

Thursday, November 5, 2020, 6:30 pm
Teleconference Meeting

AGENDA

Pursuant to the Governor's Executive Order N-29-20, members of the Cannabis Regulatory Commission as well as City staff will participate via phone/video conference and no physical teleconference locations are required.

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♿ This meeting is wheelchair accessible. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in the meetings of the Cannabis Regulatory Commission, please contact the Office of the City Clerk (510) 238-3612. Notification two full business days prior to the meeting will enable the City of Oakland to make reasonable arrangements to ensure accessibility. In compliance with Oakland's policy for people with chemical sensitivities, please refrain from wearing strongly scented products to events.

Questions or concerns regarding this agenda, or to review any agenda-related materials, please contact the Cannabis Regulatory Commission at (510) 238-6370.

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Members:

Lanese Martin	District 1	Frank Tucker	District 7
Tracey Corder	District 2	Chaney Turner	At Large
Austin Stevenson	District 3	Stephanie Floyd-Johnson	Mayor
Debby Goldsberry	District 4	TiYanna Long	City Auditor
Claudia Mercado	District 5	Greg Minor	City Administrator
Joshua Chase	District 6		

Available on-line at: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission>

MEETING AGENDA

- A. Roll Call and Determination of Quorum
- B. Approval of the Draft Minutes from the CRC Meeting on October 2, 2020.
- C. Reports for Discussion and Possible Action
 1. Draft Agenda for CRC Retreat/Planning Session
 2. Potential Amendments to Cannabis Ordinances:
 - a. Proposed Amendments to Overall Cannabis Program
 1. Prohibit New Cannabis Permit Applications in HBX (Housing-Business Mix) Zones and New Cultivation and Volatile Manufacturing Within 300 Feet of a Residential Zone
 2. Allow Non-Volatile Manufacturing in Areas Where Custom-Manufacturing Industrial Activities are Conditionally Permitted Provided the Non-Volatile Manufacturing Applicant Undergo the Same Conditional Use Permit Process as a Custom-Manufacturing Industrial Use and There Is a 300 Foot Buffer Between Cannabis Uses
 3. Allow Delivery-Only Dispensaries in CN Neighborhood Center Commercial Zones and D-BV Broadway Valdez Zones Provided the Delivery-Only Dispensary Does Not Situate on the Ground Floor.
 4. Remove Discretionary Language in OMC 5.80.020(D)(1) re Location of Dispensaries
 - b. Proposed Amendments to Equity Program
 1. Authorize Equity Businesses to Transfer Permits After Three Years to Non-Equity Businesses
 3. Supplemental Report from Revenue Management Bureau
- D. Review of the Pending List and Additions to Next Month’s Agenda
 - *Updated Parliamentary Procedures (since July 2020)*
 - *Public Ethics Training (since August 2020)*

- *CRC 2019 Annual Report (since August 2020)*
- *CRC Retreat (since September 2020)*
- *OPD Fiscal Data on 2019 Cannabis Enforcement and Protocol for Unpermitted Dispensaries (since September 2020)*

E. Open Forum / Public Comment

F. Announcements

1. Update on Cannabis Permitting Process
2. Update on BCC and Go-Biz Grant Implementation

G. Adjournment

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MINUTES

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MEETING AGENDA

A. Roll Call and Determination of Quorum

Present: Martin, Corder, Mercado, Chase, Tucker, Turner, Floyd-Johnson, Long, Minor
Absent: Goldsberry

B. Open Forum / Public Comment

Public speakers spoke regarding incentivizing dispensaries to hire locally, concerns around requiring cannabis operators to participate in community meetings, restrictions on delivery impacting people getting cannabis delivered to their place of work.

Members then inquired about the equity tax rebate program. Member Floyd-Johnson made a motion requesting the following information: (1) What is involved in getting a tax rebate? (2) How is the program marketed? (3) What is the plan for outreach? (4) Ask businesses why they have not yet applied? Chair Martin seconded the motion and it passed by consensus.

C. Review of the Pending List and Additions to Next Month’s Agenda

- *Updated Parliamentary Procedures (since July 2020)*
- *Public Ethics Training (since August 2020)*
- *CRC 2019 Annual Report (since August 2020)*
- *CRC Retreat (since September 2020)*
- *OPD Fiscal Data on 2019 Cannabis Enforcement and Protocol for Unpermitted Dispensaries (since September 2020)*

Member Floyd-Johnson made a motion for the equity subcommittee to place a proposed agenda for the retreat on the CRCs November meeting agenda. Member Tucker seconded the motion and it passed by consensus.

Chair Martin made a motion to add revisiting the cannabis business tax rate to the pending list. Member Floyd-Johnson seconded the motion and it passed by consensus.

- D. Approval of the Draft Minutes from the Special CRC meeting on August 13, 2020 and CRC Meeting on September 8, 2020.

Passed with no objections.

- E. Reports for Discussion and Possible Action
1. Annual Report from Revenue Management Bureau

Public speaker stated that report shows cannabis industry is struggling and taxes should be lowered further.

Chair Martin asked Revenue staff if they would oppose reducing the City's cannabis tax rate; Interim Finance Director Margaret O'Brien replied that they are not the policymakers and that it is best to ask questions and make proposal in advance of the City's budget cycle. In light of the change in tax rates between 2019 and 2020, Interim Finance Director encouraged the CRC to compare apples to apples and examine the total gross receipts as opposed to taxes collected in 2019 and 2020.

