

Memorandum

TO: CITY COUNCIL

FROM: Mayor Chuck Reed
Vice Mayor Madison Nguyen
Councilmember Sam Liccardo
Councilmember Pierluigi Oliverio

SUBJECT: SEE BELOW

DATE: May 9, 2014

APPROVED:

DATE:

Chuck Reed *5/9/14*
Madison Nguyen
Pierluigi Oliverio *Sam Liccardo* FB
SUBJECT: ORDINANCE AMENDING TITLE 20 OF THE SAN JOSÉ MUNICIPAL
CODE RELATED TO LAND USE REGULATIONS PERTAINING TO MEDICAL
MARIJUANA COLLECTIVES

RECOMMENDATION

Approve the Administration's recommendations outlined in the staff report dated April 29, 2014 to amend Title 20 to establish Land Use Regulations pertaining to medical marijuana collectives and cultivation with the following modifications to:

- a. Allow marijuana dispensaries and growing operations in IP and HI zoning districts, while expressly prohibiting marijuana dispensaries and growing operations in the employment centers covered by the North San José Area Development Policy, the International Business Park, and the Edenvale Area Development Policy;
- b. Add "adult daycare centers" to the 150-foot minimum distance category;
- c. Place religious assembly uses in the 150-foot category with residential uses; and,
- d. Replace the word "schools" with "preschools, elementary schools, and secondary schools."

BACKGROUND

When the Council unanimously approved GP 2040 in November 2011, we hailed it as the framework that strongly articulated our intent for San José to continue to be the job and innovation center of the world. North San José, Edenvale, and the International Business Park are home to the headquarters of many multi-national corporations, as well as the suppliers and service providers that support the entire Silicon Valley ecosystem. Cisco, Cadence, Sanmina, Brocade, Maxim Ericsson, Cypress, Hitachi, Celestica, Power Integrations, CTS Electronics, Styker, Jabil Circuits, BD Biosciences, Micrel, Olympus, Synaptics, Bestronics and Zoll are located here, generating thousands of direct and indirect jobs. Many of these companies require their suppliers and service providers to be within a certain short radius of their R&D and manufacturing facilities.

