
PROPOSED TENANT PROTECTION ORDINANCE

November 7, 2023



BACKGROUND – TENANT PROTECTION ACT (AB-1482)

- October 8, 2019 – Assembly Bill 1482 (AB-1482) was signed into law, prohibiting owners of residential real property from evicting a tenant without just cause when said tenant has occupied the housing unit for at least 12 consecutive months. The Bill further defines two (2) types of just cause evictions:

At-Fault

- A. Failure to pay rent
- B. Breach of a material term of the lease
- C. Allowing or causing a nuisance
- D. Committing waste
- E. Failure to extend lease upon expiration
- F. Criminal activity
- G. Subletting in violation of the lease
- H. Failure to allow the owner to enter the property
- I. Using the property for an unlawful purpose
- J. An employee/agent fails to vacate upon being terminated
- K. Failure of tenant to surrender the property after providing written notice of intent to surrender

No-Fault

- A. Intent to occupy the property by the owner or an immediate family member
- B. Withdrawal of the property from the rental market
- C. Complying with an order from a government agency, court, or ordinance
- D. Intent to demolish
- E. Intent to substantially rehabilitate the property, which requires:
 - i. Replacement or substantial modification of a major system that requires a permit
 - ii. Cannot be completed with tenant in place
 - iii. Tenant must vacate for more than 30 days

BACKGROUND – HOMELESSNESS PREVENTION ACT (SB-567)

- September 30, 2023 – Senate Bill 567 (SB-567) signed into law, amending AB-1482 to place additional requirements on owners issuing **no-fault just cause evictions** and prescribing new enforcement mechanisms. Salient provisions include:
 - Intent to demolish or substantially rehabilitate – The owner must provide written notice to the tenant including:
 - Intent to demolish or substantially rehabilitate
 - Description of the substantial rehabilitation to be completed
 - Approximate estimated duration of the substantial rehabilitation or the expected date the property is to be demolished
 - A copy of the permit or permits required to undertake the substantial rehabilitation or demolition.
 - Intent to occupy – The owner or authorized family member must move in within 90 days of the tenant vacating and must occupy the unit for a period of 12 consecutive months
 - Enforcement - An owner who issues a notice of eviction in violation of AB-1482 and/or SB-567 is liable to the tenant in a civil action for damages of up to 3 times the actual damages, in addition to punitive damages.

BACKGROUND – AB-1482 & SB-567

- Both AB-1482 and SB-567 require owners who issue a **no-fault just cause eviction** to provide written notice informing the tenant of their right to relocation assistance, which includes either of the following:
 1. Waiver of the final month's rent; or
 2. Direct payment to the tenant equal to one month's rent
 - Payments must be made within 15 days of issuing notice to vacate
- Failure of an owner to comply with any of the provisions of AB-1482 or SB-567 renders void a notice to vacate.

PROPOSED TENANT PROTECTION ORDINANCE

- The goal of the proposed Tenant Protection Ordinance (TPO) is to ensure **Costa Mesa residents aren't being evicted into homelessness.**
- The proposed TPO is identical to the provisions of AB-1482 as amended by SB-567, with three exceptions:
 1. Immediate Implementation – The Ordinance goes into effect 30 days after Council approval.
 2. Notification to the City - The Ordinance requires owners to notify the City within three (3) business days of giving notice to their tenant.
 2. Increased Relocation Assistance - The Ordinance requires owners to pay tenants being issued a **no-fault just cause eviction** relocation benefits equal to two (2) months of Fair Market Rent (FMR) or waive the tenant's rent for two (2) months and pay the difference if FMR is greater.

Zip Code	Studio	One-Bedroom	Two-Bedroom	Three-Bedroom
92626	\$4,960	\$5,280	\$6,280	\$8,500
92627	\$4,240	\$4,520	\$5,360	\$7,260

EXEMPTIONS TO AB-1482 & SB-567

- The following types of residential real properties or residential circumstances are exempt from the provisions of AB-1482 & SB-567:
 - 1) Transient and tourist hotel occupancy
 - 2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, or an adult residential facility
 - 3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
 - 4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.
 - 5) Single-family owner-occupied residences
 - 6) An owner-occupied duplex



EXEMPTIONS TO AB-1482 & SB-567 (continued)

- The following types of residential real properties or residential circumstances are exempt from the provisions of AB-1482 & SB-567:
 - 7) Housing that has been issued a certificate of occupancy within the previous 15 years, unless the housing is a mobile home.
 - 8) Residential real property (i.e. single-family dwelling, condominium, or townhouse), including a mobile home, that is alienable separate from the title to any other dwelling unit, provided the owner is not: 1) A real estate investment trust, 2) A corporation, 3) A limited liability company in which at least one member is a corporation, or 4) Management of a mobile home park; and the tenant has been provided written notice that the residential property is exempt.
 - 9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate-income or subject to an agreement that provides housing subsidies for affordable housing.



COSTA MESA EVICTION DATA

- In the past four months (July '23 through October '23), the City has received correspondence from **67 households** being evicted from their homes
 - Between July 1, 2023, and October 16, 2023, the City received correspondence from **41 households** facing no-fault just cause eviction.
 - In the nine days to follow, between October 17-26, 2023, the City received correspondence from an additional **22 households** (79 individuals) with the vast majority facing no-fault eviction.
 - On October 27, 2023, the City received correspondence from Pomona Elementary regarding four (4) families (**5 adults and 11 children**) experiencing homelessness, two of which had been issued a no-fault eviction.
- The City is currently supporting nine (9) families with services including motel vouchers, meals, and connection to additional resources. Five (5) of the families (**8 adults and 15 children**) were issued a no-fault eviction and the remaining four (4) families (**6 adults and 11 children**) were evicted for unknown reasons.
- Every instance of no-fault eviction from a multi-family apartment complex has included reports of households vacating immediately without receiving support or financial assistance, even when the notice they received was invalid.

