File Code No. 120.03

CITY OF SANTA BARBARA

ORDINANCE COMMITTEE REPORT

AGENDA DATE: March 16, 2010

TO: Ordinance Committee

FROM: Planning Division, Community Development Department

SUBJECT: Medical Marijuana Dispensary Ordinance Revisions

RECOMMENDATION: That the Ordinance Committee:

A. Review allowable areas for dispensaries with protection for the highest priority substance abuse recovery facilities; and
B. Discuss the concept of Medical Marijuana collectives and cooperatives, and consider possible Municipal Code regulations to ensure compliance with the State Health and Safety Code regarding the distribution of Medical Marijuana to "qualified patients" by "primary care givers."

DISCUSSION:

At the February 23, 2010, City Council meeting, the City Council directed the Ordinance Committee to consider all of the following:

1. possible revisions to the latest draft version of the Ordinance regulating Medical Marijuana Dispensaries in order to reduce the maximum number of dispensaries within the City to five (5),
2. providing that major alcohol and drug rehabilitation facilities would be protected uses and adjusting the allowed areas for dispensaries appropriately,
3. allowing dispensaries in the Cottage Hospital area, and
4. further defining the operational parameters of storefront collective/cooperatives in order to ensure compliance with Proposition 215 and SB 420.

The Council asked that the proposed ordinance be returned to Council within 60 days. There also seemed to be consensus on the Council to eliminate the Mesa and the area around the Salvation Army Hospitality House on the 500 block of Chapala Street as allowed areas for dispensaries.

Allowable Areas for Dispensaries with Protection for Recovery Facilities

Staff requested input from the Council on Alcoholism and Drug Abuse (CADA) for locations of recovery facilities. CADA provided a list of 41 known recovery facilities, including treatment centers, detoxification centers, support centers, sober living houses, and related uses, and indicated the 17 of highest priority for protection:

- Alano Club
- Bethel House
- Casa Esperanza
- Casa Serena
- Cottage Residential Center
- Daniel Bryant Youth & Family Treatment Center
- Graduate House (Casa Serena)
- Hotel de Riviera
- Oliver House (Casa Serena)
- Phoenix House
- Project Recovery Detox Center
- Project Recovery Outpatient Services
- Rescue Mission
- Salvation Army Hospitality House
- Sanctuary Psychiatric Center/House
- Sobering Center
- Zona Seca

The main criteria for determining the highest priorities were: 1. the use as a treatment facility; 2. the volume of people who live in a facility; 3. the volume of people to go to a facility daily, and 4. the sensitivity of people at a particular facility.

The locations of these 17 uses are not shown on the maps, to maintain anonymity. However, these locations were used to modify the allowable areas for medical marijuana dispensaries. A buffer of 500 feet was drawn around parcels containing the highest priority recovery facilities, and the allowable areas were reduced using the same criteria as was used for parks and schools. Only full blocks where dispensaries would be allowed on both sides of the street were included.

Following the Council's request that the ordinance should attempt to find a balance between protecting those in recovery, and providing a reasonable area for dispensaries to locate, staff determined that a 500-foot buffer around the highest priority recovery facilities provides an appropriate balance. A buffer of 1000 feet, as was used around Casa Esperanza, would almost fully eliminate the Mission, Downtown East and Downtown West areas. A buffer of 750 feet would allow a few more block faces in these areas, but would also have a very limited area in which dispensaries could be located.

The 500' buffer around the highest priority recovery facilities affected the following areas:

1. Mission. Removed the following blocks from consideration for dispensaries:
    - 1700 block of State Street

2. Downtown East. Removed the following two blocks:
   - 300 block of East Cota
   - 500-600 block of Laguna
3. Downtown West. Removed the following 21 blocks:
   - 0-200 block of Carrillo
   - 800-1000 blocks of Chapala
   - 800-1000 blocks of De la Vina
   - 900 block of St. Vincent
   - 00-100 blocks of W. Canon Perdido
   - 00 block of W. Figueroa
   - 00 block of W. Haley
   - 00-200 blocks of W. Gutierrez
   - 300-400 blocks of Chapala
   - 300-400 blocks of De la Vina
   - 00 block of East Gutierrez
   - 00 block of Parker Way

Additionally, the entire Mesa area was removed from the allowable locations, as discussed at the Council meeting on February 23, 2010. See Attachments 1-7 for detailed information on areas where dispensaries would be allowed.

