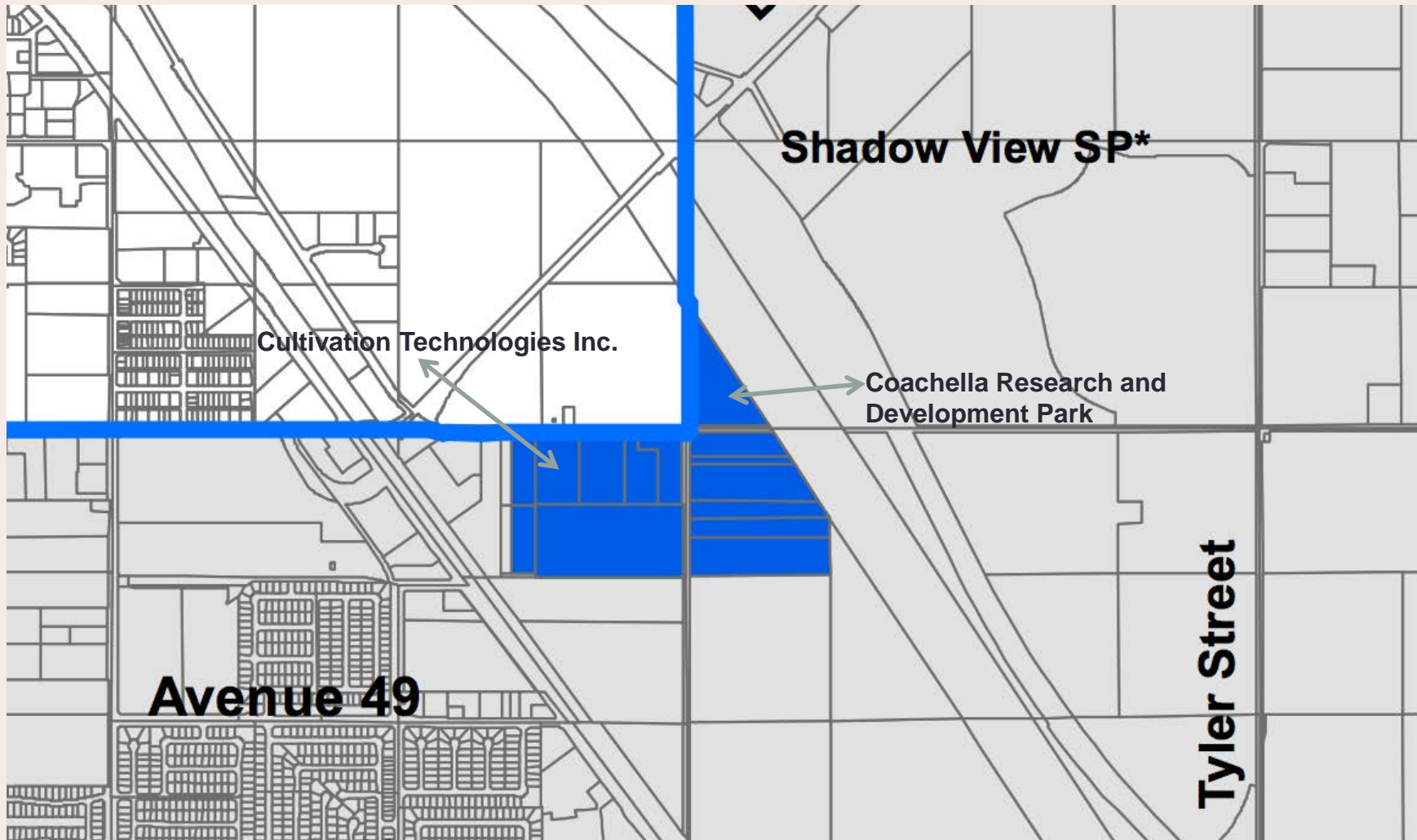
Aerial of MW Zone



MW Zoning illustrating submitted applications

Coachella Research and Development Park: 11 acres; 20 buildings; 165,000 sq. ft

Cultivation Technologies Inc.: 6 acres, 2 buildings; 111,500 sq. ft.



Infrastructure in M-W Zone

Electricity: IID will require the construction of a new substation (2-3 acres) in the area around Avenue 48 and Harrison Street for permanent power to serve future medical cannabis facilities.

Natural Gas: No natural gas pipelines exist in the M-W zoned area for use in cannabis cultivation facilities. If natural gas is needed, an extension of natural gas lines would be required or a facility would use propane tanks.

Water and Sewer: Water is available in Avenue 48 and Harrison Street. A sewer connection is available on Harrison Street approximately 200 ft. south of Avenue 48.

Roads: Access to the M-W area is provided by Avenue 48th and Harrison Street, both of which are in need of significant repair.

Fire: The County Fire Department has provided Staff with a set of specialized conditions for cannabis cultivation facilities which were attached to the staff report.