PROCEDURAL OVERVIEW

1. A no-fault just cause eviction notice is received by an Outreach Worker (OW) in the Neighborhood Improvement Division
2. OW assesses the notice for compliance with State law. If OW is unable to determine compliance, the notice is forwarded to Development Services for review and final determination.
 - a. Out of compliance – OW contacts the property owner to provide guidance on State law and to achieve *voluntary compliance* in updating or rescinding the notice.
 - i. Owner brings notice into compliance and reissues to tenant, rendering the original notice void and restarting the 60-day window to vacate
 - ii. Owner determines there is no lawful justification for eviction, rendering notice void
 - iii. Owner refuses to comply with State law and the case is forwarded to Community Legal Aid or the City Attorney, as appropriate
 - b. In compliance – OW contacts the tenant to offer *voluntary* services, including:
 - Crisis intervention and support, housing navigation, eligibility screening, and connection to additional City resources (i.e. benefits and rental assistance)
3. Cases requiring additional monitoring to ensure compliance with State law are forwarded to the Code Enforcement Division



STAFFING & FUNDING OVERVIEW

1. One (1) full-time Community Outreach Worker to provide support to landlords and tenants. One (1) additional Outreach Worker depending on caseload and at the City Manager's discretion.
2. One (1) full-time Senior Planner to assist in assessing notices including permits.
3. One (1) full-time Code Enforcement Officer II to provide on-site property monitoring and/or evaluation of notices.
4. Additional funding of \$250,000 in American Rescue Plan Act funds to the City Attorney's Office to ensure compliance with State law and the Ordinance.
5. \$300,000 in American Rescue Plan Act funds to currently authorized providers for the provision of supplemental rental assistance to households experiencing and at risk of homelessness.

URGENCY ORDINANCE

- Given the urgent crisis at hand and the immediate danger to Costa Mesa families and children, many of whom are minors, staff has included the option for the City Council to adopt an Urgency Ordinance.
- The City Attorney's Office has attached a draft Urgency Ordinance that can be adopted to provide more immediate relief to families and individuals in need.
- The benefit of an Urgency Ordinance is it allows for the expeditious implementation of State law and services needed to protect Costa Mesa residents from being evicted into homelessness.



RECOMMENDATIONS

1. Introduce and give first reading, waiving further reading, to Ordinance No. 2023-XX Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses), Article 24 (Just Cause Residential Tenant Protections) or adopt Ordinance No. 2023-XX, an Urgency Ordinance Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses), Article 24 (Just Cause Residential Tenant Protections).
2. Appropriate a total of \$300,000 from uncommitted American Rescue Plan Act funds to provide supplemental rental assistance to households facing no-fault just cause eviction, and authorize the City Manager, City Attorney, and City Clerk to approve and execute new or amended agreements with existing program providers.
3. Allocate \$250,000 from uncommitted American Rescue Plan Act funds to the Law Offices of Jones Mayer, increasing the scope of the contract to include eviction and rental-related legal services, including but not limited to court filings, to enforce the eviction protection provisions of the Costa Mesa Municipal Code regarding unlawful acts in connection with no-fault just cause evictions.
4. Approve the addition of three (3) Full Time Equivalent (FTE) staff positions to implement, monitor, and enforce the subject Ordinance, with an additional FTE at the discretion of the City Manager. The staff positions include one Community Outreach Worker in the Neighborhood Improvement Division, one (1) Senior Planner, and one (1) Code Enforcement Officer II in the Economic and Development Services Department. Appropriation authority is requested at an estimated \$300,000 for the remainder of the fiscal year from uncommitted American Rescue Plan Act funds to cover the fiscal impact of the additional positions.

QUESTIONS?

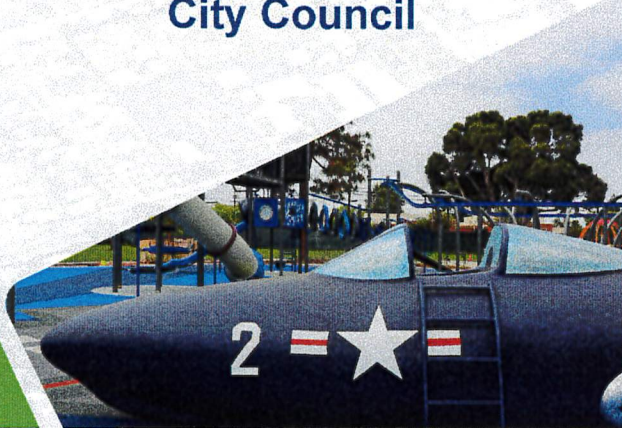




FY 2022-23

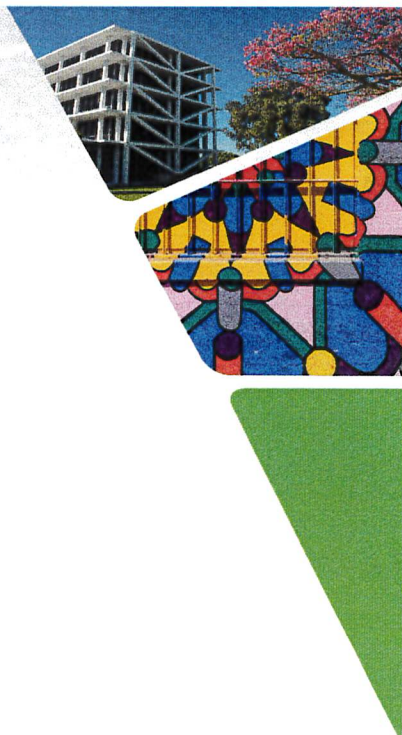
**PRELIMINARY UNAUDITED
FINANCIAL REPORT**

**November 7, 2023
City Council**



Overview

- Finance Overview
- Fund Balance Designation Overview
- Financial Policy
- FiPAC Recommendations



FINANCE OVERVIEW

- Fiscal Year from July 1 to June 30
- Fiscal Year 2022/2023 Adopted Budget: \$163.3 million – General Fund; \$206.2 million – all funds
- Generally Accepted Accounting Principles(GAAP) based municipal accounting
- Governmental Accounting Standards Board (GASB) regulated municipal accounting and requirements for audited financial statements

Fund Balance Designation Overview

HERTZOG COMMUNITY CENTER

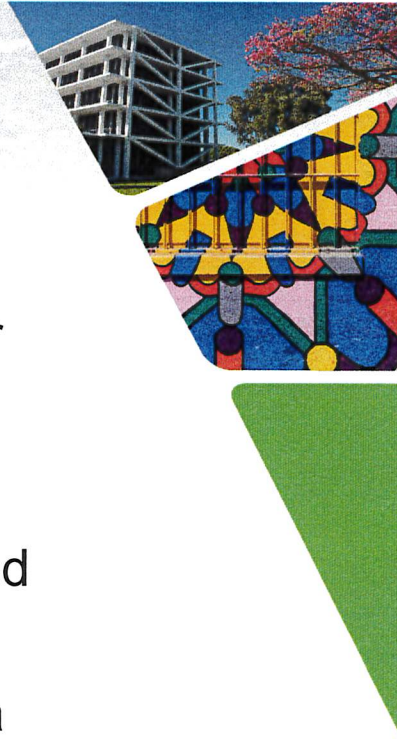


FUND BALANCE

The total accumulation of operating surpluses and deficits (revenues minus expenditures) since the beginning of a local government's existence.

