



SUBJECT

Proposed Cannabis Microbusiness with Manufacturing, Distribution, Delivery, and Ancillary Retail Activities Located at 23000 Connecticut Avenue, Suite 5 (Assessor Parcel No. 439-0036-119-00) Requiring Approval of Conditional Use Permit Application No. 202001006. Douglas Chloupek (Applicant); Jon Cook (Property Owner).

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit for the proposed cannabis microbusiness to allow manufacturing, distribution, delivery, and ancillary retail activities based on the analysis set forth in this report and the required Findings (Attachment II) and subject to the Conditions of Approval (Attachment III).

SUMMARY

The applicant, Juva Life, Always on Time Consulting, is seeking approval of a Conditional Use Permit (CUP) to occupy an approximately 1,627 square-foot tenant space within an existing industrial building, located at 23000 Connecticut Avenue, Suite 5, for the operation of a cannabis microbusiness facility that includes manufacturing, distribution, delivery, and ancillary retail activities. The proposed project includes upgrades and modifications to the existing tenant space to enhance security and allow for the safe operation of cannabis activities.

BACKGROUND

On October 30, 2017¹ and November 28, 2017², respectively, the Council enacted regulatory and land use ordinances authorizing cannabis businesses within the City of Hayward, subject to compliance with local and State regulations. The Council also established a request for proposal (RFP) process by which the City would select commercial cannabis businesses. The process involved four stages to help differentiate applicants who meet the City's desired set of qualifications. These stages include:

1. Criminal Background Investigation
2. Competitive Scoring and Ranking
3. Proposal Interviews
4. City Council Approval

¹ October 30, 2017 City Council Minutes

<https://hayward.legistar.com/MeetingDetail.aspx?ID=570110&GUID=1F62F795-56FA-4667-9BD1-E5FDA22CB8C5&Options=info&Search=>

² November 28, 2017 City Council Minutes

<https://hayward.legistar.com/MeetingDetail.aspx?ID=573134&GUID=C82D348A-0412-4741-854C-23697F2AE444&Options=info&Search=>

The applicant, Juva Life, Always on Time Consulting, was awarded a Commercial Cannabis Permit by the City Council during the City's second RFP process conducted in 2019. The Conditional Use Permit for Always on Time Consulting is the subject of this application.

It should be noted that Juva Life was also awarded a separate Commercial Cannabis Permit in the City's first RFP process in 2018 for Precision Apothecary, a cannabis microbusiness with cultivation, manufacturing, distribution, delivery, and ancillary storefront retail activities located at 25571 Clawiter Road and 3329 and 3363 Enterprise Road. The Conditional Use Permit for Precision Apothecary was approved by the Planning Commission in October 2020, however the business is not yet operational.

Since the applicant was awarded their Commercial Cannabis Permit for Always on Time Consulting, the City has updated its cannabis regulations, fees, and permitting process.³ As the proposed project was not entitled before these updated regulations went into effect in August 2021, the project is subject to the updated regulations.

Public Outreach. On February 27, 2020, an initial Notice of Application Receipt for the project application was sent to 87 addresses including property owners, tenants, and businesses within a 300-foot radius of the project site. On January 13, 2023, a Notice of this Public Hearing for the Planning Commission meeting was once again sent to property owners, residents, and businesses within 300-feet of the project site as well as published in *The Daily Review* newspaper. As of the date this staff report was written, Planning Division staff has received no public comments on this project.

PROJECT DESCRIPTION

Existing Conditions. The project site is just under one acre and is zoned General Industrial (IG) with a General Plan land use designation of Industrial Technology and Innovation Corridor (IC). The site has an existing industrial building divided into 10 tenant spaces, each approximately 1,600 square feet in size, and a surrounding surface parking lot. Surrounding land uses include a range of industrial uses, such as warehousing, offices, contractors, auto repair, and other cannabis businesses, including a cannabis distribution business in the neighboring tenant space on site. While the cannabis distribution business was entitled in 2019, it is not yet operational.