Economic Development Sub-Committee and Planning Commission

- The Economic Development Sub-Committee met on March 1st and recommended Staff study an area identified by the General Plan as Sub-Area 10 for possible expansion of medical cannabis cultivation facilities.
- The Planning Commission met on April 20th and recommended:
 - Medical cannabis cultivation facility projects shall be limited to the current geographic limits of the M-W zone until this entire M-W zoning area is redeveloped and transitioned into an industrial sector that includes full utility and street improvements, new industrial buildings, on-site paving and landscaping, and decorative fencing.
 - B) New medical cannabis cultivation facilities must incorporate a mixture of land uses on the project site to include office suites, research and development uses, training facilities, or incidental retail and personal service uses.
 - C) Applications for medical cannabis cultivation facilities that require a change of zone to M-W, may be considered by the Planning Commission and City Council, provided that no more than 217 acres of total land territory is devoted to industrial uses within the Sub-Area #10 policy area of the General Plan.
 - D) Applications for medical cannabis cultivation facilities that require a change of zone to M-W, may be considered by the Planning Commission and City Council, provided that a Development Agreement is approved that includes assurances for adequate utility infrastructure, and orderly development of the current M-W area prior to development.
 - E) Applications for medical cannabis cultivation facilities on lots having less than five acres, or having less than 250 feet of street frontage, may be consolidated or developed in conjunction with adjoining lots to create a development site in excess of five acres with more than 250 feet of street frontage. This will require reciprocal access, shared driveways, common parking areas, and a unified architectural design theme for the industrial buildings.
 - F) These land use policies will automatically expire on May 1, 2018 unless a new or modified policy resolution is adopted by the City Council.
- modified policy resolution is adopted by the City Council.