Fund Balance Categories

1. **Nonspendable** – Amounts that cannot be spent because they are either not spendable in form (such as inventory) or legally or contractually required to be maintained in tact.
2. **Restricted** – Can be spent only for specific purposes.
3. **Committed** – Can be used only for specific purposes determined by a formal action by the Council.
4. **Assigned** – Amounts that are designated but does not require a formal action.
5. **Unassigned** – The residual balance for the City's General Fund and includes all spendable amounts not contained in other classifications.



General Fund Reserves Overview (in thousands)

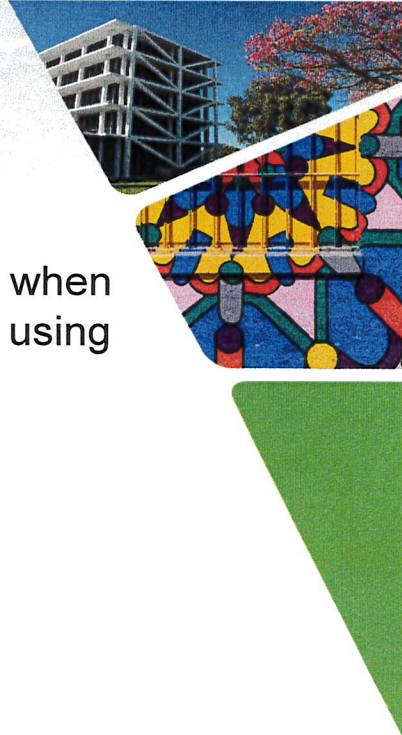
Fund Balance Category	FY 2018/19 Audited	FY 2019/20 Audited	FY 2020/21 Audited	FY 2021/22 Audited
Committed				
Declared Disasters	\$14,125	\$14,125	\$14,125	\$14,125
Self-Insurance	2,000	2,000	2,000	2,000
Economic Reserves	7,500	9,000	9,000	9,000
Assigned				
Compensated Absences	4,892	5,036	5,920	5,584
Police Retirement 1% Supplemental	2,297	2,365	2,275	1,885
Section 115 Trust	-	1,750	-	-
Workers' Compensation	-	-	-	1,000
Facilities Reserve	-	-	-	2,000
Strategic Plan Projects	-	-	-	2,000
Restricted				
Pension and OPEB	-	-	1,778	3,061
Non-spendable	280	362	965	604
Unassigned	20,451	18,825	17,429	16,517
Total Fund Balance	\$51,545	\$53,463	\$53,492	\$57,776

*Note: Reserves goal of \$55.0 million

FINANCIAL POLICY: OPERATING SURPLUS

“A fiscal year-end surplus may occur when there is a net increase in fund balance or when there is a positive budget variance. Such a surplus will be reviewed for potential use using the following priorities:

1. Increase reserves if reserves are below target;
2. Examine opportunities for prepayment and accelerated payoff of debt;
3. Increase funds for capital facilities.”





Finance and Pension Advisory Committee

Recommendations (FiPAC)

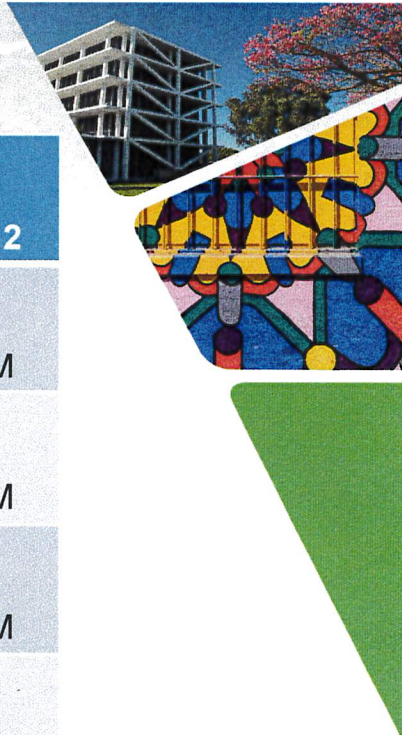


FINANCE AND PENSION ADVISORY COMMITTEE MEETINGS

- Estimated operating surplus options for \$4 million or \$6 million
- On September 13, 2023, FiPAC discussed the estimated operating surplus, fund balance designations, and City Financial Policy
- On September 27, 2023, FiPAC held a Special meeting with Public Works to review Capital Improvement Projects
- At the October 11, 2023 regular meeting FiPAC recommended projects and designation priorities
- Used Financial Policy and City Council Strategic Plan Goals

FIPAC RECOMMENDATIONS

CITY COUNCIL STRATEGIC PLAN GOALS	PROJECT / DESIGNATION	OPTION 1	OPTION 2
Achieve Long-Term Fiscal Sustainability	Lions Park Café	\$1.1 M	\$1.1 M
Strengthen Public Safety & Improve Quality of Life	Fire Station No. 4: Training Tower and Facility Project	\$1.5 M	\$1.5 M
Achieve Long-Term Fiscal Sustainability	Workers' Compensation Designation	\$0.5 M	\$1.0 M
Diversify, Stabilize & Increase Housing	Housing Element and Visioning Program	\$0.9 M	\$0.9 M
Strengthen Public Safety & Improve Quality of Life	Prepay Balance of a Fire Pumper Apparatus		\$0.3 M
Strengthen Public Safety & Improve Quality of Life	Golf Course & Tennis Center Improvements		\$1.2 M
TOTAL		\$4.0 M	\$6.0 M



Strategic Goal

ACHIEVE LONG-TERM FISCAL SUSTAINABILITY

Lions Parks Cafe

- Adopted by City Council on June 7, 2022
- \$1.2 million County Grant from Supervisor Katrina Foley
- Deposit up to \$1.1 million from current year's projected surplus, if available
- Priority funding due to the time sensitivity of ARPA funds

Workers' Compensation Reserve

- \$1.0 million is included in an assigned fund balance category
- Self-Insurance policy covers claims over \$2.0 million
- Deposit up to \$1.0 million into Workers' Compensation designed fund balance to *fully* fund one Self Insurance claim for up to a total of \$2.0 million, if available

Strategic Goal

DIVERSIFY, STABILIZE, AND INCREASE HOUSING TO REFLECT COMMUNITY NEEDS

SIXTH CYCLE GENERAL PLAN HOUSING ELEMENT PROGRAM

- The City's General Plan Housing Element Program requires an update every eight years;
- Housing Element provides:
 - Analysis of City's demographic, economic and housing characteristics
 - Identifies community housing needs
 - Establishes objectives, policies and programs to meet those needs
- At the June 20, 2023 meeting, Council approved to transfer up to \$1.5 million;
- Estimated cost ranges from \$3.2 million to \$3.5 million;
- Recommend to transfer up to \$0.9 million, if available at year-end.