Chair Martin then requested that staff calculate what the tax revenue would have been in 2020 if the tax rate had not changed.

Vice-Chair Long asked what the projected tax revenue is from the cannabis tax revenue next year. Revenue staff replied that there is just an overall business tax projection consisting of 22 separate categories.

2. Revisiting Cannabis Business Tax Rate

Public speaker encouraged immediate tax reductions and to make them retroactive. Chair Martin emphasized that this item needs to be thought through seriously, policies should not come up on the fly, and to move on from the item.

3. Potential Clean-Up Amendments to Cannabis Ordinances and Resolutions:

- a. Proposed Amendments to Overall Cannabis Program
 1. Ratify Fee and Permit Extension for Businesses Burglarized in late May/early June 2020
 2. Limit the Delivery of Cannabis in Oakland to Residential Properties.
 3. Prohibit New Cannabis Permit Applications in HBX (Housing-Business Mix) Zones and New Cultivation and Volatile Manufacturing Within 300 Feet of a Residential Zone
 4. Remove Discretionary Language in OMC 5.80.020(D)(1) re Location of Dispensaries
- b. Proposed Amendments to Equity Program
 1. Authorize Equity Businesses to Transfer Permits After Three Years to Non-Equity Businesses
 2. Extend Equity Applicants' Eligibility to Equity Assistance Program Services Up to Four Years from Initial Equity Verification
 3. Convert \$1.5 Million in Loans to Equity Applicants to Purchase Properties that Support Multiple Equity Applicants to Forgivable Loans
 4. Authorize Utilizing Up to \$500k from \$1.5 Million Available in Loans for All Eligible Purposes Towards the Purchasing Property Forgivable Loan Program

Member Minor provided background on the different proposals. Public speakers emphasized the need to continue cannabis operators access to properties and to explore expanding cannabis uses in commercial zones. Public speakers also encouraged keeping equity permits with equity businesses.

Members encouraged more outreach on these proposals. Member Minor identified items 3(a)(1) and 3(b)(2-4) as time sensitive. Member Floyd-Johnson then moved to accept staff's recommendations on items 3(a)(1) and 3(b)(2-4) and to continue the other items to next month's agenda including any updates from staff consistent with the feedback received. Vice-Chair Long seconded the motion and it passed by consensus.

4. How City Can Support Businesses Impacted by Covid-19 and Burglaries in late May/Early June 2020

F. Announcements

1. Update on Cannabis Permitting Process

G. Adjournment



Cannabis Regulatory Commission

TO: Cannabis Regulatory Commission **FROM:** Greg Minor
Assistant to the City
Administrator

SUBJECT: November 2020 Agenda Items **DATE:** November 2, 2020

ITEM C (1) Draft Agenda for CRC Retreat

At the September 3, 2020 meeting Chair Martin made a motion to schedule a retreat to build cohesion and introduce all new members of the CRC. At the October 2, 2020 CRC meeting Member Floyd-Johnson made a motion for the equity subcommittee to place a proposed agenda for the CRC retreat on the November CRC agenda. Member Tucker seconded the motion and it passed by consensus.

Attached please find a draft agenda for the CRC retreat/planning session for review and consideration.

ITEM C (2) Potential Amendments to Cannabis Ordinances

At the October 2, 2020 CRC meeting staff presented potential amendments to the City's cannabis ordinances, Oakland Municipal Code (OMC) 5.80 and 5.81; the CRC accepted half of the recommended items and moved to continue the remaining proposals, including any updates from staff consistent with feedback received, to the November CRC meeting.

One of the October proposals included limiting the delivery of cannabis in Oakland. After the October 2nd CRC meeting, staff solicited additional feedback from cannabis operators on potential limitations on the delivery of cannabis in Oakland and the creation of an onsite consumption permit for delivery operators. While operators expressed some support for the creation of an onsite consumption permit for delivery operators, operators raised concerns around the limiting of delivery locations reducing access to cannabis. Based on these concerns and the impracticality of permitting onsite consumption sites during COVID-19, staff does not recommend moving forward on these proposals right now.

On the other hand, below is a summary of ordinance amendments staff recommends considering and staff looks forward to feedback from the CRC and the public.

With respect to Proposed Amendments to Overall Cannabis Program, staff recommends the following:

1. Prohibit New Cannabis Permit Applications in HBX (Housing-Business Mix) Zones and New Cultivation and Volatile Manufacturing Within 300 Feet of a Residential Zone
2. Allow Non-Volatile Manufacturing in Areas Where Custom-Manufacturing Industrial Activities are Conditionally Permitted Provided the Non-Volatile Manufacturing Applicant Undergo the Same Conditional Use Permit Process as a Custom-Manufacturing Industrial Use and There Is a 300 Foot Buffer Between Cannabis Uses
3. Allow Delivery-Only Dispensaries in CN Neighborhood Center Commercial Zones and D-BV Broadway Valdez Zones Provided the Delivery-Only Dispensary Does Not Situate on the Ground Floor.
4. Remove Discretionary Language in OMC 5.80.020(D)(1) re Location of Dispensaries

First, staff recommends prohibiting new cannabis operations in HBX zones to avoid conflicts with residential uses, as HBX allows industrial activities and residential uses right next to each other, which has proven incompatible from security, parking and other perspectives. Similarly, staff recommends limiting new cultivation and volatile manufacturing, potentially the most impactful uses, from within 300 feet of a residential zone. Attached please find maps of HBX zones and the proposed buffer from residential zones.