Coachella General Plan



City of Coachella
General Plan Update 2035

General Plan Land Use Designations

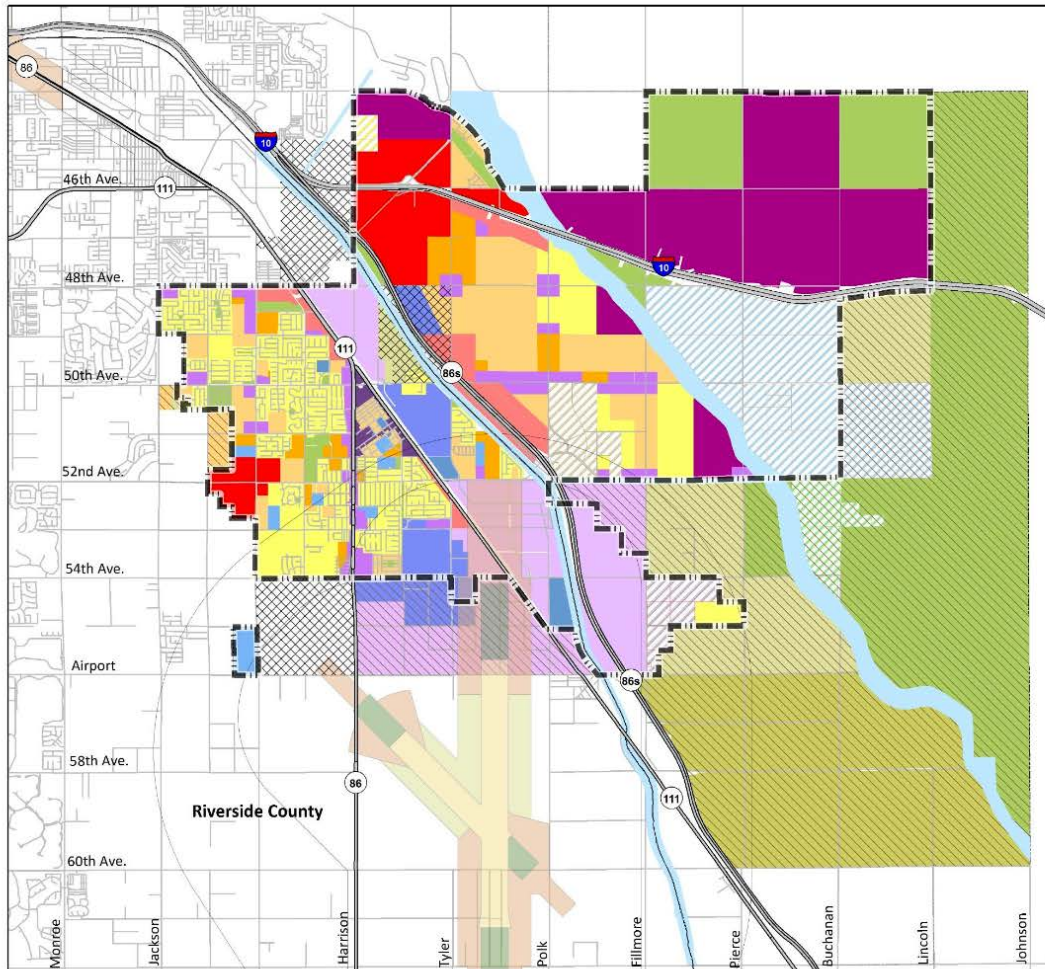
Legend

- | | |
|------------------------------------|-----------------------------------|
| Coachella City Limits | Downtown Center |
| Tribal Land | Urban Employment Center |
| Sphere of Influence | Neighborhood Center |
| General Plan Planning Area | Regional Retail District |
| Airport Compatibility Zones | |
| Zone A | Suburban Retail District |
| Zone B1 | Resort District |
| Zone B2 | Industrial District |
| Zone C | Urban Neighborhood |
| Zone D | General Neighborhood |
| Zone E | Suburban Neighborhood |
| | Rural Rancho |
| | Agricultural Rancho |
| | Open Space |
| | School |
| | Public Facilities |
| | Brandenburg Butters Specific Plan |
| | Coachella Vineyards Specific Plan |
| | Eagle Falls Specific Plan |
| | La Entrada Specific Plan |
| | Phillips Ranch Specific Plan |