May 9, 2014

Subject: Ordinance Amending Title 20

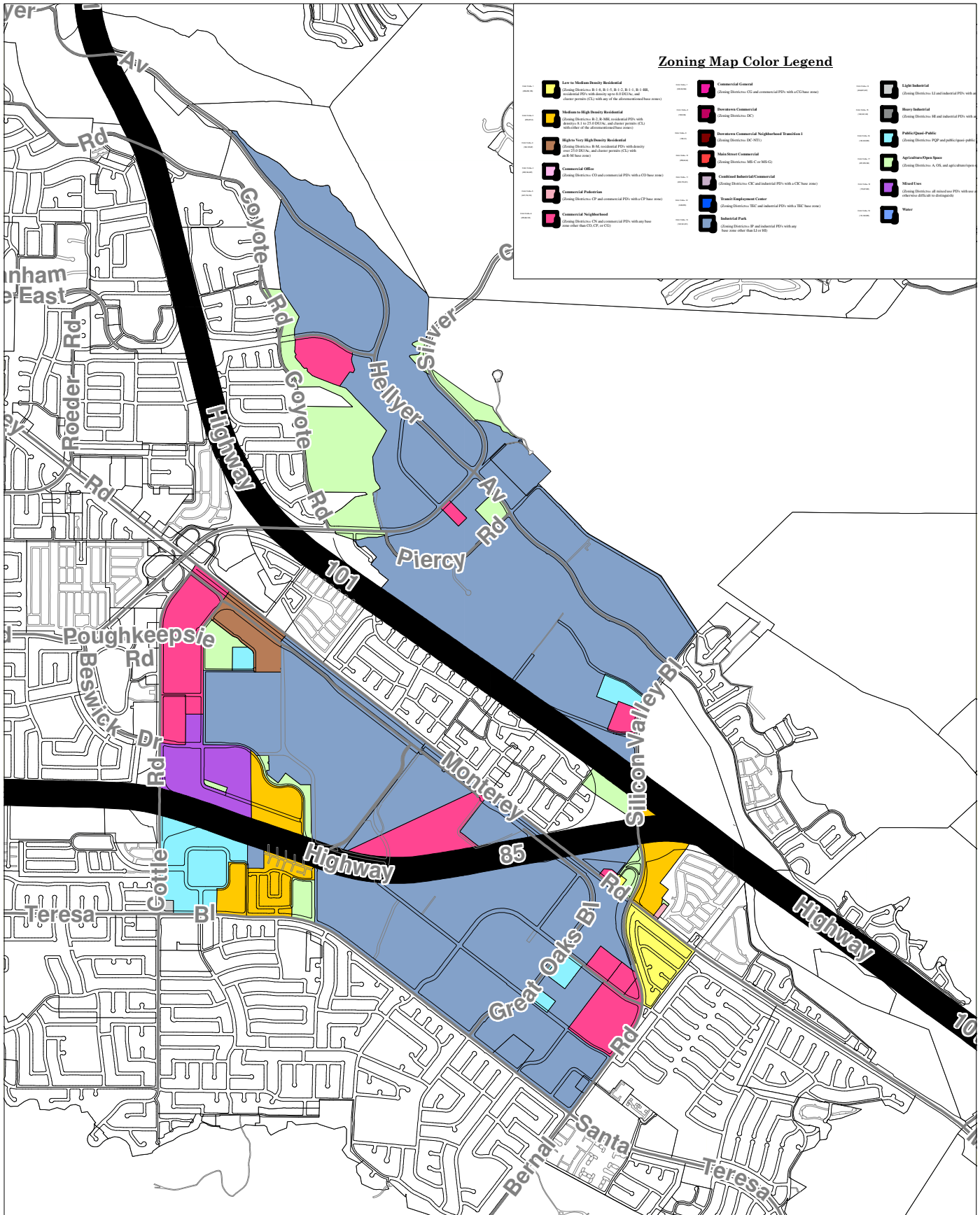
Page 2

San José is fortunate to have designated and preserved the industrial areas where our large corporations and smaller specialized uses could be accommodated. Now is not the time to put San José at risk of losing the significant base of tech, manufacturing and assembly uses which thrive in our industrial areas, or deter and create impediments for new companies to locate here. In light of the fact that every city in the Santa Clara County has banned collectives, we must be even more committed to keeping our industrial parks competitive for new investments.