In response to concerns about limiting areas where cannabis operators can locate, staff's second and third recommendations include potential expansions of cannabis uses in commercial zones. The second recommendation would allow cannabis non-volatile manufacturing operators to undergo a Conditional Use Permit (CUP) process in the same areas where non-cannabis custom manufacturers undergo a CUP process, albeit with a 300 foot buffer between cannabis uses to mitigate any displacement of non-cannabis manufacturing by cannabis manufacturers. This buffer is proposed in response to concerns of cannabis operators being able to afford higher rent than non-cannabis operators. The third recommendation would allow delivery-only dispensaries to expand into every commercial zone, provided they do not situate on the ground floor, which is intended to support pedestrian-oriented uses that are open to the public, unlike delivery-only dispensaries that are not open to the public.

Last, staff recommends removing old discretionary language in OMC 5.80.020(D)(1) that provides an ambiguous standard for where dispensaries may locate; in the 2017 equity analysis staff identified avoiding as much subjective language as possible to minimize governmental discretion and the possibility of disparate outcomes. Staff then deleted similar language from OMC 5.81 but unintentionally left this old discretionary language in OMC 5.80 and now recommends its deletion. The language at issue is pasted below for reference:

Unless the City Administrator in his/her discretion determines that the location will not impact the peace, order and welfare of the public evidence that the proposed location of such dispensary is not within six hundred (600) feet of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive (but not including any private school in which education is primarily conducted in private homes), another dispensary or youth center, unless the school or youth center moved into the area after the dispensary was issued a permit under this Chapter.

With respect to Proposed Amendments to the Equity Program, staff recommends the following:

1. Authorize Equity Businesses to Transfer Permits After Three Years to Non-Equity Businesses

The CRC adopted this recommendation in December 2019 after multiple discussion in 2019 after staff asked for input on whether and how to allow an equity business to transfer its permit to a general applicant business. The current language around transferring business permit resides in OMC 5.02.20, pasted below for reference:

No permit in this Chapter required shall be transferable, nor apply to any premises other than those originally specified as the location of the thing permitted, except upon written permission of the City Administrator, or other official originally granting such permit, granted upon written application by the transferor, made in the same manner as may be required in the instance of the original application for such permit.

Staff has interpreted this language as allowing general applicants to transfer their permits to general or equity businesses that comply with permitting requirements, but prohibit equity applicants from transferring their permits to general applicants, because the equity applicants' status as an equity applicant was a prerequisite to them obtaining their permit in the first instance. While this avoids the flipping of permits from equity to general applicants and undermining the intent of the equity program of providing business ownership opportunities to equity applicants, it also permanently restricts equity businesses from receiving the financial benefits of selling more than fifty percent of their business to general applicants. After months of discussion in 2019, the CRC ultimately recommended allowing equity businesses to transfer their permits after three years, the same period as incubation, to provide equity applicants with the choice of keeping or transferring their business at that point.

In light of turnover of CRC members and the fact that staff has not yet presented this recommendation to the City Council, staff is presenting this issue again for the CRC's consideration.

ITEM C (3) Supplemental Report from Revenue Management Bureau

At the October 2, 2020 CRC meeting members requested additional information from the Revenue Management Bureau (RMB) regarding the total gross receipts in 2019 versus 2020 and the equity tax rebate program. Attached please find a supplemental report from the RMB.

ITEM F (1) Update on Cannabis Permitting Process

Below please find updated cannabis permitting statistics for the CRC's review, including additional categories as well as application and permit trend graphs.

Figure 1: Application Totals

APPLICATIONS	TOTALS	PENDING
Total Complete & Incomplete Applications	1509	108
Total Complete Applications	1509	
Complete General Applications	615	
Equity Applications based on residency	770	
Equity Applications based on conviction	124	
Incubators	379	
Interested in Incubating	24	
Complete Application with property	1060	
Complete Application without property (Equity)	369	
Complete Applicants without property (General)	80	

Figure 2: Permit Applications by Category

COMPLETED APPLICATIONS BY BUSINESS TYPE	GENERAL	INCUBATOR*	INTERESTED IN INCUBATING*	EQUITY
Delivery	149	64	4	234
Cultivator (Indoor)	158	102	13	142
Cultivator (Outdoor)	6	5	0	39
Distributor	141	96	5	221
Mfg. Volatile	59	48	0	45
Mfg. Non-Volatile	94	59	2	163
Transporter	5	3	0	40
Lab Testing	3	2	0	10
GRAND TOTALS	615	379	24	894

*These numbers are part of the General Total

Figure 3: Operators Locally Authorized for Provisional or Annual State License by Category

LOCALLY AUTHORIZED FOR STATE *ANNUAL/PROVISIONAL LICENSES*	GENERAL	INCUBATOR	EQUITY	
Delivery	27	42	115	
Cultivator	3	69	43	
Distributor	7	70	91	
Mfg. Volatile	5	29	6	
Mfg. Non-Volatile	20	70	83	
Transporter	0	1	5	
Lab Testing	0	2	2	
Retailers	3	1	3	
TOTALS:	65	284	348	697

*These figures represent those who have actually applied with the state for their provisional/annual license
There are additional applicants who are locally authorized, but who have not yet applied with the state.