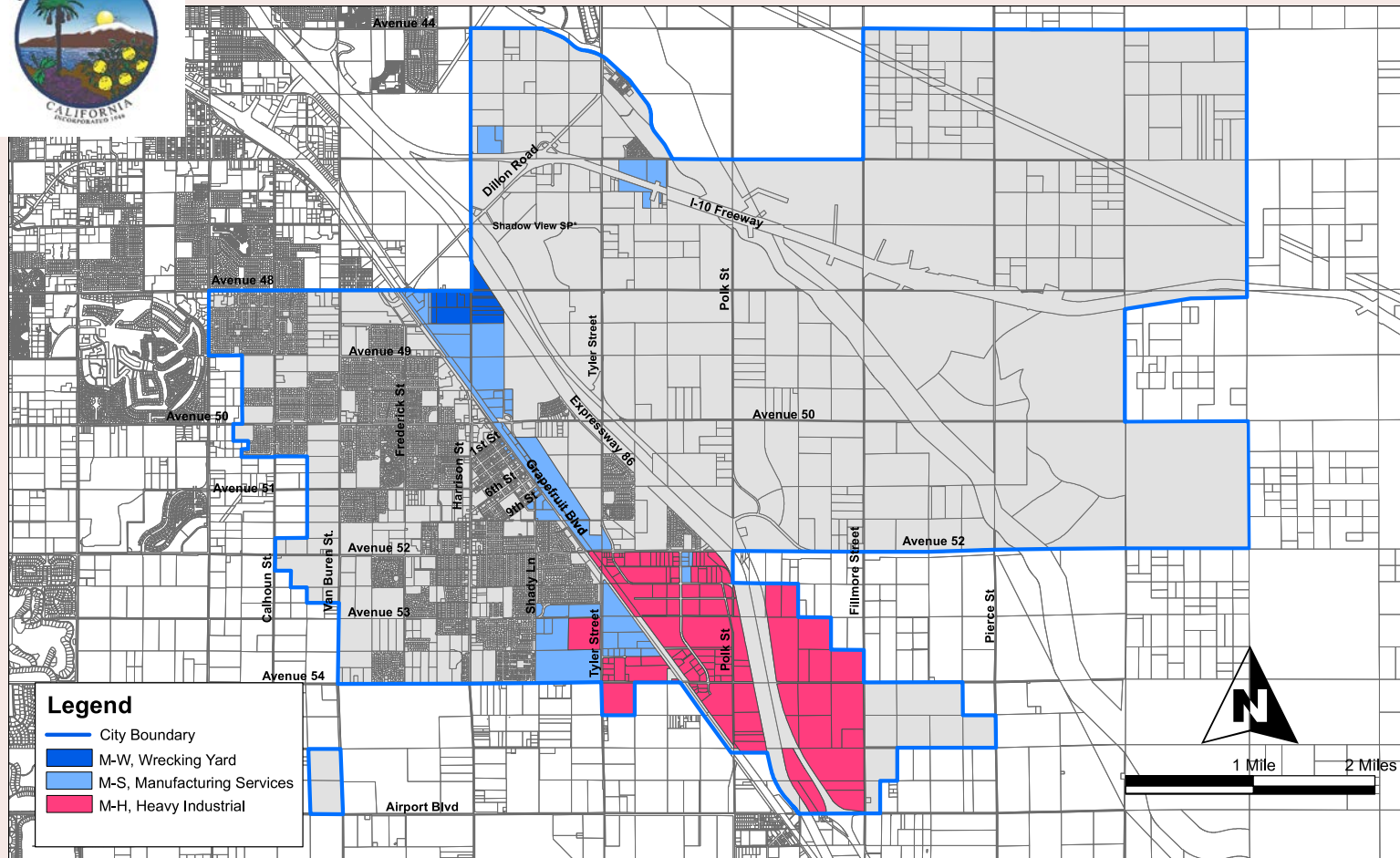
raimi+ associates

Source: City of Coachella and
Riverside County
Date: January 2014



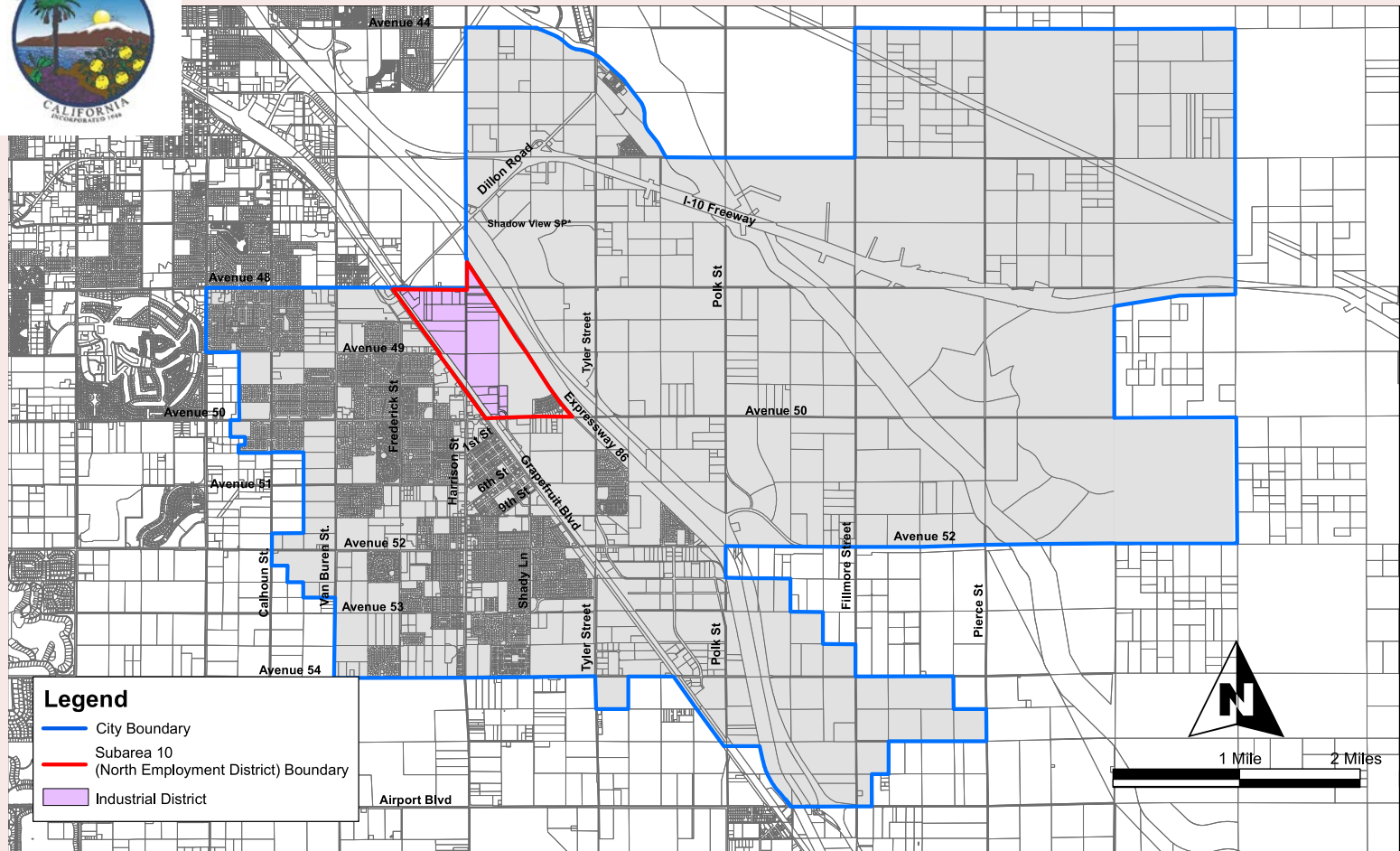
City Council Discussion on Medical Cannabis Cultivation Facilities

M-W (Wrecking Yard Zone) 93 Acres
MH Zone (Heavy Manufacturing) 1244 acres
M-S (Manufacturing Services) 636 acres
Total of 1973 Acres