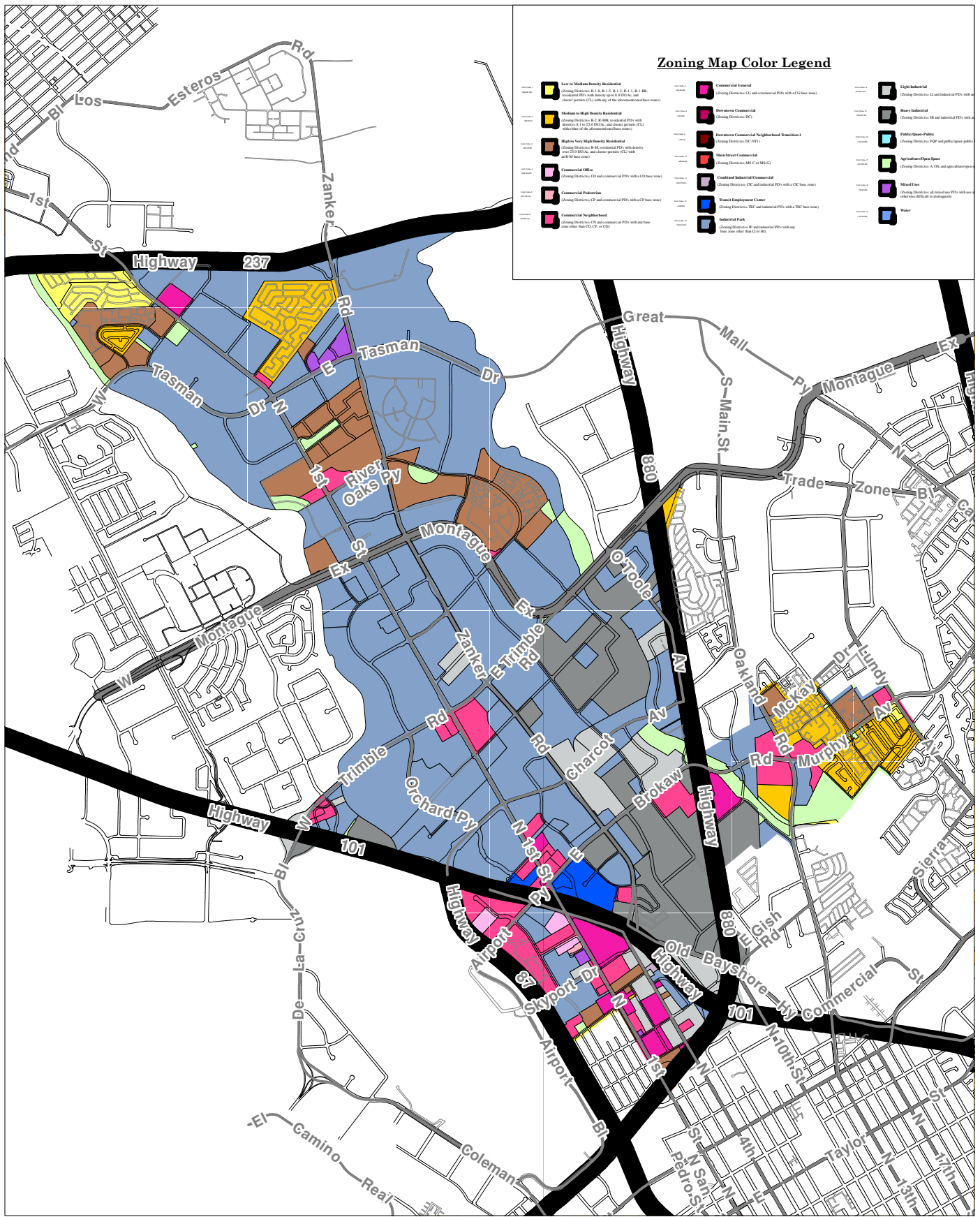
A survey was undertaken of several brokers, developers, investors and corporate community representatives, regarding allowing medical marijuana facilities in our premier employment areas. Their reactions, overwhelmingly opposed to medical marijuana collectives in the industrial areas, are documented in an attachment to this memo. Their comments will reinforce why it is imperative to continue to preserve and protect our job generating lands from incompatible uses.