Figure 4: New Permits Issued to Cannabis Operators Since Spring of 2017 by Category

	GENERAL NOT INCUBATING	INCUBATOR	EQUITY	TOTAL
<i>NEW ANNUAL PERMITS BY BUSINESS TYPE</i>				
Dispensary		1	2	3
Delivery	56	17	77	150
Cultivator (Indoor)	2	4	4	10
Cultivator (Outdoor)	0	0	0	0
Distributor	12	23	38	73
Mfg. Volatile	0	4	0	4
Mfg. Non-Volatile	2	6	25	33
Transporter	1	0	5	6
Lab Testing	0	0	0	0
GRAND TOTALS	73	55	151	279

Figure 5: Withdrawn Applications

WITHDRAWN APPLICATIONS	GENERAL	INCUBATOR	EQUITY	TOTALS
Delivery	9	19	33	61
Cultivator (Indoor)	3	13	32	48
Cultivator (Outdoor)	14	11	10	35
Distributor	2	32	32	66
Mfg. Volatile	2	12	17	31
Mfg. Non-Volatile	5	14	19	38
Transporter	5	1	15	21
Lab Testing		2	3	5
TOTALS	40	104	161	305

Figure 6: Revoked Local Authorization

REVOKED LOCAL AUTHORIZATION	GENERAL	INCUBATOR	EQUITY	TOTALS
Delivery	1	6	6	13
Cultivator (Indoor)	1	9	2	12
Cultivator (Outdoor)				0
Distributor	1	5	4	10
Mfg. Volatile		3		3
Mfg. Non-Volatile		3	1	4
Transporter		1		15
Lab Testing				0
TOTALS	3	27	13	43

Figure 7: Graph of Cannabis Permit Applications Received Since 2017

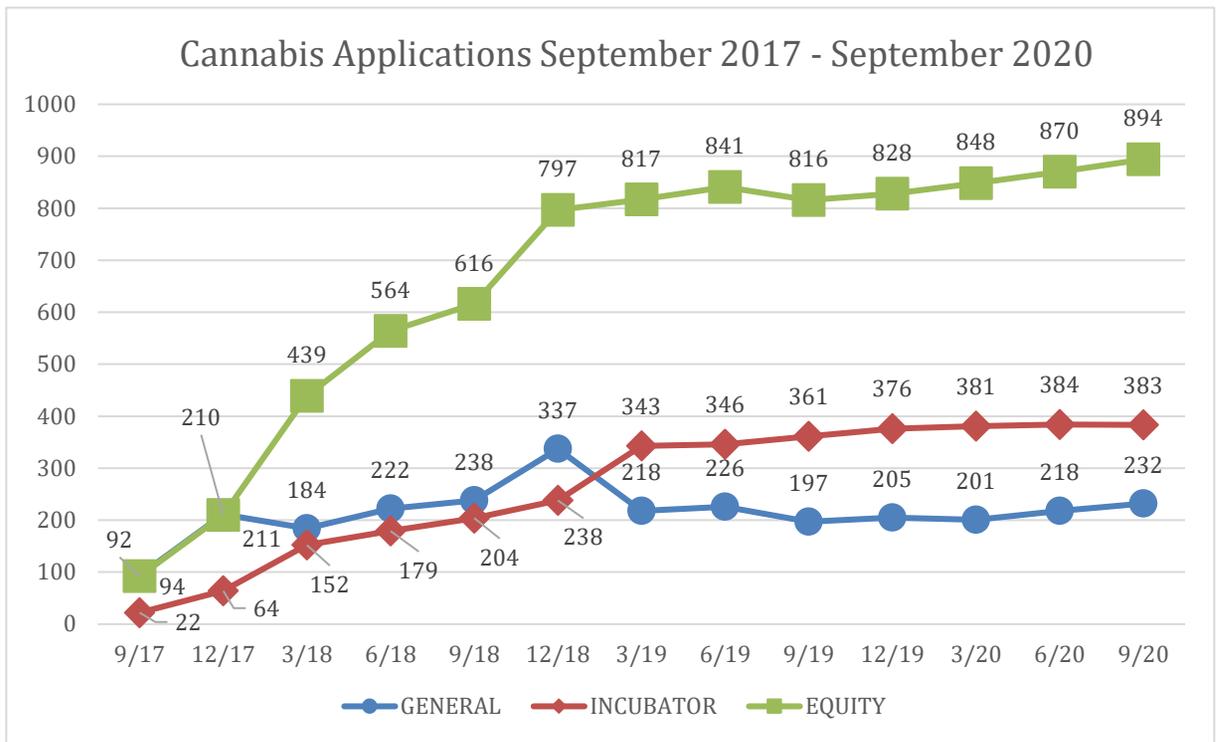
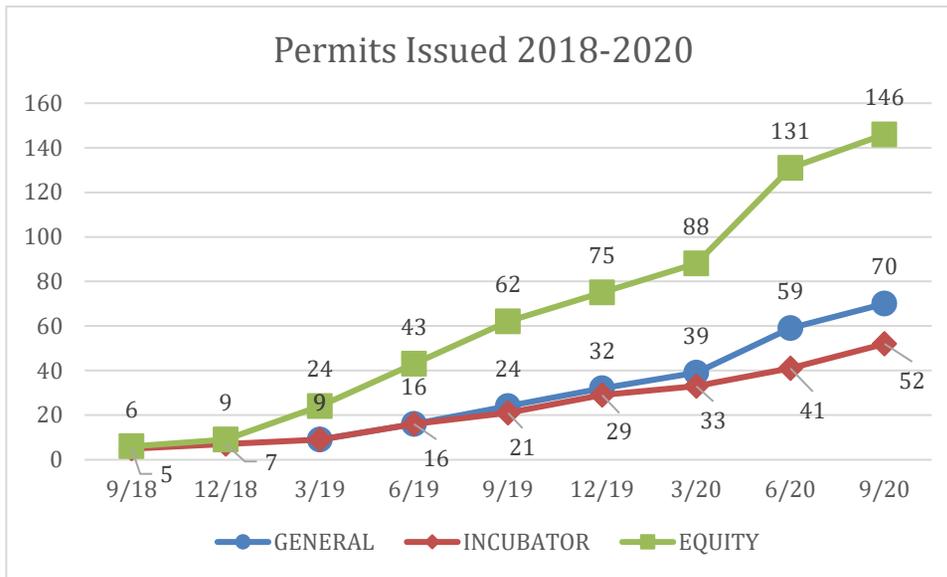