Coachella General Plan

Sub-Area 10:North Employment District: 434 acres

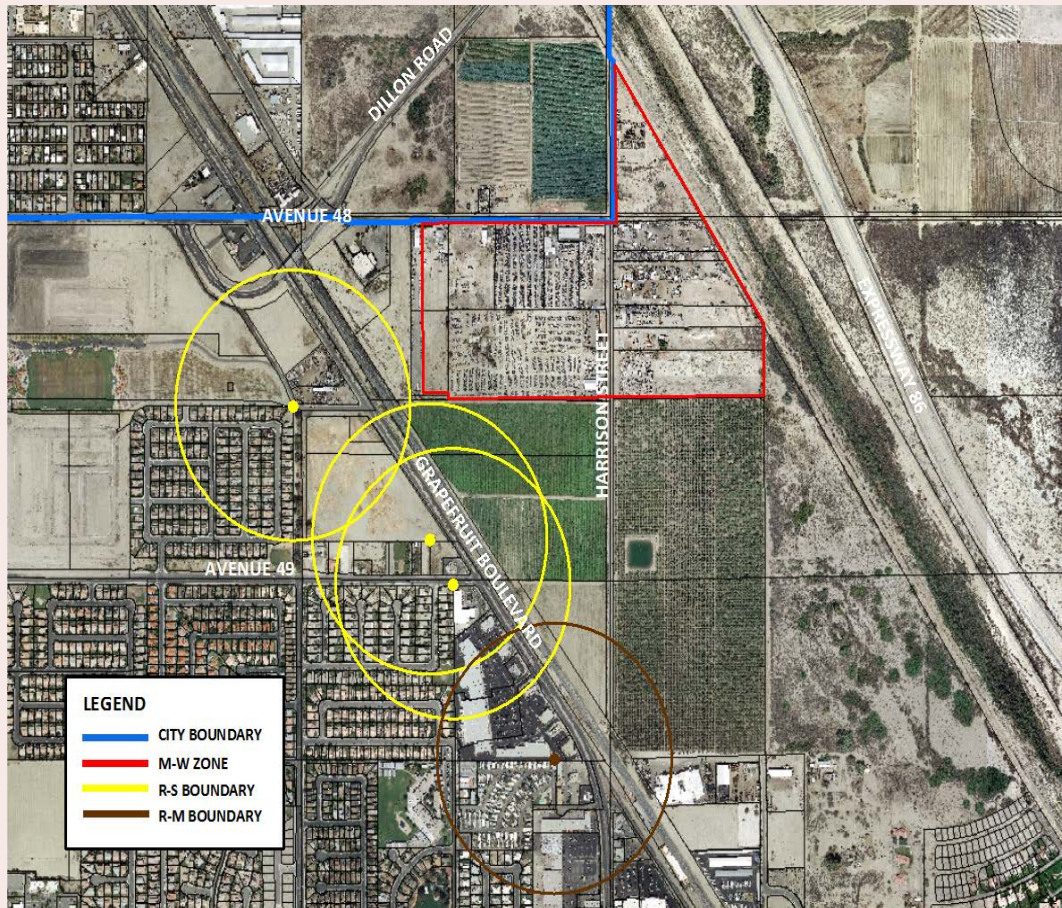


Sub-Area 10 Aerial

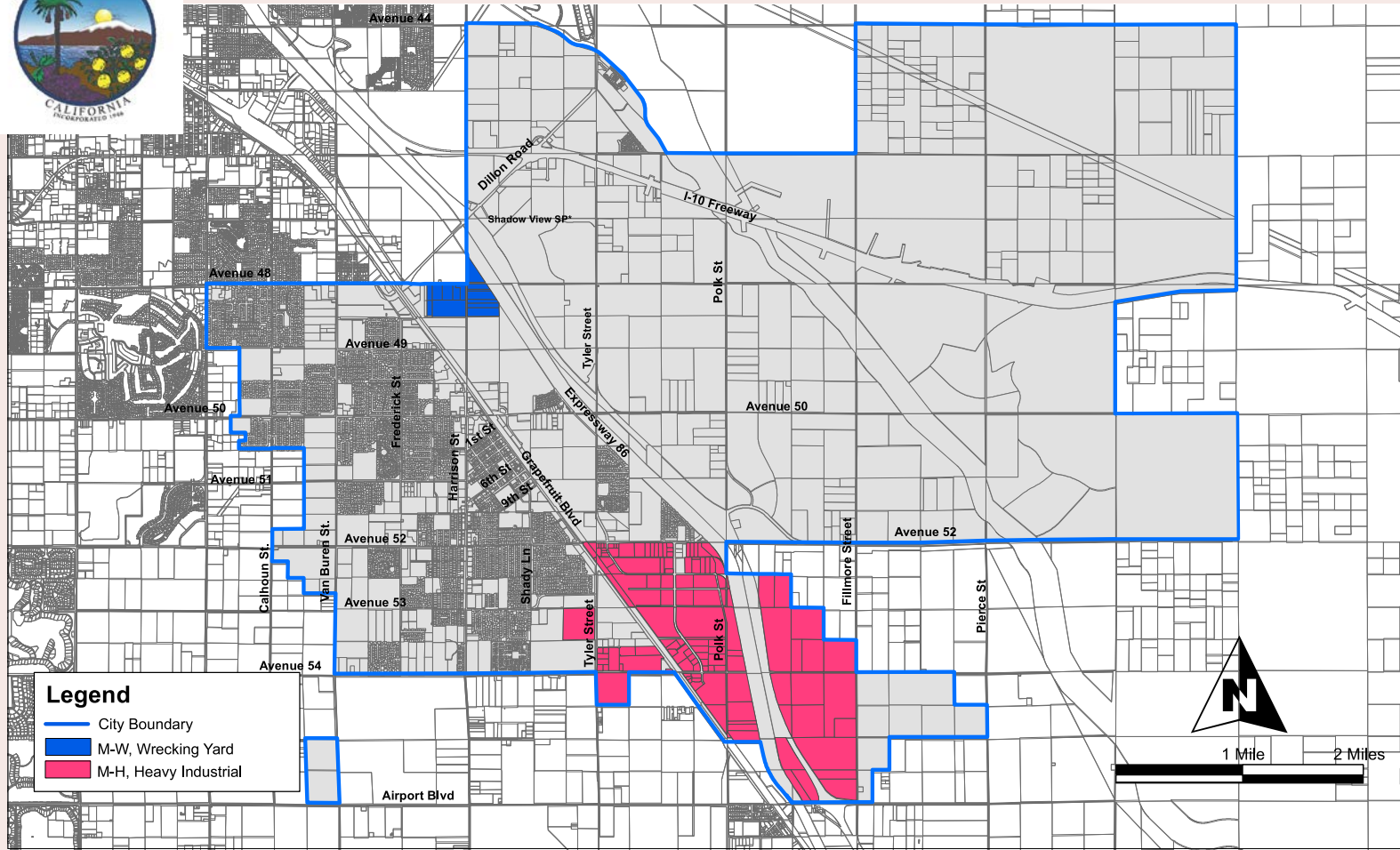