Fire Station No. 4: Training Tower and Facility Improvements

- \$3.6 million is included in the FY 2022-23 Adopted Budget
 - \$2.5 million in State Grant from Assembly Member Cottie Petrie-Norris
 - \$1.1 million in Capital Fund 401
- \$5.15 million in estimated expenses, that includes:
 - \$2.75 million for design, fabrication, and installation of the Training Tower
 - \$2.40 million for the demolition of the tower, installation of foundations, restroom facilities and a water capture system
- \$1.5 million shortfall for the Training Tower and Facility Improvements Project

Strategic Goal

STRENGTHEN PUBLIC SAFETY & IMPROVE QUALITY OF LIFE (CONT'D)

Costa Mesa Tennis Center Improvements:

- \$320,000 from Senator Min towards Tennis Center lighting upgrades
- \$300,000 approved in FY 2022-23 resurfacing of tennis courts, lighting installation and pro-shop improvements
- Additional improvements needed: restroom renovation, shade structure, and concrete

Costa Mesa Country Club:

- \$350,000 approved in FY 2022-23 for design and construction to Coffee Shop and Bar Area
- \$300,000 approved in FY 2023-24 for Country Club grounds improvements and cart paths
- \$400,000 approved in FY 2023-24 for Country Club modernization
- Improvements needed:
 - Several bunkers and cart paths need replacement and new cart paths are needed
 - Existing café needs modernized layout, equipment, seating and lighting

Strategic Goal

STRENGTHEN PUBLIC SAFETY & IMPROVE QUALITY OF LIFE (CON'T)

Prepay one Fire Apparatus

- Two Fire Pumper Trucks are included in the FY 2023-24 Budget
- \$1.2 million cost for each Fire Pumper Truck
- \$950,00 is funded from CDBG funds
- \$300,000 was included in the lease with second Fire Pumper Truck
- In order to comply with the City's Financial Policy use of operating surplus, it is recommended to reduce the lease by \$300,000 and utilize year-end savings

QUESTIONS

HERTZOG COMMUNITY CENTER





Public Works Department

THE LIONS PARK PROJECTS LIONS PARK CAFÉ BUILDING

City Council Meeting
November 7, 2023



PROJECT BACKGROUND

- The Donald Dungan Library and the Norma Hertzog Community Center (NHCC) projects were completed in May 2019 and November 2020, respectively.
- The construction of a new Lions Park Café was deferred to a future phase, pending funding availability.
- In 2022, County of Orange Supervisor Katrina Foley earmarked \$1.2 million from County American Rescue Plan Act (ARPA) funds to the City for the construction of the Café.



CONSTRUCTION OF THE DONALD DUNGAN LIBRARY COMPLETED MAY 2019



BEFORE



AFTER



CONSTRUCTION OF THE NORMA HERTZOG COMMUNITY CENTER COMPLETED NOVEMBER 2020



BEFORE



AFTER



PROPOSED LIONS PARK CAFÉ



CONCEPTUAL RENDERING





LIONS PARK CAFÉ PROJECT

- Approximately 1,000 square feet
- Food service concession counter
- Food storage and service area
- Food preparation area
- Equipment and washing area
- Restroom
- Electrical Room
- Storage Room



PROJECT TEAM

- The Donald Dungan Library and the Norma Hertzog Community Center (NHCC) projects were implemented by following consultants/contractor:
 - Johnson Favaro (Designer)
 - STV Construction, Inc. (Construction Management)
 - Tovey/Shultz Construction, Inc. (Contractor)
- Staff recommends maintaining the same team to ensure seamless implementation of the project.
- Amendments to Professional Service Agreements with Johnson Favaro and STV, and Public Works Agreement with Tovey/Shultz are needed to implement the project.





JOHNSON FAVARO – ARCHITECTURE AND ENGINEERING

Original PSA:	\$2,991,287
Amendments to date:	\$18,066
This request (Café):	\$130,250 with 3-year extension

- Update plans to meet new 2022 California Building Code (CBC)
- Obtain Orange County Health Department Permit
- Respond to requests for information
- Review submittals
- Review changes in scope due to material availability and site constraints
- Conduct construction site visits





STV CONSTRUCTION, INC. – CONSTRUCTION MANAGEMENT SERVICES

Original PSA:	\$2,894,056
Amendments to date:	\$90,000
This request (Café):	\$226,960 with 3-year extension

- Inspections to ensure contract compliance with plans and specifications
- Coordination with utility agencies and site stakeholders
- Change order review and recommendation
- On-site project coordination
- Document control
- Quality control management
- Building commissioning





TOVEY/SHULTZ CONSTRUCTION, INC. – GENERAL CONTRACTOR

Original PSA:	\$28,739,822
Amendments to date:	\$209,562
This request (Café):	\$1,929,805

- Construction labor
- Building materials
- Construction equipment
- Kitchen equipment
- Utility construction





QUESTIONS



**Council direction re: a potential moratorium
or other alternative procedure to discontinue
or suspend processing of cannabis retail
applications**

**City Council Meeting
November 7, 2023**



Background

- On November 3, 2020, Costa Mesa voters approved Measure Q, The Costa Mesa Retail Cannabis Tax and Regulation Measure.
- On June 15, 2021, the City adopted ordinances establishing minimum standards and permitting requirements.
- On September 5, 2023 City Council voted 7-0 to direct staff to work with the Planning Commission to consider and make recommendations re: potential changes to the cannabis ordinances.

Current Request

- At the October 3, 2023 City Council meeting, a councilmember requested that an item be agendaized to discuss a possible moratorium to temporarily suspend cannabis retail application processing while staff completes its work regarding potential amendments to the City's retail cannabis regulations.