Figure 8: Graph of Cannabis Permits Issued Since 2017



ITEM F (2) Update on BCC and Go-Biz Grant Implementation

In the summer of 2020, the Special Activity Permits Division launched a BCC and Go-Biz funded grant program for equity operators for all eligible expenses that is administered along with the no-interest loan program by 4Front Partners, dba Elevate Impact. At the recommendation of the CRC, staff and Elevate Impact have held monthly meetings with equity operators the Tuesday after the CRC meeting to provide any updates regarding the program and maintain an ongoing feedback loop. Every week staff and Elevate Impact monitor the programs and analyze what adjustments are needed to effectively disburse funds. More information on the loan and grant programs is available at www.elevateimpactoakland.com.

Then in September staff launched two shared-use manufacturing facilities funded by the BCC grant. The two teams managing the kitchens have selected 15 manufacturers to use the sites and are now working to get these operators permitted and operating in the coming months. More information is available here: <https://www.oaklandca.gov/services/shared-use-manufacturing-facilities>

Next, in late October staff launched a workforce development grant program providing equity operators with grants of up to \$50,000 to recruit, train, or retain equity employees. More information is available here: <https://www.oaklandca.gov/services/workforce-development-grant-program>

Finally, staff intends on releasing a Request for Proposals (RFP) for the approximately \$2million that will be available to equity operators to purchase property(ies) that support multiple equity operators. Staff anticipates releasing an RFP after the City Council considers converting these funds into forgivable loans at the November 10th City Council meeting.

PLANNING SESSION AGENDA

DATE AND TIME TO BE DETERMINED

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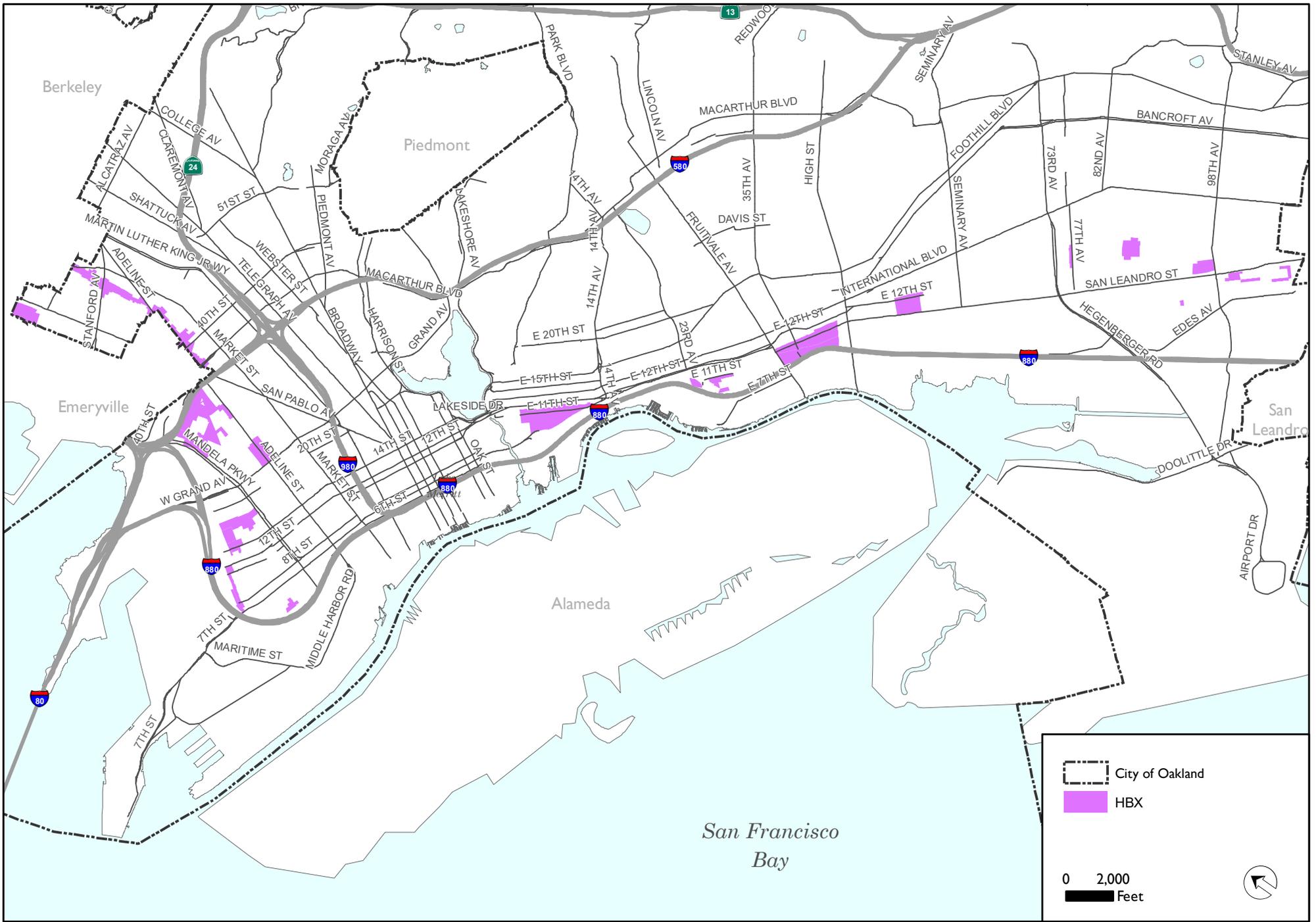
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Claudia Mercado	District 5	Greg Minor	City Administrator
Joshua Chase	District 6		