Attachments: Survey and Maps

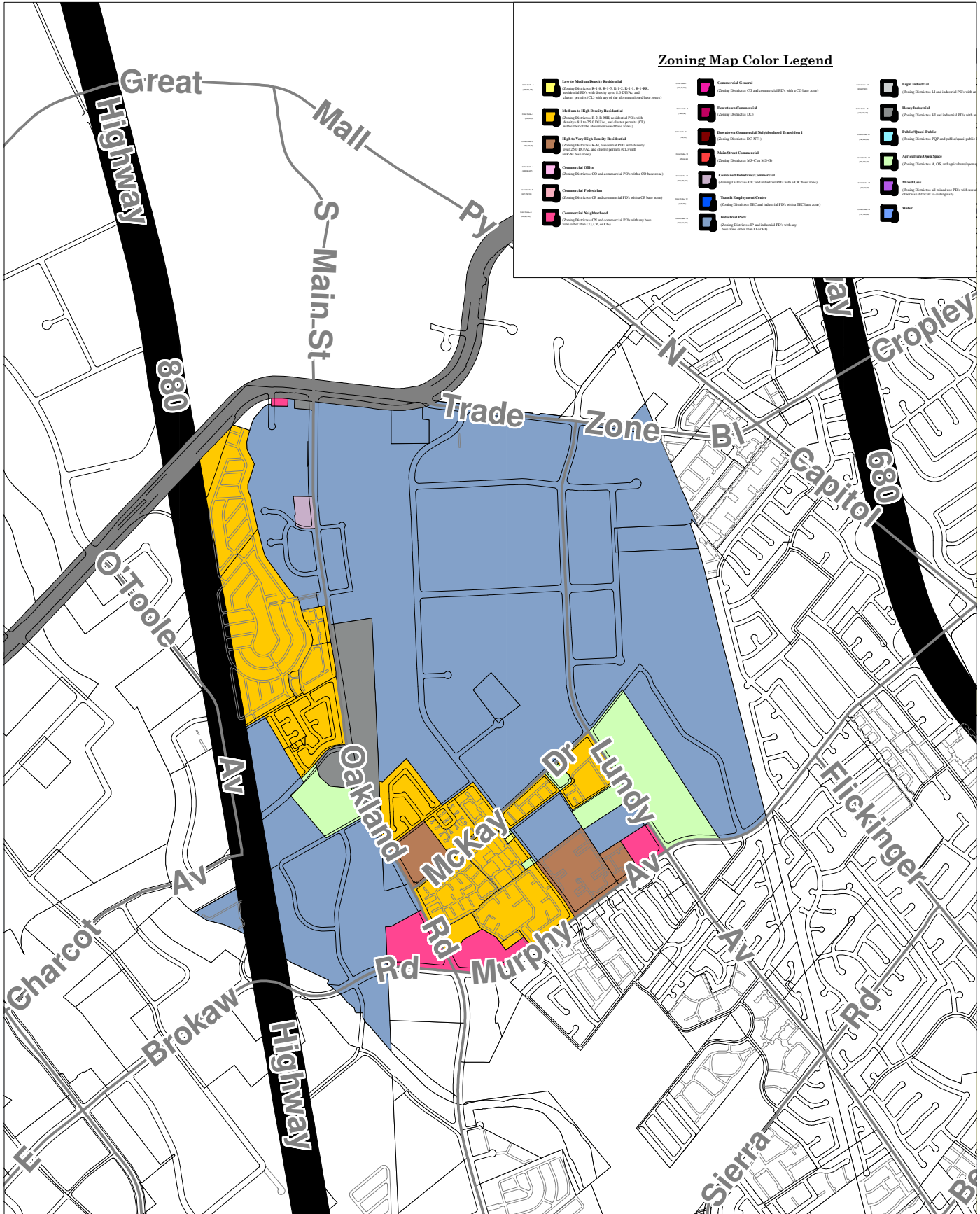
Edenvale Technology Park Map



North San Jose Area Policy Map



International Business Park Map



**ATTACHMENT A: SURVEY OF BROKERS, DEVELOPERS, INVESTORS AND CORPORATE COMMUNITY REPRESENTATIVES
ON THE IMPACTS OF PERMITTING MEDICAL MARIJUANA ESTABLISHMENTS
IN SAN JOSE'S PREMIER INDUSTRIAL PARKS**

QUESTION: Would collectives located in IP-zones have a negative impact on your ability to attract high tech tenants or attract and retain employees?

RESPONSES: Yes – 22 No – 1

COMMENTS:

- This would be a concern. Hopefully we can avoid allowing this type of business activity in the Edenvale area.
- I would not be in favor of this type of business being located in an IP zone.
- We have experienced this first hand with requests along N1st Street and Zanker corridor. Prospective Tenants including professional service company felt strongly against being located near a dispensary.
- Absolutely, they have a negative impact. Who ever said because it is “hip and cool...” is completely wrong. I have had tenants call & ask to move right away after learning of such a use moving within their park.
- We want these areas to look and feel as professional as possible. The risk of these dispensaries creating focal points for people opposed to tech is high.
- Just because some young employees may enjoy it, doesn't mean that the C-suite will. The C-suite makes the decision where to lease space. When the C-suite is considering nearby amenities for their employees, no C-Suite is going think that a dispensary is a plus. Some may be neutral. But the majority will be negative, and none will consider it a plus.
- Locating in IP zones is a horrible idea. Collectives only want to locate there because rents are lower.
- I am not excited about this use in any of our business parks or in the City !!
- The impact may be somewhat negative. The use itself is probably less an issue than introducing consumer activity into a primarily employment zone. It's not so much the potential socio-political stigma of dispensing marijuana for medical purposes, it's the fact that there will be a substantial customer base coming into the area having nothing to do with the primary IP oriented business activity. High tech companies are notoriously security conscious. Having the “masses” migrating in and out of the neighborhood might be concerning.
- Without question it is a detriment. It reflects poorly upon the company and upon the area. There is a consistent aspect of crime that surrounds these shops, and many who frequent these shops remain in the area after visiting, sometimes using the product that they have just purchased. Many of the companies that are considering R&D in San Jose are publically traded. I think that the statement about the “hip” engineers is completely false and shortsighted. In addition, it is not the engineers making the decisions on where to locate the companies. I have a hard time believing that a board of directors would support this move.
- We support the compassionate use laws in effect in California. That said, we are absolutely opposed to allowing collectives to locate in the IP-zoning district in San Jose. IP zoning in San Jose has been effective for a long time. And it works. It allows for a broad range of uses which, together with the retail and residential projects added more recently in North San Jose, have allowed the community to develop from a prime business park location into a growing mixed-use community. This transition to a more balanced mix of uses is relatively new and, we fear, still fragile.
- Uses that could be seen by business owners or residents as threatening to a purely tech and family friendly environment could deter tenants. North San Jose office/R&D buildings already face stiff competition from Santa Clara and Sunnyvale buildings that are on CalTrain and have easier access to 101 and downtown settings. Having another perceived barrier to a “pure-play” office setting is not needed at this time.
- Simply put, North San Jose is transitioning from an environment dominated by single story R&D buildings into a neighborhood where building owners are increasing density and changing uses, all with a substantial investment of new capital. The impact of adding collectives (I believe San Jose already has 80 or so locations) that might deter future investment or lending is not.

QUESTION: If a collective is located in an IP zone, will it impact property values, vacancy rates, and future investment by developers or high tech companies?