Potential Moratorium

- Government Code Section 65858 establishes the authority for urgency measure interim ordinances (moratoria).
- Requires a four-fifths vote for approval and certain findings to be made.
- If approved, it would be effective for 45 days, with the possibility of additional extensions subject to a four-fifths vote for approval.

Potential Moratorium

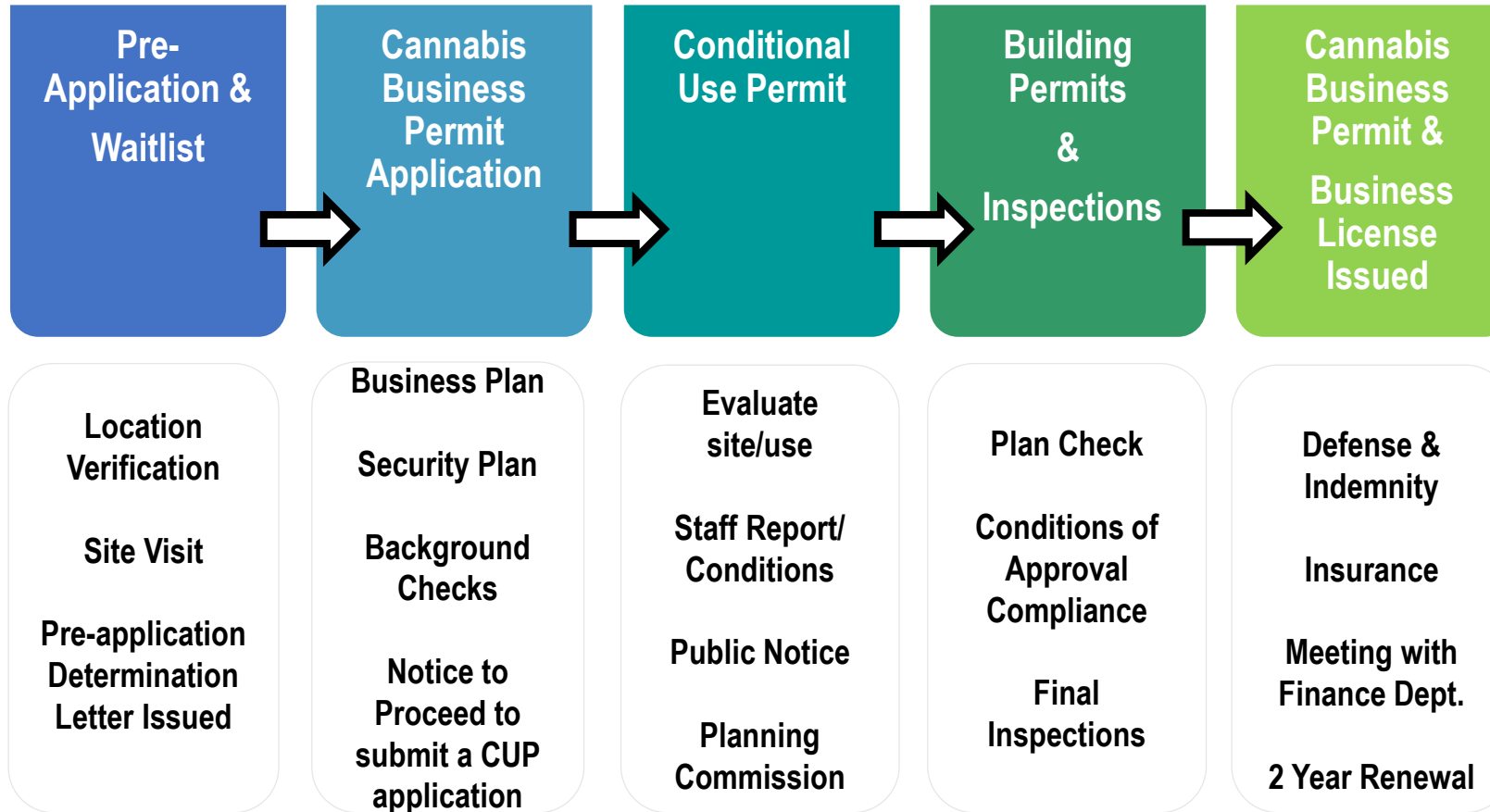
- Government Code section 65858(c) to approve a moratorium, the City Council must find that:

“There is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.”