Proposed Project. As proposed, the cannabis microbusiness would include manufacturing, distribution, and delivery activities, with the option of adding an ancillary storefront retail component in the future. As shown in the Project Plans [Attachment IV], the proposed microbusiness would occupy Suite 5, which is approximately 1,627 square feet. The tenant space would be partitioned into seven different room – a manufacturing room, distribution room, delivery room, office, entry/security room, break room, and restroom. No changes are proposed to the exterior of the building, other than the installation of some security features, which are discussed further below.

As detailed in the Business and Operations Plan [Attachment V], Always on Time aims to improve the quality of life of patients enduring debilitating symptoms of serious illnesses through the use of “precision cannabis”, which they define as the right medicine to the right

³ City Council Public Hearing 21-057, July 6, 2021:

<https://hayward.legistar.com/LegislationDetail.aspx?ID=5018121&GUID=45EA002F-4F31-4CB7-8C4B-DEB0FAB39E94>

patient at the right doses and at the right time. The facility will manufacture various cannabis goods (e.g. edibles, soft-gel capsules, transdermal patches, oral film stops, inhalers, suppositories, etc.) using blending, grinding, extracting, emulsifying, heating, cooling, filtering, and purifying techniques. The distribution component of the business will procure and distribute cannabis products from licensed cultivators, manufacturers, and microbusinesses to licensed retailers, manufacturers, and microbusinesses. The retail component of the business will deliver product directly to consumers in secure delivery vehicles. In accordance with Section 10-1.3609 of the Hayward Municipal Code, the proposed microbusiness would also be allowed to conduct on site ancillary storefront retail of any products produced on site, should they elect to do so. The facility will operate 24 hours a day, though delivery activities will be limited to 6:00 a.m. to 10:00 p.m., as required by State law.

Safety and Security Plan. A detailed Safety and Security Plan [Attachment VI] is designed to ensure public and product safety. According to the Plan, and as conditioned, a minimum of one security guard will be on site at all times during hours of operation. Other proposed security measures include the installation of an alarm system and high definition 24-hour cameras located in the interior and exterior of the building. The company's fleet of vehicles will be outfitted with lock boxes for product to be stored when making deliveries.

Surveillance videos and inventory reports will be made available to the City upon request. Movement of employees through the premises will be tightly controlled and monitored through the use of security badges. The Safety and Security Plan provides further detail about numerous additional security measures that will be taken with each component of the microbusiness. The proposed Safety and Security Plan has been reviewed and deemed appropriate by the Hayward Police Department.

Sustainability Plan. The Sustainability Plan [Attachment VII] includes a matrix that lists the company's various sustainability initiatives and objectives. The Plan is designed to be a working document to track progress while adopting new initiatives and strategies as appropriate. The matrix identifies sustainability actions related to water conservation, emissions reductions, recycling, energy conservation, renewable energy, and toxic materials/waste management. These include providing incentives to employees who use alternative transportation, allowing telecommuting when possible, installing a properly sized, energy efficient heating and cooling system, following the EPA's waste minimization hierarchy, and purchasing products made with post-consumer recycled content. The Environmental Services Division has reviewed the Sustainability Plan and deems it appropriate.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. As stated above, the project site is in an area designated as Industrial Technology and Innovation Corridor (IC) in the *Hayward 2040 General Plan*.⁴ The Corridor is expected to grow as an economic and employment center and evolve to achieve a healthy balance of traditional manufacturing and warehousing and newer information- and technology-based uses. Allowable uses include professional offices, corporate campuses, research and development, warehousing and logistics, manufacturing, and biotechnology.

⁴ Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/>

The proposed cannabis microbusiness would support the following *Hayward 2040 General Plan* goals and policies:

- *Land Use Policy LU-2.16, Uses to Attract the Creative Class.* The City shall encourage the development of uses and amenities to attract creative-class professionals and businesses to Hayward.
- *Economic Development Policy ED-1.4.* The City shall establish business attraction efforts that focus on small and medium-sized businesses within emerging and growing business sectors.
- *Economic Development Goal ED-2.* Cultivate a culture of entrepreneurship to encourage and support local business start-ups.

Further discussion of the consistency between the proposed use and General Plan policies is included in the Staff Analysis section below and in Attachment II, Findings.