1000 ft. radius from residential zone boundary

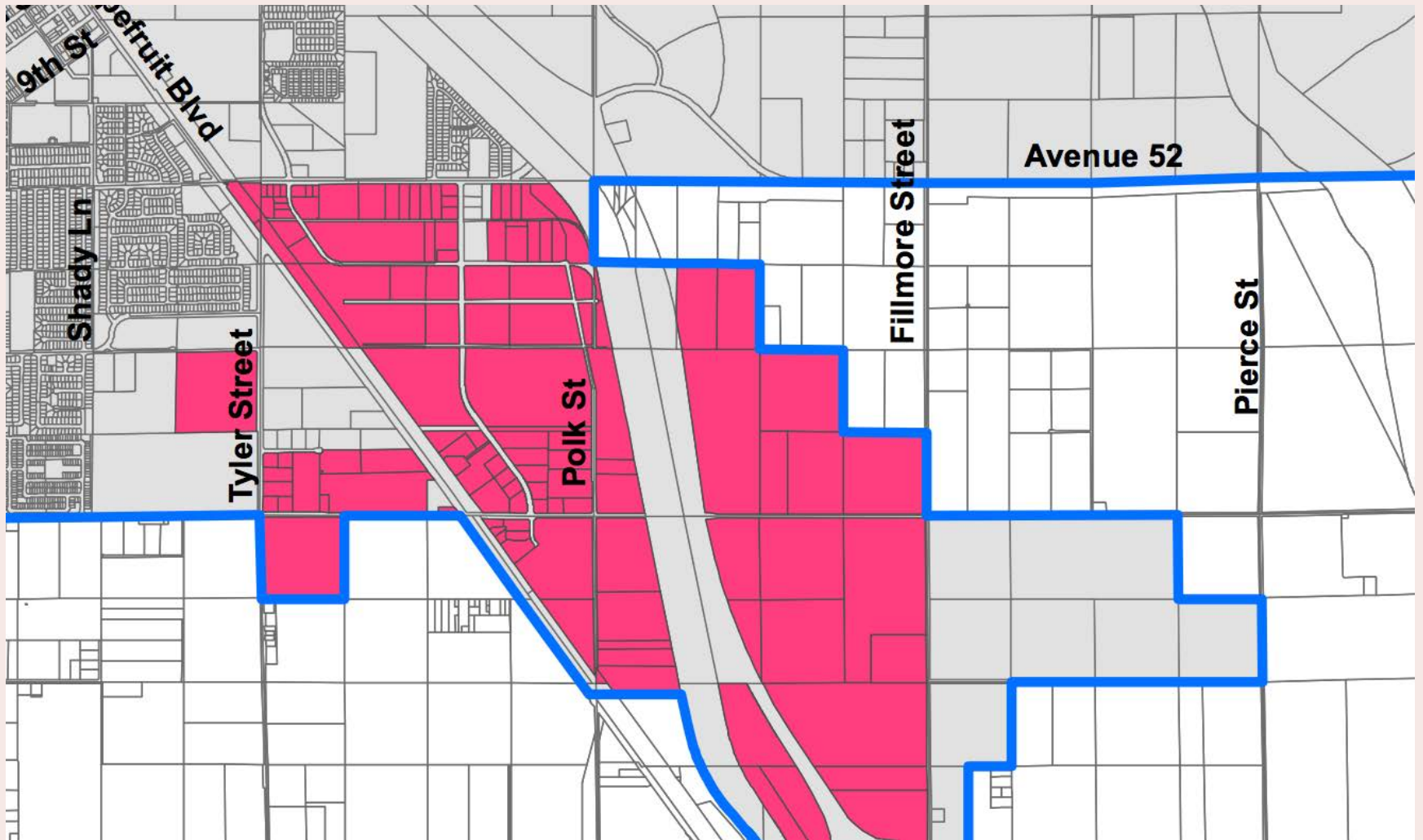
- Yellow radius from R-S (Residential-Single Family) boundary
- Brown radius from R-M (Residential-Medium) boundary