Possible Ordinance Regulations to Ensure Collective or Cooperative Distribution of Medical Marijuana:

At the request of the City Council, the City Attorney's office will brief the Committee on the requirements of the state Health & Safety Code (the "SB 420 statutes") which allow the distribution of medical marijuana under certain limited circumstances. In particular, the City Attorney's office will review the August 2008 Guidelines for the use of Medical Marijuana written by the state Attorney General's office which explain in detail how medical marijuana may be cultivated by "primary caregivers" (a term specifically defined in the SB 420 statutes) and provided to "qualified patients" under certain expressly narrow circumstances which allow the "primary caregivers" to recoup their cultivation expenses only. For the most part, as the Attorney General's guidelines point out that, where medical marijuana is cultivated and distributed on a group basis (i.e., other than on a person to person basis), the SB 420 statutes only allow such cultivation and distribution to occur through the legal form of a group collective or a cooperative.

The City Attorney's office will also discuss how some other cities (such as Los Angeles and Long Beach) have attempted to enact medical marijuana ordinances which impose detailed recordkeeping and inspection requirements on storefront "dispensaries" in

order to verify that the medical marijuana being provided is only cultivated and distributed in a manner fully consistent with the SB 420 statutes and only being given to documented members of a clearly established collective or cooperative and, most importantly, that this is occurring only on a cost reimbursement basis.

ATTACHMENTS:

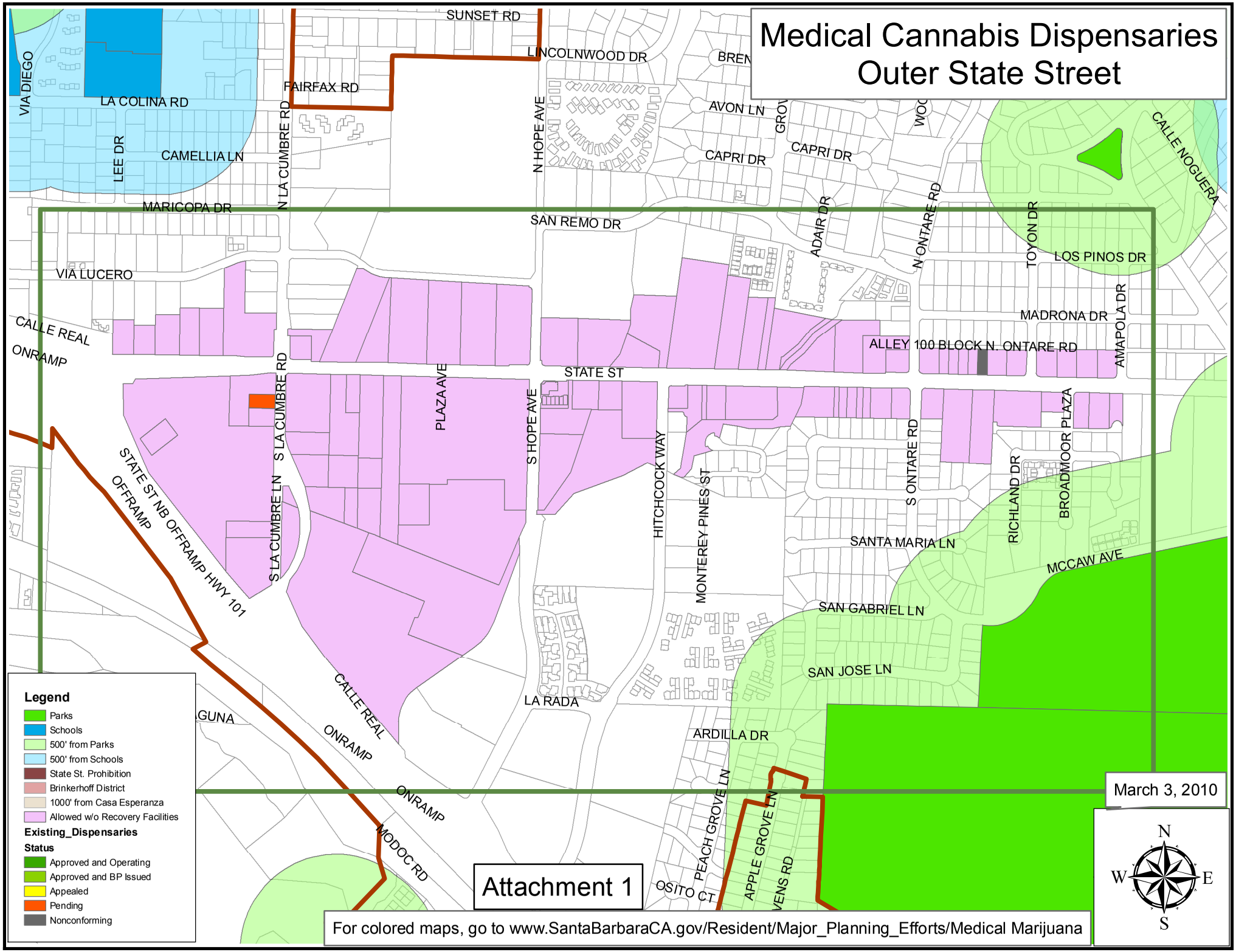
1. Outer State Street Area Map
2. Upper De la Vina Area Map
3. Mission Area Map
4. Downtown East and West Area Map
5. Milpas Area Map
6. Cottage Hospital Area Map
7. Revised List of Allowable Areas for Dispensaries