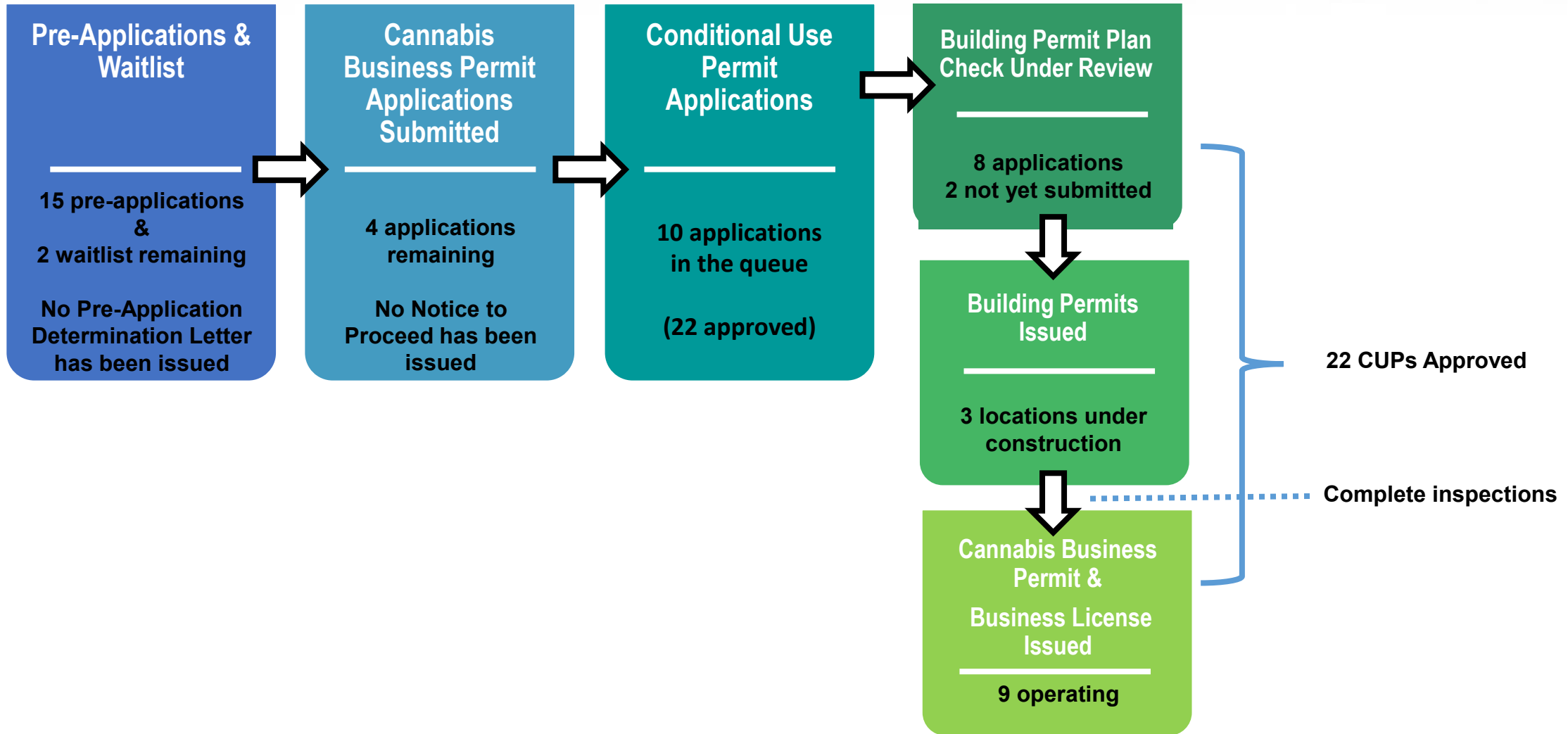
Potential Alternative

- CMMC Section 9-486(d) states the “city council may by resolution limit and/or restrict the number of cannabis retail ordinances available for issuance and/or renewal”.
- The adoption of a Resolution requires a majority vote of the quorum of the City Council.

Cannabis Storefront Application Process



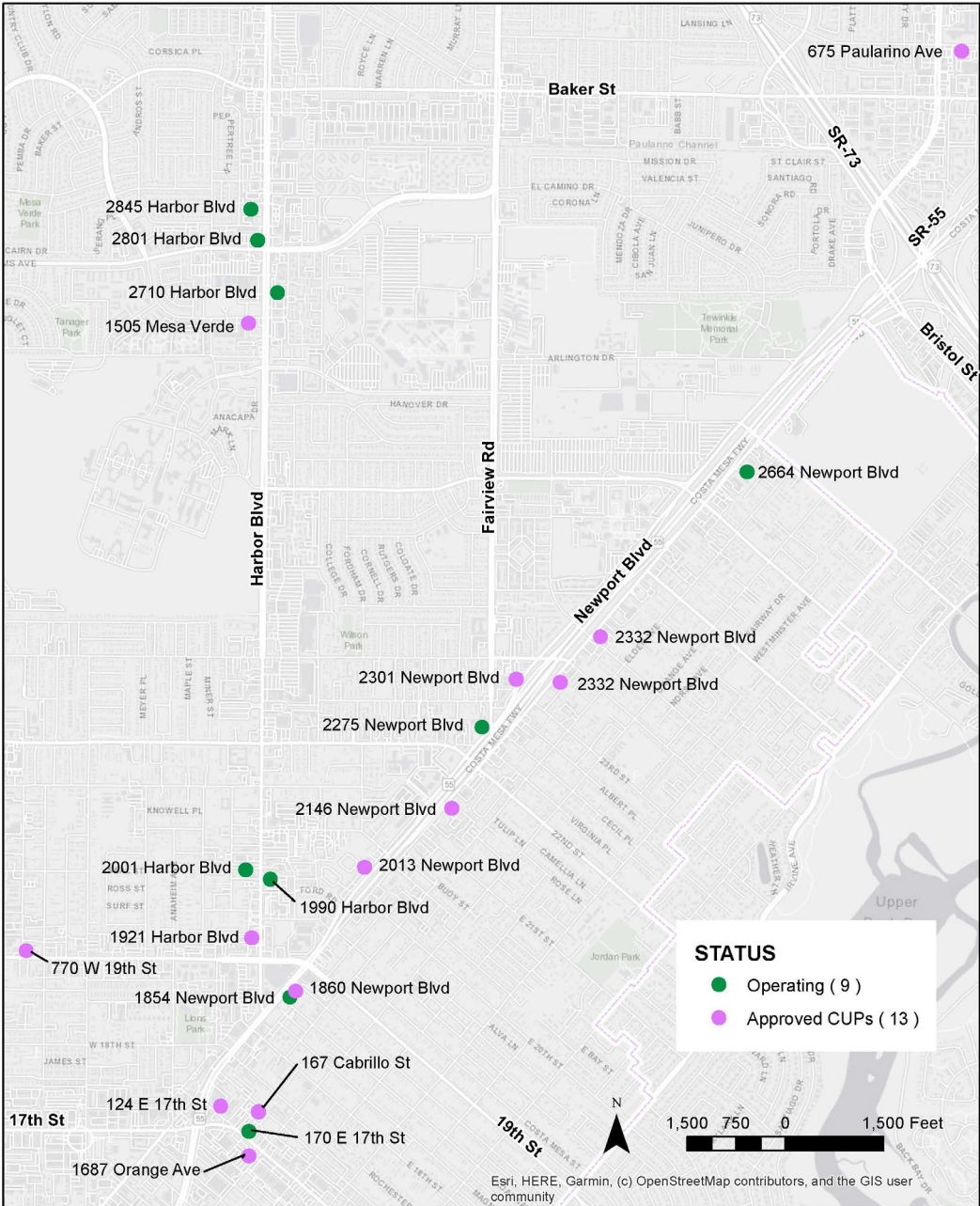
Cannabis Storefront Application Status



Cannabis Businesses Operating

- 1990 Harbor Blvd (420 Central) – Issued November 22, 2022
- 2801 Harbor Blvd (Off The Charts) – Issued May 8, 2023
- 2710 Harbor Blvd (Stiiizy) – Issued May 10, 2023
- 2275 Newport Blvd (Nectar) – Issued June 16, 2023
- 1854 Newport Blvd (Mr. Nice Guy) – Issued June 29, 2023
- 2664 Newport Blvd (Secret Garden) – Issued July 12, 2023
- 170 East 17th Street (Catalyst) – Issued July 20, 2023
- 2845 Harbor Blvd (Mr. Nice Guy) – Issued September 8, 2023
- 2001 Harbor Blvd (SCSA) – Issued October 23, 2023

Retail Cannabis Storefronts



Recommendation

- Staff recommends the City Council provide direction regarding the potential preparation of a moratorium and/or resolution to discontinue or suspend acceptance and processing of cannabis retail applications.