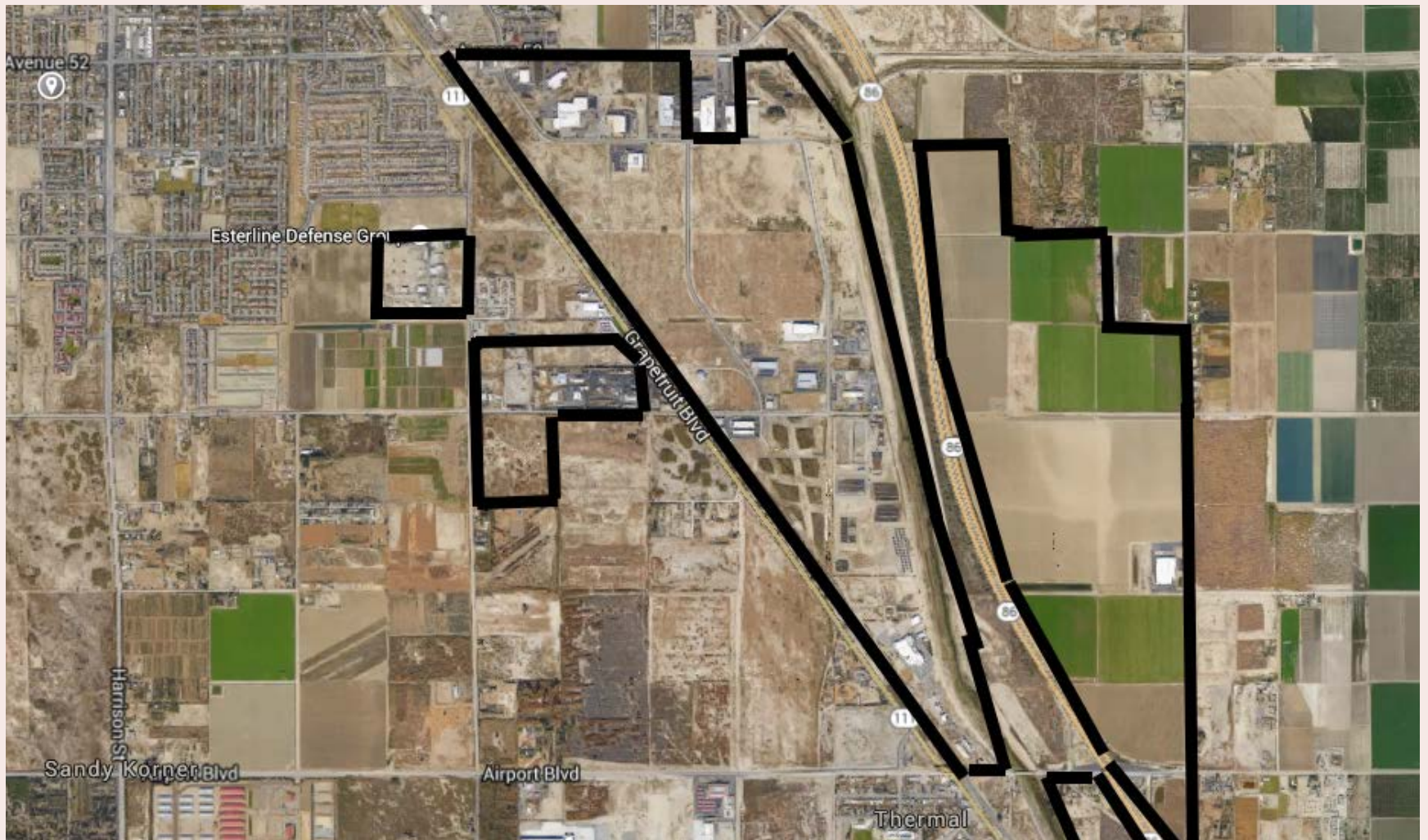
M-H Zone (Heavy Manufacturing) 1244 acres



MH zone illustrating parcels



MH Zone Aerial



Discussion Items on Ordinance 1083

1. Should Ordinance 1083 be amended to expand the allowable zones for medical cannabis cultivation? If so, what additional zones are appropriate for medical cannabis cultivation?
2. Should Ordinance 1083 be amended to change any of the standards or to add additional standards? For example, is the distance requirement of 1000 ft. from a residential zone a reasonable distance or can it be reduced due to geographic factors such as highways, railroad tracks etc? Should the Ordinance include distance requirements from existing or proposed schools or parks?