PREPARED BY: Danny Kato, Senior Planner

SUBMITTED BY: Paul Casey, Assistant City Administrator

APPROVED BY: City Administrator's Office

Medical Cannabis Dispensaries
Outer State Street

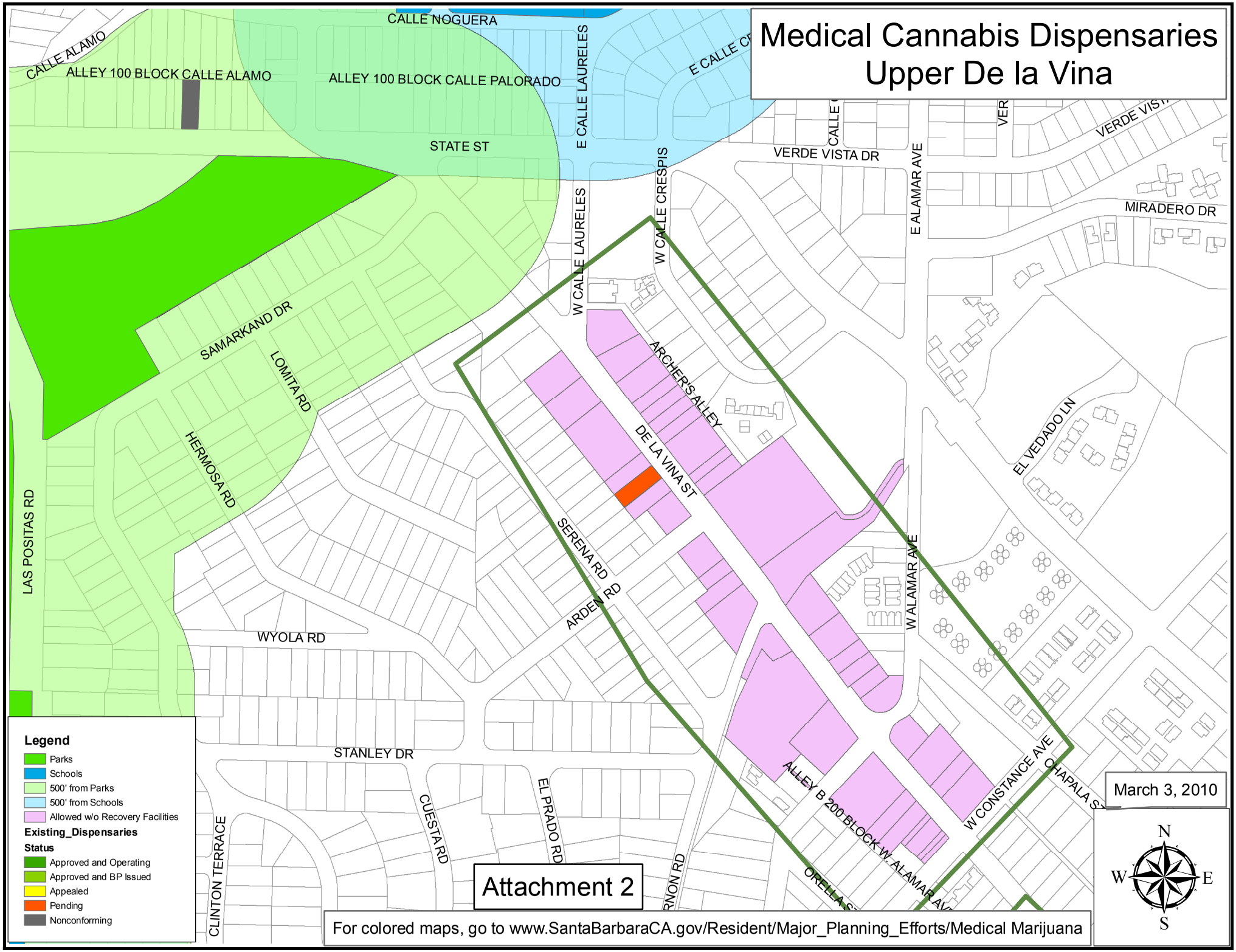


Attachment 1

For colored maps, go to www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana

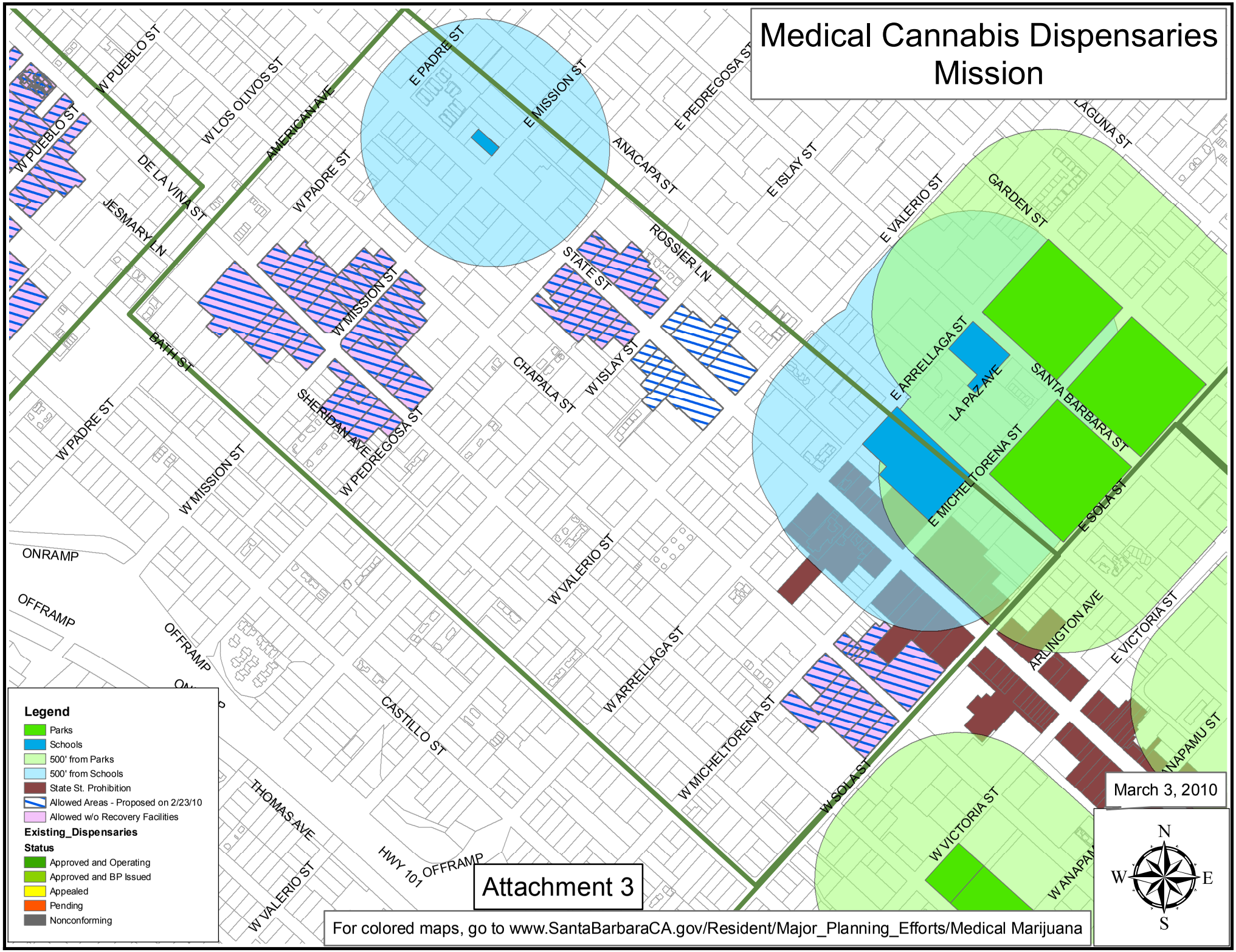
ATTACHMENT 1

Medical Cannabis Dispensaries
Upper De la Vina



ATTACHMENT 2

Medical Cannabis Dispensaries