Available on-line at: <https://www.oaklandca.gov/boards-commissions/cannabis-regulatory-commission>

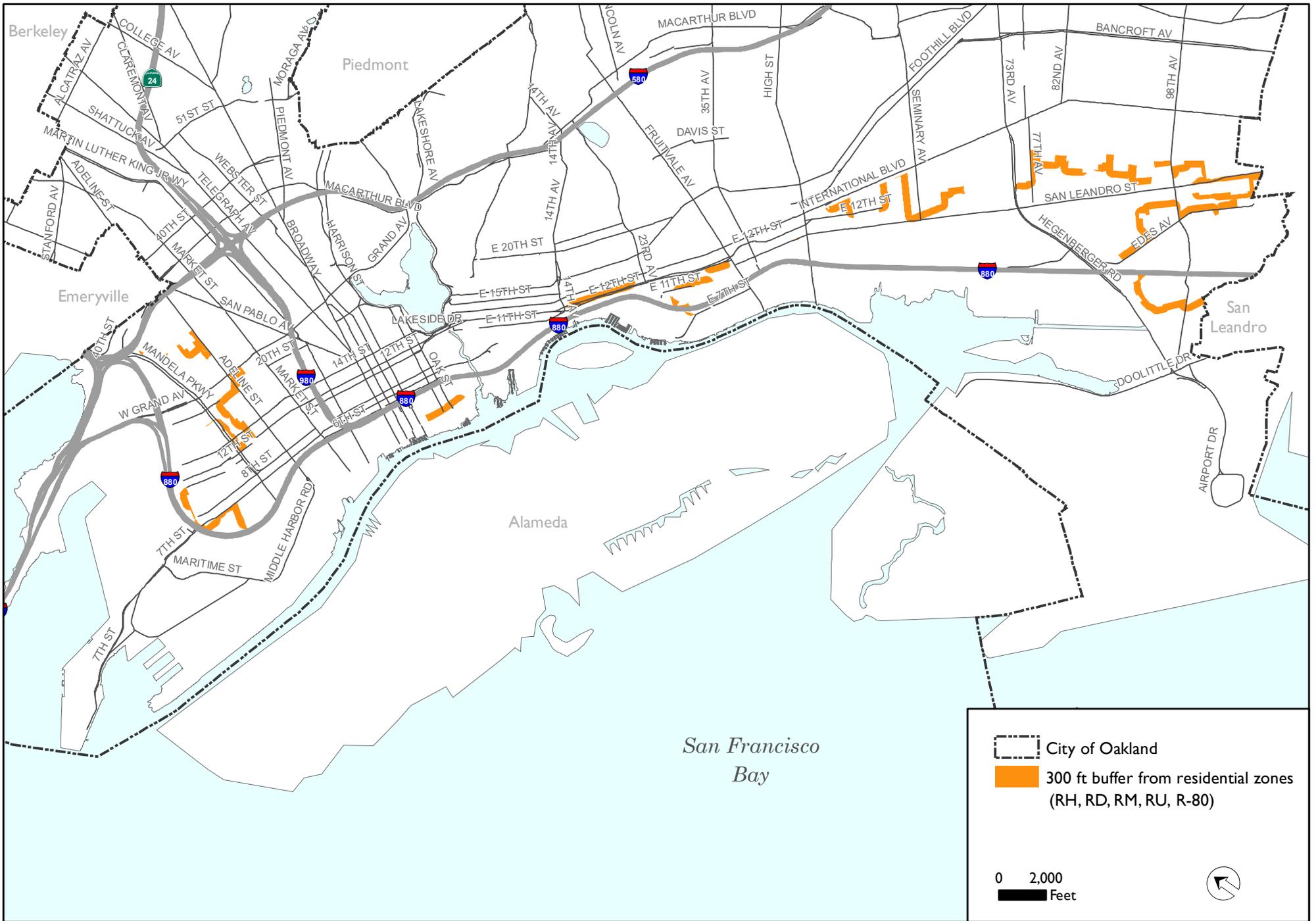
PLANNING SESSION AGENDA

- A. Roll Call and Determination of Quorum
- B. Public Comment on All Action Items Will Be Taken At this Time. Comments for Items Not on the Agenda Will Be Taken During Open Forum.
- C. History and Context of CRC (15 minutes)
- D. Introductions-Game (15 minutes)
- E. Break (15 minutes)
- F. Understanding the Role of the Commission (1 hour)
 - 1. What is Stated?
 - 2. What Are We Doing?
 - 3. What Should We Be Doing?
- G. Break (15 minutes)
- H. Open Forum
- I. Debrief Close Out (15 minutes)
- J. Adjournment