RESPONSES: Yes – 20 No – 1 Maybe – 2

COMMENTS:

- It will negatively impact property values and vacancy rates and would deter or negatively impact investment decisions by some developers who would be cautious about purchasing property near such an operation. Medical marijuana operations would be seen in similar light to an adult entertainment use.
- It will make it more difficult to attract tenants, thus increasing vacancy and negatively impacting property values.
- It would change our desires to invest in the area and push us to look at other surrounding cities which enforce these uses not being allowed in business parks or adjacent to the business parks we invest in.
- It would be a detriment. There is no discernible benefit and a high chance of creating a nuisance and downgrading the area.
- It would impact values in the sense that a multi tenant project would have vacancy issues. However, Landlord's gain from higher rents because the Collectives pay 200% to 300% rent premiums. However, adjacent owners would experience a decline in rents & increased vacancy as a result of their use.
- It will have an effect. I would not purchase an office building if I knew there was a dispensary next door, unless the price was compellingly low.
- It will be negative impact.
- This is proven to be true.
- The new landlord has invested millions in acquisition and renovations, and a new potential client will invest millions on tenant improvements. Major snag – directly next door, a new pot club moved in. It has frustrated the owner to no end as he is trying to build a first class R&D environment; and, the new tenant may find it too offensive and say bye- bye to 300 new jobs in San Jose.
- Where do I start – Pot Sales next to major R&D complexes – Is it really hard to get a consensus? Are we trying to attract High Tech tenants and build the valley? Do these tenants or owners investing millions and bringing jobs want them close by? – Absolutely not.
- It will depend on the number of MMCs allowed to locate in an area.
- If they are relatively small (+/- 3,000 sf) and have low traffic counts, then probably not. If they are large and generate a lot of attention and activity, then very possibly.

QUESTION: Does the location of a collective close to a tech use raise concerns regarding security, traffic or detract from creating a first class R&D environment?

RESPONSES: Yes – 22 No – 1

COMMENTS:

- All of the above.
- It would detract from creating a first class R&D environment. The brokerage community does not view an area that allows medical marijuana collectives as an upscale urban, employment center.
- This is the one of the largest concerns of Landlords. You will not have a “first class” R&D facility with this use in close proximity.
- A collective opened up adjacent to one of our properties. Since this occurred we have noticed an increase in the traffic of cars, people who will loiter after they make their purchases.
- You would have to be a Pollyanna to think that this won't potentially cause problems. There is no need to have them in the IP zone there are other alternatives.
- None of my landlords have any interest in leasing to these groups and it is felt that the associated activity detracts from the surrounding area.
- While many of the customers may have legitimate medical needs, there is often “abuse” of the service. Traffic may not be a problem but I think security is.
- The location of collectives in North San Jose raises additional concerns regarding security and traffic. Cities in Colorado are dealing with increased traffic and crime around their legal retail establishments. How those communities are dealing with these impacts has not been established.
- It will be a negative to technology companies.
- Maybe a trial program could be created. Not sure it's practical though.

- Absolutely. We have a tenant who is considering San Jose but may not lease a building for the specific reason that there is a collective next door. They are investing significant money into the building and may choose a different location due to the worry of crime. This company would bring 300 jobs and significant revenue to the city. They work with many of the high-tech giants in the valley and the reception from their clients is the same – they do not want to visit a building or invest money in a facility next to a collective.
 - Medical marijuana facilities in business parks would hurt the new neighborhoods and businesses would not want to be near them. It would definitely impact vacancy, rental rates, and the ability to fill empty buildings.
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QUESTION: Should the Council prohibit collectives locating within the IP zones?

RESPONSES: Yes – 21 No – 1 Maybe - 1

COMMENTS:

- Prohibit.
- They need to be in retail areas.
- If we want jobs, we need to preserve land for companies and protect them as much as possible from intrusive uses that may conflict with their core operations. I think ancillary uses that serve industry—hotels, restaurants, some retail and services—are fine but not stadiums, box retail, churches, etc.
- Absolutely.
- Most definitely.
- I have mixed feelings as I would like to see dispensaries able to lease spaces.
- It is not a compatible use.
- These uses should be in areas zoned for medical uses, not industrial.
- My personal feeling is that this is primarily a consumer oriented activity and should be located close to the customer base. We all know why this is being considered – folks don't want them in their neighborhoods. Perhaps a compromise would be to identify specific locations within the city where the combination of proximity to consumers, traffic access, distance from schools and residential neighborhoods are optimized. Think of a tire store. You need it to be relatively convenient and accessible, but you don't want it next door.
- This is a significant detriment to leasing.
- It would be a deal killer for many tech tenants looking to move to an industrial area.