Mission

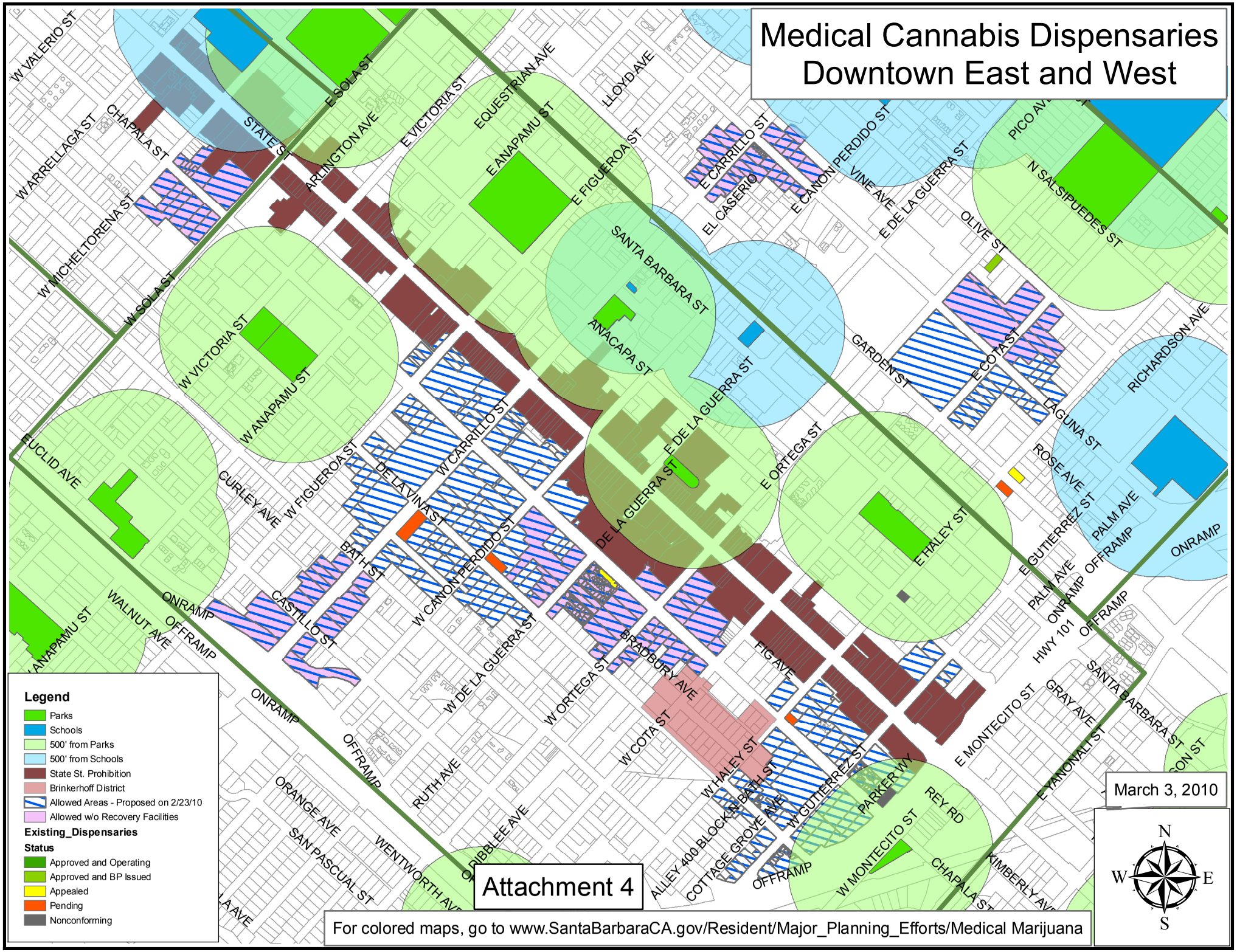


Attachment 3

For colored maps, go to www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana

ATTACHMENT 3

Medical Cannabis Dispensaries Downtown East and West

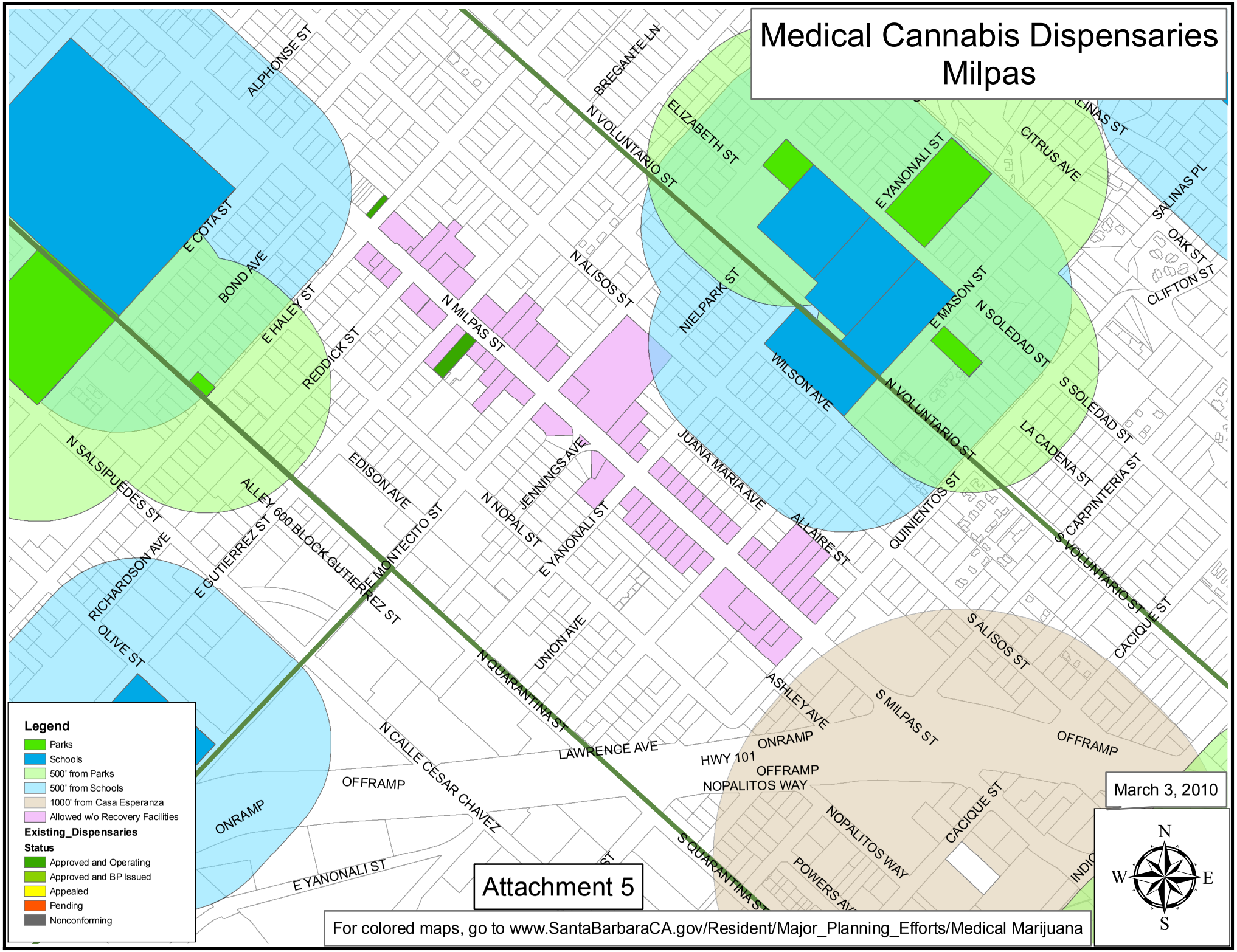


Attachment 4

For colored maps, go to www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana

ATTACHMENT 4

Medical Cannabis Dispensaries
Milpas

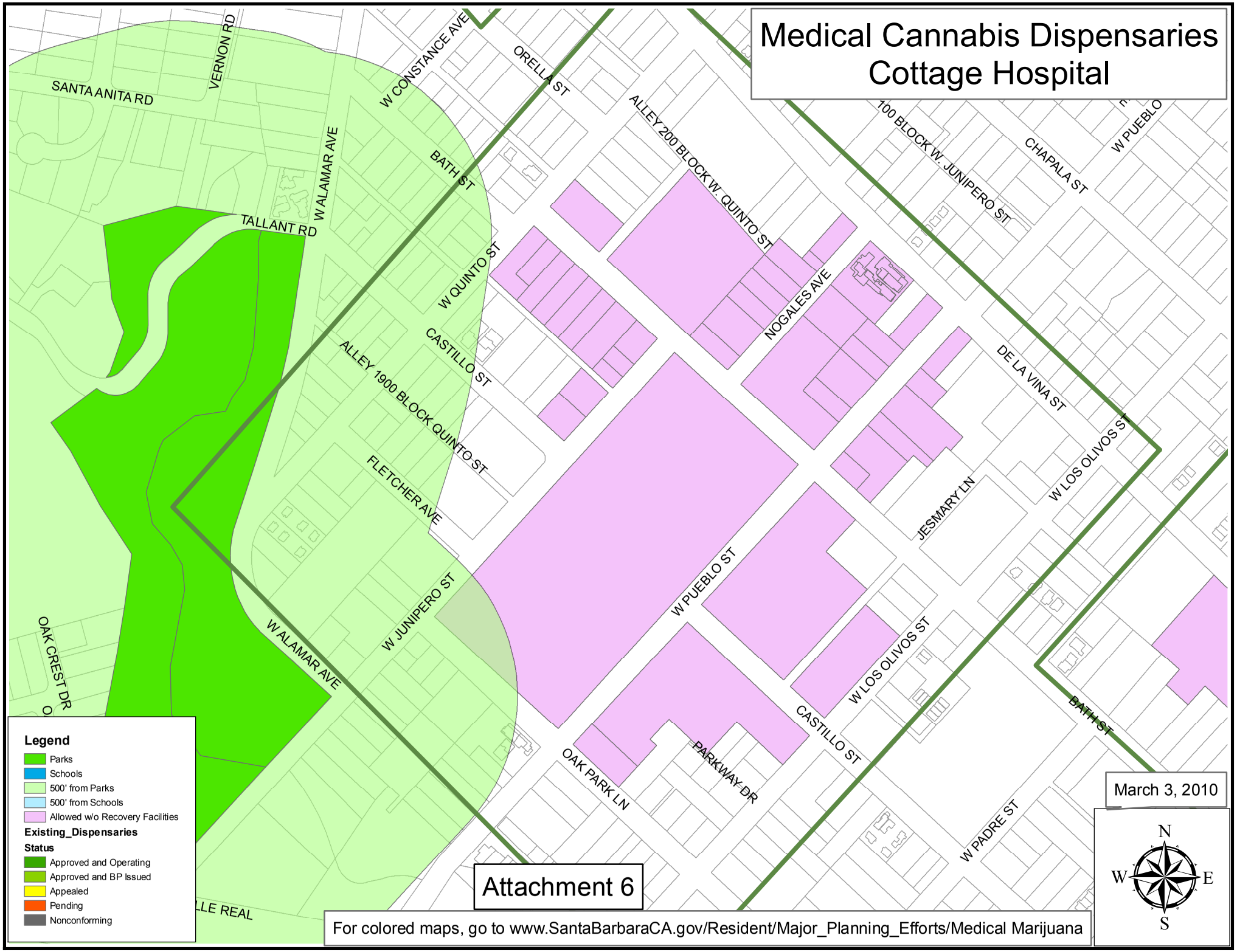


Attachment 5

For colored maps, go to www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana

ATTACHMENT 5

Medical Cannabis Dispensaries
Cottage Hospital



Attachment 6

For colored maps, go to www.SantaBarbaraCA.gov/Resident/Major_Planning_Efforts/Medical Marijuana

ATTACHMENT 6

EXHIBIT A TO ORDINANCE NO. ____
MEDICAL MARIJUANA DISPENSARIES
SANTA BARBARA MUNICIPAL CODE CHAPTER 28.80
ALLOWED LOCATION EXHIBIT
REVISED 3/3/10

1. **Outer State Street Area:**

    a. 3400 - 3900 blocks of State Street
    b. All parcels on south La Cumbre Road
    c. All parcels on south La Cumbre Lane
    d. All parcels on La Cumbre Plaza Lane
    e. 00-100 blocks of south Hope Avenue

2. **Upper De la Vina Area:**

    a. 2600 – 2900 blocks of De la Vina Street

3. **Mission Street Area:**

    a. 1900-2000 blocks of De la Vina Street
    b. 100 block of west Mission Street
    c. 1800 block of State Street
    d. 1400 block of Chapala Street

4. **Downtown West Area:**

    a. 600-700 blocks of Chapala
    b. 300-400 blocks of west Carrillo
    c. 100 blocks of west De la Guerra
    d. 00-100 blocks of west Ortega

5. **Downtown East Area:**

    a. 900 block of Laguna Street
    b. 400 block of east Cota
    c. 300 block of east Carrillo

6. **Milpas Street:**

    a. 00–400 blocks of north Milpas Street

7. **Cottage Hospital Area:**

    a. 200 block of Nogales
    b. 200-400 blocks of west Pueblo
    c. 2400-2500 blocks of Bath
    d. 2300 block of Castillo
    e. 300 block of West Junipero