Medical Cannabis Taxation Discussion

Should the City Council place a ballot measure on the November ballot proposing the taxation of medical cannabis cultivation facilities? If so, what would a proposed tax structure look like? Recent polling indicates support for the taxation of medical cannabis cultivation facilities.

Should the ballot measure include the potential tax for all marijuana businesses (in the event the City allows dispensaries, delivery, etc, in the future)?

Comparison Table of other jurisdictions taxation methods

| Jurisdiction | Cultivation and Dispensary Taxation Methods | Notes |
|---------------------|---|--|
| Desert Hot Springs | \$25 for the first 3,000 sq. ft, and then \$10 per sq. ft. for the space utilized | Measure HH approved by voters on 11/4/14 |
| Coachella | Pending | Ordinance 1083 and 1084 adopted on 1/27/16 |
| Palm Springs | Cannabis and Marijuana Tax (CMT) of 15 cents per dollar of proceeds | Ordinance 1831 adopted 11/5/13 and Ordinance 1845 adopted 4/2/14 |
| Cathedral City | Cannabis and Marijuana Tax of 15 (CMT) cents per dollar of proceeds | Measure N approved by voters on 11/4/14 |
| City of Sacramento | 4% of sales | June 2016 ballot measure for proposed 5% special tax on cultivation |
| Adelanto | Pending | Ballot measure pending on November ballot. 50% of employees must reside in City. |
| Oakland | \$50 for each \$1000 of gross receipts | Section 5.04 of Oakland Municipal Code |
| State of Colorado | See attachment 1 | Approved by voters in November 2012 |
| State of Oregon | See attachment 1 | Approved by voters in November 2014 |
| State of Washington | See attachment 1 | Approved by voters in November 2012 |
| State of Alaska | See attachment 1 | Approved by voters in November 2014 |
| State of Nevada | 2% Excise Tax plus city and/or County taxes | November ballot measure proposed to increase to 15% excise tax on wholesale sales plus applicable City/County taxes |
| State of California | Pending | November ballot measure proposes a cultivation tax of \$9.25 for flowers per dry weight ounce and \$2.75 per dry weight ounce for leaves effective 1/1/18 if ballot measure passes |

Other State Cannabis Taxes

| State | Excise Tax | Sales/Other Taxes | Earmarked Excise Tax Revenue |
|-------------------|---|---|---|
| Alaska | \$50 per ounce of marijuana sold at the wholesale level; the Department of Revenue has the power to set a lower rate on certain parts of the marijuana plant. | No statewide sales tax; Localities will have the option of applying local sales taxes (0-7.5%) | Not earmarked |
| Colorado | 15% tax on average market sale rate + 10% retail sales tax + optional local marijuana sales tax | 2.9% state sales tax + local sales taxes (0-7.5%) | First \$40 million from 15% excise tax will be dedicated to the Public School Capital Construction Assistance Fund; 10% retail sales tax dedicated to implementation and enforcement cost of marijuana industry |
| Oregon | \$35 per ounce of marijuana sold at the wholesale level. Marijuana leaves are taxed at \$10 per ounce and immature marijuana plants are taxed at \$5 per plant. All adjusted for inflation. | None applied | 40% to Common School Fund; 20% for mental health/alcohol/drug services; 15% for state police; 20% for local law enforcement; 5% to Oregon Health Authority |
| Washington | 25% excise tax on the sales price from the producer to a processor + 25% excise tax on the sales price from the processor to the retailer + 25% excise tax on the sales price from the customer | 6.5% state sales tax + local sales taxes (0.5-3.1%) + Business & Occupation (B&O) gross receipts tax (0.484%) | \$240,000 for program evaluation; \$1,250,000 to the Liquor Control Board for administration; the remainder will be distributed as follows: 15% will go toward implementing and maintaining programs and practices aimed at preventing or reducing substance abuse among young people; 10% to create, implement, operate, and manage a marijuana education and public health program; 0.6% to the University of Washington; 0.4% to Washington State University to research the short and long term effects of marijuana use; 50% to the state basic health plan trust account; 5% to provide health and dental care; 0.3% to fund grants to building bridges programs. The remainder to the general fund |

Proposed Tax Structure for Medical Cannabis Cultivation Facilities

- A two-tiered tax structure structured as follows:
 - \$ 15 per square foot for the first 20,000 square feet
 - \$ 7.50 per square foot for the remaining space utilized plus
 - 4% of gross wholesale receipts for cultivation and,
 - 2% of gross wholesale receipts for processing

Questions/Discussion