**Council direction re: a potential moratorium
or other alternative procedure to discontinue
or suspend processing of cannabis retail
applications**

**City Council Meeting
November 7, 2023**



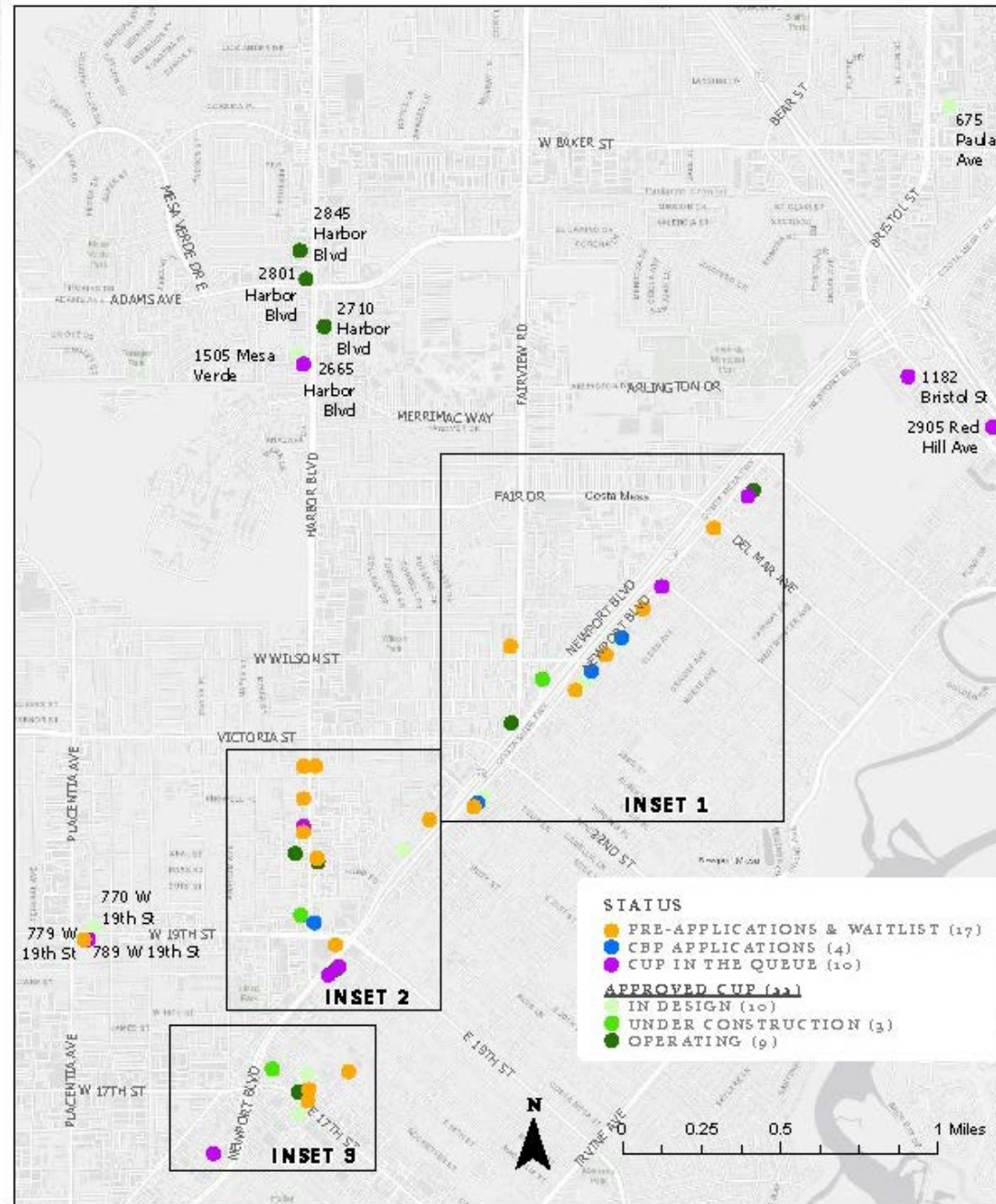
Background

The City Council directed staff to compile information and prepare recommendations related to the following:

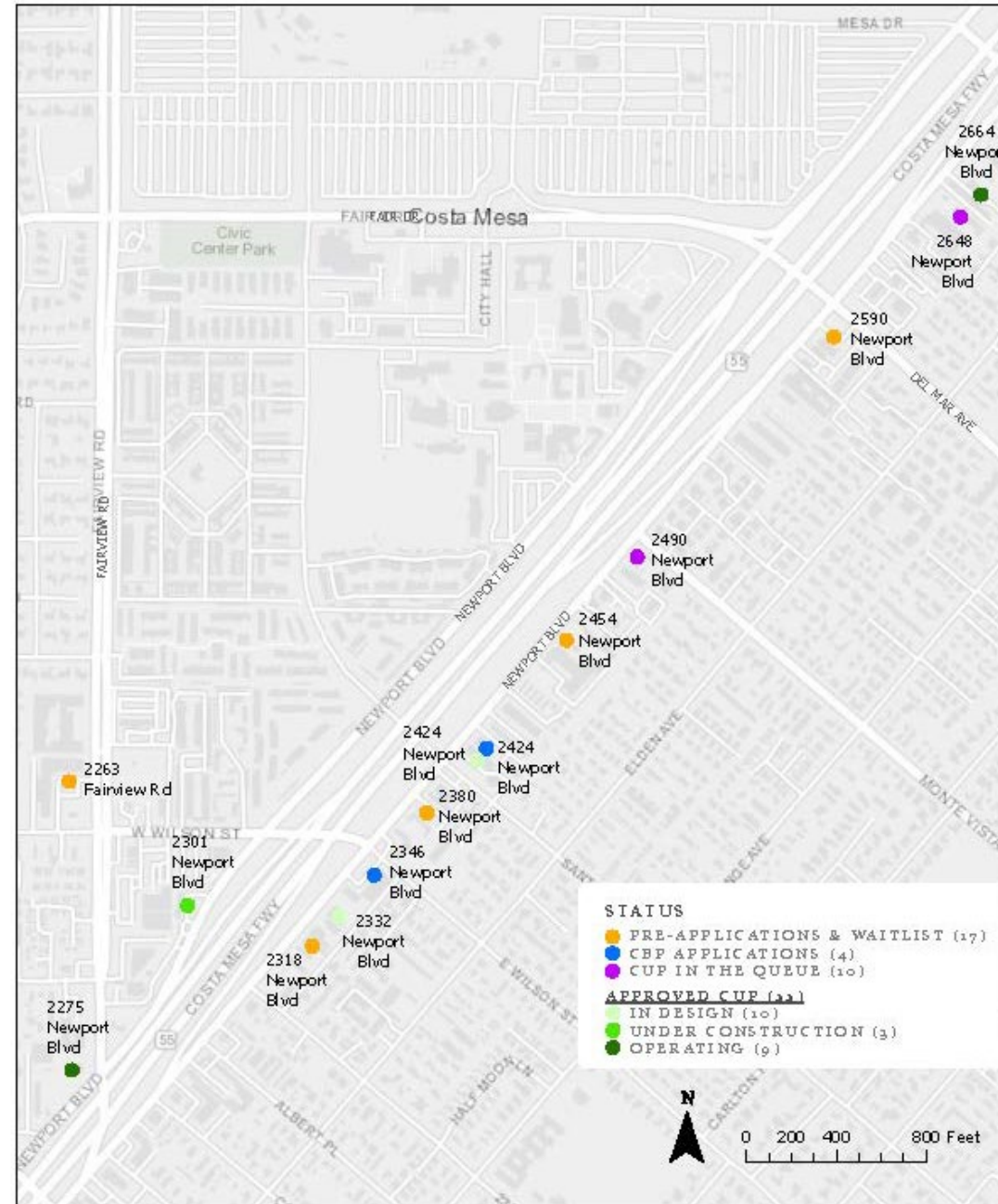
- Establishing a minimum separation between cannabis storefronts
- Increasing the minimum separation between cannabis storefronts and youth centers, as defined in the CMMC, from 600 feet to 1,000 feet to be consistent with other sensitive use separations
- Allowing the word “cannabis” on signage in the City
- Establishing a minimum separation between residential zoning districts and cannabis storefronts
- Adding limitations to prohibit the marketing of cannabis and cannabis products to youth
- Establishing a maximum number of retail cannabis businesses
- Establishing bona fide labor peace agreement requirements for cannabis storefronts
- Consider establishing provisions for notification and relocation fees for existing businesses that would be displaced by retail cannabis uses.



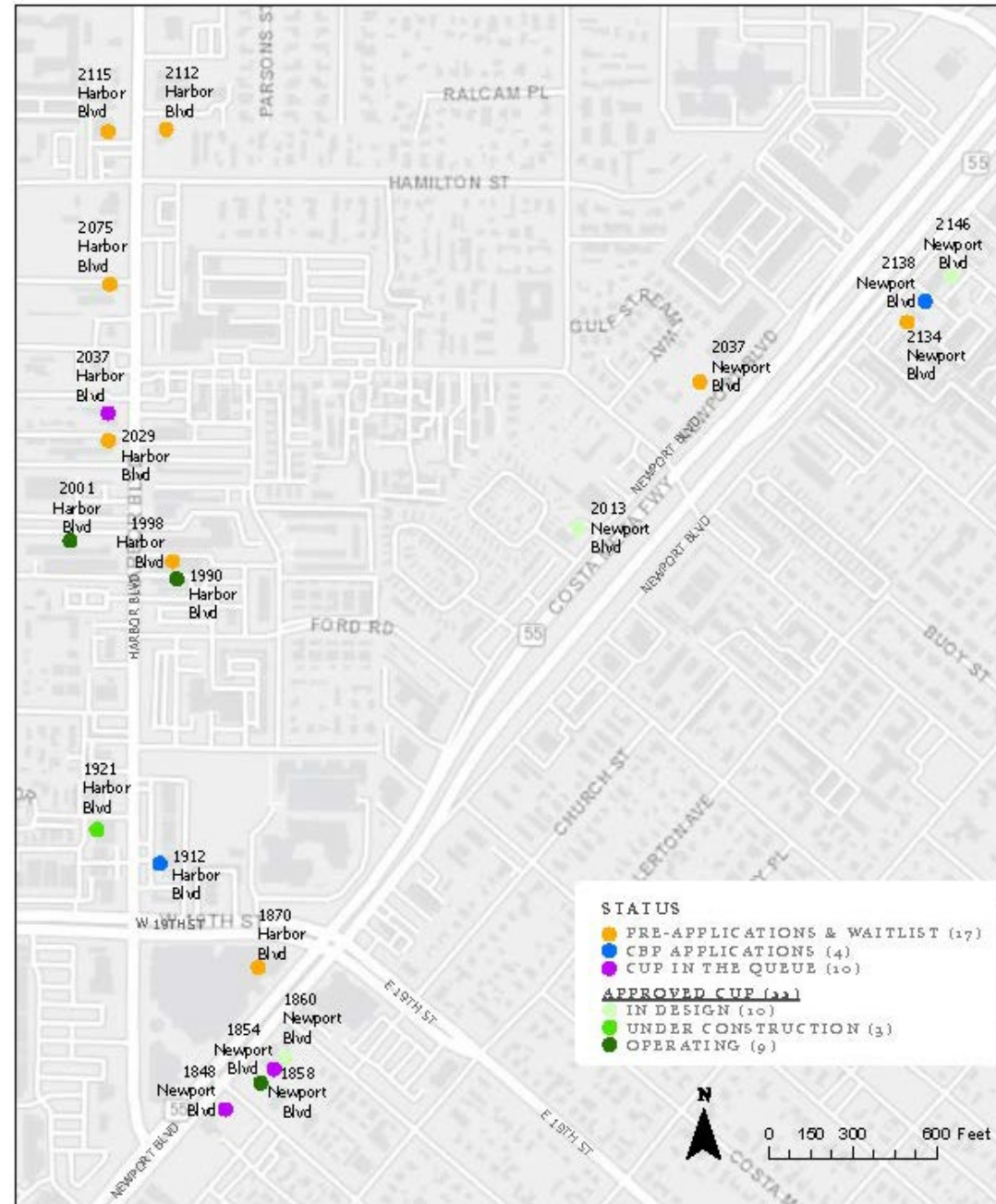
Retail Cannabis Storefront Applications



Retail Cannabis Storefront Applications



Retail Cannabis Storefront Applications



Retail Cannabis Storefront Applications