Zoning Ordinance. The project site is located within the General Industrial (IG) zoning district.⁵ The IG district conditionally permits the establishment of a cannabis microbusiness with approval of a Conditional Use Permit.⁶

The Planning Commission may conditionally approve a Conditional Use Permit for a cannabis use when all of the required Findings pursuant to Sections 10-1.3225 and 10-1.3609 of the Hayward Municipal Code are met. The required Findings are listed below:

Conditional Use Permit Required Findings

- The proposed use is desirable for the public convenience or welfare;
- The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- The proposed use will not be detrimental to the public health, safety, or general welfare; and
- The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

Cannabis Required Findings

- The proposed cannabis use will not be detrimental to the public health, safety, or general welfare in that the cannabis operation is situated in an appropriate location where sensitive land uses will not be adversely impacted;
- Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste related to the cannabis operation;
- The cannabis operation is designed to be safe, secure, and aesthetically compatible with the surrounding area; and

⁵ Section 10-1.1600 (Industrial Districts) of Hayward Municipal Code:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1Z00R_S10-1.1600INDI

⁶ Section 10-1.3200 (Conditional Use Permit) of Hayward Municipal Code:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=CD_ORD_CH10PLZOSU_ART1Z00R_S10-1.3200COUSPE

- The cannabis operation will not place a burden on the provision of public services disproportionate to other industrial or commercial uses.

Further analysis related to the Conditional Use Permit and Cannabis findings is included in the Staff Analysis section below and contained in Attachment II, Findings.

Commercial Cannabis Permit. An applicant is required to obtain approval of a Commercial Cannabis Permit by the City to ensure that all regulatory requirements are met.⁷ The applicant has satisfied this requirement.

The applicant must also obtain the necessary land use entitlement, which is the subject of this application. Following entitlement, the applicant will be required to obtain a cannabis license from the State. Failure to obtain the State license would be grounds for revoking the City's permit.

Once issued, all Commercial Cannabis Permits issued by the City are valid for one year and must be renewed annually following the completion of a mandatory safety inspection and demonstration of compliance with all local and State regulations, including any Conditions of Approval of this Conditional Use Permit.

STAFF ANALYSIS

Staff has reviewed the project application and believes that the Planning Commission can make the required Findings to conditionally approve the establishment of the proposed cannabis microbusiness with manufacturing, distribution, delivery, and ancillary retail activities at the subject property. As mentioned previously, the proposed use is located within the City's industrial area, surrounded by a mix of industrial uses including warehousing, offices, contractors, auto repair, and other cannabis uses. With approval of a Conditional Use Permit, the proposed project is consistent with the General Industrial Zoning District, as well as the goals and policies of the City's General Plan, which calls for a diverse mix of industrial uses, including those associated with new technologies and emerging industries.

As part of the initial RFP process to obtain their Commercial Cannabis Permit from the City Council, the applicant's business plan was reviewed and scored by an independent, outside consultant who determined this operator would meet several of the City's objectives related to best practices for the cannabis industry. Planning Division staff has further determined that potential nuisances associated with the facility will be mitigated with the implementation of the proposed Business and Operations Plan, Safety and Security Plan, and Sustainability Plan, as well as by the attached Conditions of Approval.

The Hayward Police Department, Code Enforcement Division, and Fire Department have reviewed the project proposal with Planning Division staff to ensure the proposed microbusiness can be operated in a safe manner. As conditioned, the proposed use would provide a safe and secure environment for employees and mitigate potential impacts to adjacent properties. The conditions require the applicant to adhere to the approved plans, including the comprehensive list of security, safety, and sustainability measures. Additionally,

⁷ Chapter 6, Article 14 (Commercial Cannabis Businesses) of the Hayward Municipal Code:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.1600INDI

Commercial Cannabis Permits are renewed annually, providing the City an opportunity to revoke a permit if determined that the applicant does not adhere to the City's requirements and Conditions of Approval.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class I for existing facilities in that the project involves the use of a tenant space within an existing structure. Therefore, no environmental review is necessary.

NEXT STEPS

If the Planning Commission approves the Conditional Use Permit, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, the Commission's decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council for final disposition.

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