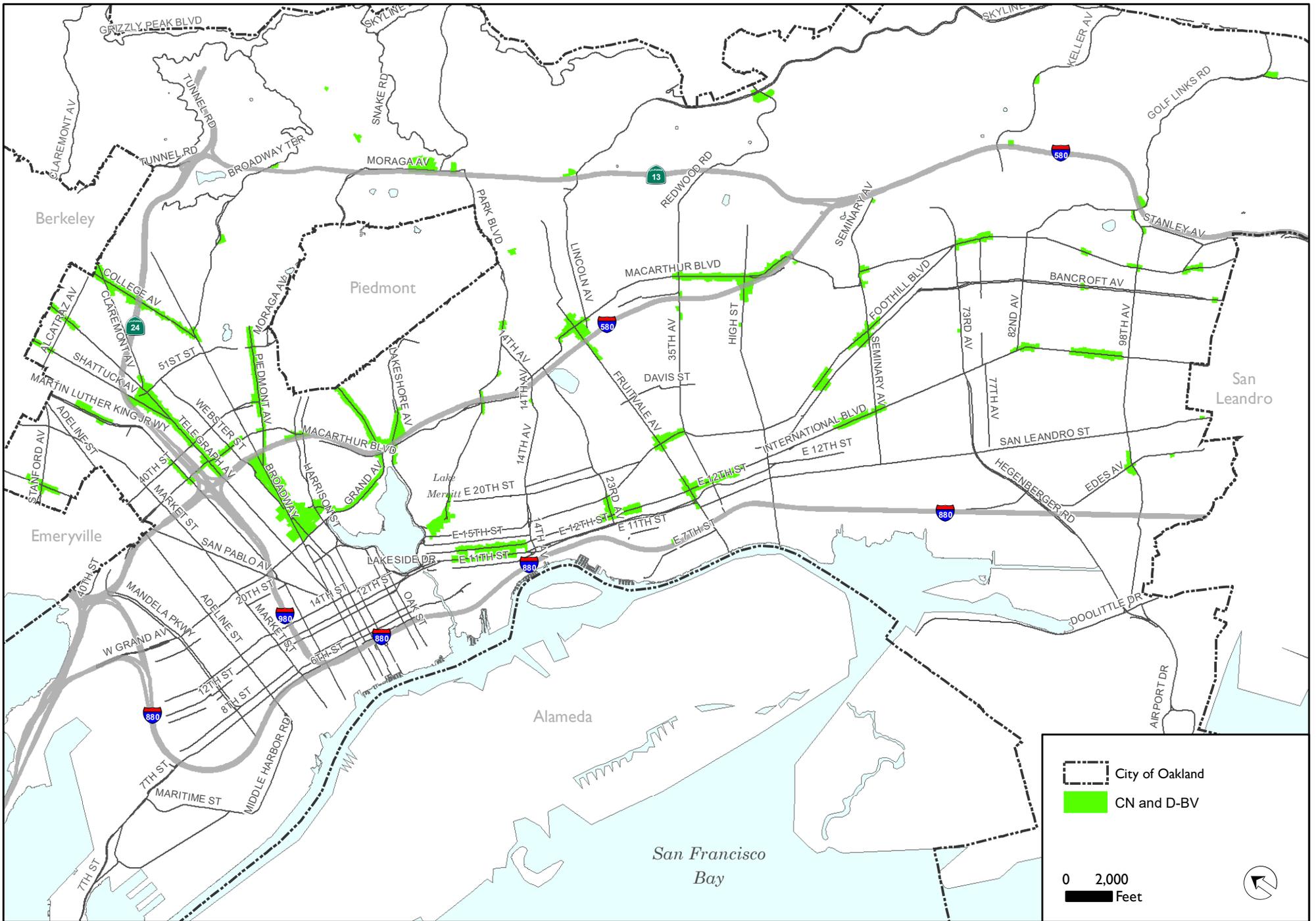
City of Oakland HBX (Housing Business Mix Commercial) Zones

Planning and Building Department
September 2020

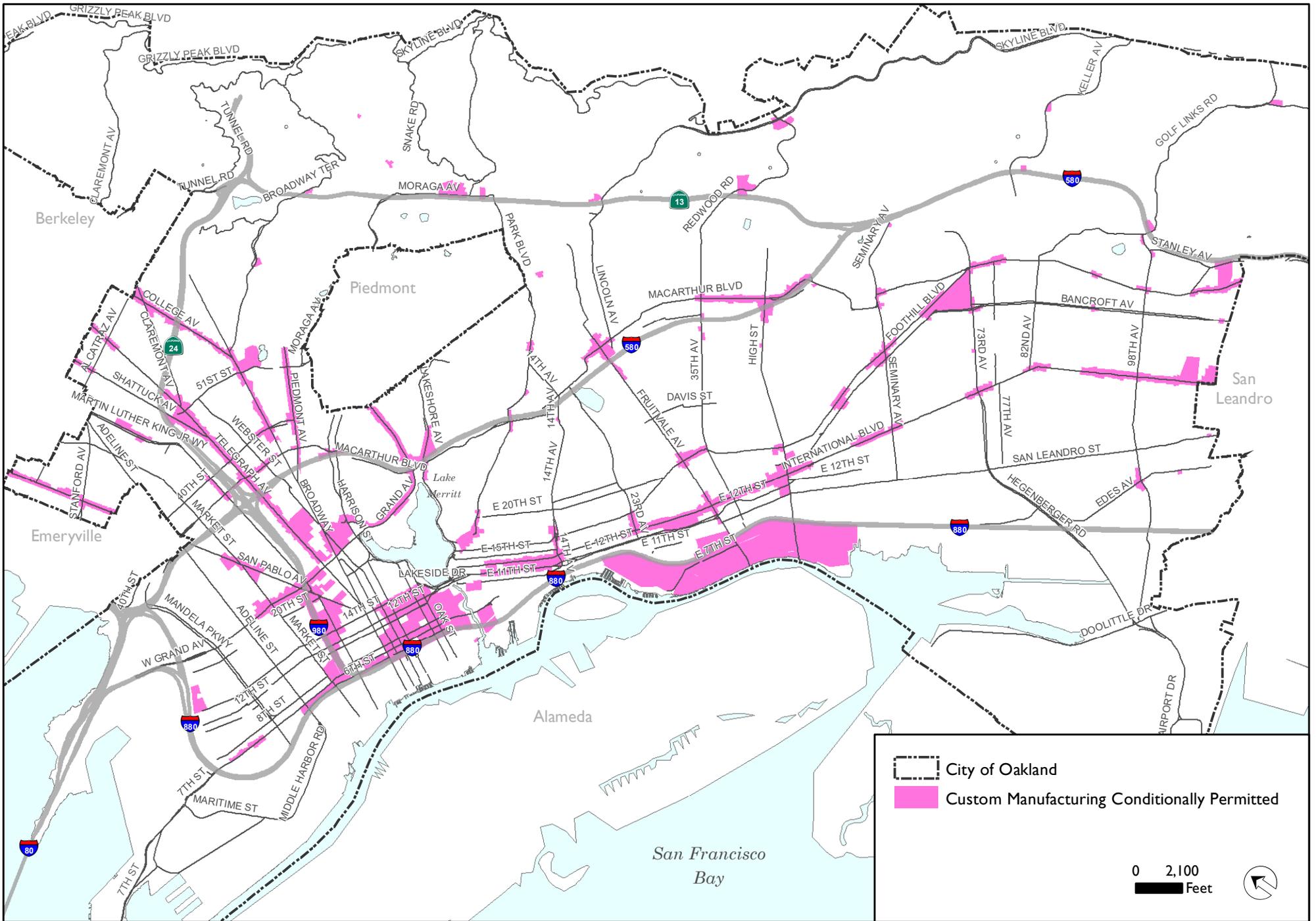


Proposed Buffers for Cannabis Cultivation & Volatile Manufacturing From Residential Zones

Planning and Building Department
September 2020



City of Oakland CN and D-BV Zones



City of Oakland Custom Manufacturing Conditionally Permitted



MEMORANDUM

TO:	Cannabis Regulatory Commission	FROM:	Rogers Agaba Interim Revenue & Tax Administrator
SUBJECT:	Cannabis Business Tax	DATE:	November 2, 2020

INFORMATION

At the October 1, 2020 Cannabis Regulatory Commission (“CRC”) Meeting, the CRC requested that the Revenue Management Bureau provide follow-up answers to questions and recommendations related to the tax rates and the tax rebate program.

Accordingly, below are questions(Q), recommendations (R), and answers(A).

Tax Rates:

Q. What were the combined total gross receipts from all cannabis businesses for 2019 and 2020 tax years?

- A. 2019: \$165,351 million from 195 businesses
2020: \$167,494 million from 252 businesses

Q. What would be the total amount of revenue if the tax rates for 2019 were maintained for 2020?

- A. The City would have collected approximately \$15.51 million in Revenues with the old tax rates, as opposed to \$8.89 million that is owed under the new tax rates for 2020.

Tax Rebate Program:

Q. What is involved in getting a tax rebate?

- A. Submit the application and supporting documentation. The information and application, including required documentation, are available at <https://www.oaklandca.gov/services/request-a-cannabis-tax-refund>.

Q. How is the program marketed?

- A. Detailed information regarding the 2020 Cannabis Business Tax Program was included in the tax renewal notice sent to each business on January 3, 2020. The Special Activity Permits Division sent out an email to its cannabis businesses in October 2020 reminding operators about the program and has updated its website to include information on the Equity Tax Rebate Program.

Q. What is the plan for outreach?

- A. Detailed information will once again be included in the upcoming 2021 tax renewal notice to be sent out to each business in early 2021. Additionally, the Special Activity Permits Division will continue to remind cannabis operators about the Equity Tax Rebate Program.

R. Ask businesses why they have not yet applied.

- A. The Special Activity Permits Division will send a survey to cannabis operators to understand why they have not yet applied in the first Quarter of 2021 if not sooner.

Q. How many rebate conditions are there?

- A. The 2020 Cannabis Tax Rebate Program has nine rebate conditions. Six out of nine rebate conditions have the qualifying period of one year to mature, meaning cannabis businesses must meet the required conditions for an entire year (2020) in order to qualify.

For questions, please contact Rogers Agaba, Interim Revenue & Tax Administrator, at (510) 238-7009.

Respectfully Submitted,

Rogers K. Agaba

Rogers Agaba
Interim Revenue & Tax Administrator