



DATE: December 16, 2025

TO: Mayor and City Council

FROM: Development Services Director Sara Buizer

SUBJECT: Phenos Hayward - Proposal to Operate a Commercial Cannabis Retail Dispensary in a 14,928-Square-Foot Tenant Space at 21463 Foothill Boulevard (Assessor Parcel No. 414-0086-056-02) in the General Commercial (CG) Zoning District, Requiring Approval of Conditional Use Permit Application No. UP-25-0011 and a Finding that the Project is Categorically Exempt from the Provisions of the California Environmental Quality Act (CEQA) Pursuant to Section 15301 of the CEQA Guidelines. Applicants/Operators: Esther Lopez and Angilbert Sarkis, Gream Enterprises, Inc. [DBA Phenos Hayward]; Property Owner: Foothill-Grove LLC.

RECOMMENDATION

That the City Council consider the Planning Commission’s September 25, 2025 recommendation, and adopt a resolution (Attachment II) approving the Conditional Use Permit (CUP) subject to the conditions set forth in the resolution and finding the project to be categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301.

SUMMARY

The applicants are requesting approval of a CUP to operate a Commercial Cannabis Retail Dispensary in a vacant, 14,928-square-foot tenant space previously occupied by a Walgreens drugstore at 21463 Foothill Boulevard. The dispensary would be open seven days a week from 9:00 AM to 8:00 PM and would offer cannabis and cannabis-based products to customers 21 years of age and older for recreational use, and 18 years of age and older for medicinal use, as allowed by State law. The project includes a robust security plan which includes the presence of two professionally licensed and armed security guards on the premises during all business hours that has been reviewed and approved by the Hayward Police Department, which the applicants will be required to implement and adhere to at all times, and would include minor alterations to the interior and exterior of the subject tenant space.

One of the two co-applicants, Esther Lopez, was one of three operators selected by the City Council to operate a retail cannabis dispensary in 2018 and has been looking for a suitable location for several years. Ms. Lopez obtained previous approval of a CUP to operate a retail dispensary at 1147 B Street in 2020, but difficulties related to leasing arose between her and

the owner of that property which were unable to be resolved, and the CUP ultimately expired. The Planning Commission considered her and her business partner, co-applicant Angilbert Sarkis's request for the CUP at the subject location on September 25, 2025, and, after a lengthy public hearing in which several members of the public spoke, voted 5-1 to recommend denial to the Council. Nevertheless, staff is recommending that the Council approve the CUP based on the new applicant team's efforts to address community concerns, their clean track record and extensive experience operating cannabis dispensaries throughout the state, and on the breadth and proven effectiveness of the security measures contained in their security plan which they have implemented consistently at all their other dispensaries throughout California.

FISCAL IMPACT

The proposed dispensary would generate an increase in cannabis tax revenues for the City from sales of cannabis and cannabis-based products. For context, the City currently has one dispensary and one cultivation and wholesale cannabis business and received approximately \$750,000 in cannabis tax revenues in fiscal year 2025. The City's current tax rate for all cannabis-related product sales is seven (7) percent of gross receipts, paid quarterly. Additionally, the dispensary would be required to renew its Commercial Cannabis Business Permit with the City annually at a cost of \$15,000 for as long as it remains operational. Furthermore, if the CUP is approved, the applicants have committed to paying an advance to the City of \$1 million of their projected cannabis tax revenues from the first year of operation as a show of good faith.

BACKGROUND

In 2015, the State of California enacted a comprehensive regulatory framework (Assembly Bills AB 243 and AB 266 and Senate Bill SB 643) for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery and testing of medicinal cannabis throughout the state. The legislation was known collectively as the Medicinal Cannabis Regulation and Safety Act (MCRSA). On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized adult cannabis use, possession and cultivation for non-medicinal purposes and created a regulatory framework for non-medicinal cannabis businesses. The intent of the combination of the MCRSA and AUMA was to establish a comprehensive regulatory system for the legal cultivation, production and sale of cannabis and cannabis-based products.

On June 15, 2017, the State enacted SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which consolidated provisions of the MCRSA into the regulatory framework of the AUMA, thereby creating a unified regulatory system for adult medicinal and recreational cannabis use. MAUCRSA specifically authorized local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses licensed in accordance with state law, including local zoning and land use regulations, and business license requirements. Subsequently, on October 30, 2017, and November 28, 2017, the City Council enacted new regulatory and land use ordinances authorizing cannabis businesses in certain zones throughout the City, subject to compliance with local and state regulations.

At the October 30th meeting, the City Council established a four-step Request for Proposals (RFP) process by which the City would accept proposals during a limited application window from individuals/entities wishing to establish a legal commercial cannabis business within the City and select those individuals/entities who best met the City's desired set of qualifications. The four steps in the process included:

1. Conducting a criminal background (LiveScan) check;
2. Competitive scoring and ranking of all candidates who passed the LiveScan check;
3. Conducting interviews with candidates who passed the LiveScan check; and
4. Requiring City Council approval of a Commercial Cannabis Business Permit prior to completion of the land use entitlement (typically a CUP) approval process.

In December 2017, the co-applicant, Esther Lopez (Aunty Honeys) was selected as one of three retail dispensary operators approved for a Commercial Cannabis Business Permit (CCBP) by the City Council on July 17, 2018¹ and subsequently obtained approval of a CUP to operate a retail dispensary at 1147 B Street. Ms. Lopez, along with 11 other commercial cannabis operators, were recommended by City staff out of a total of 73 applicants to be awarded CCBPs for a variety of cannabis-related land use activities, including cultivation, manufacturing, testing, delivery and retail sales. The CUP approval process included a public hearing by the Planning Commission on January 23, 2020², at which the Commission made a recommendation for approval to the City Council and, subsequently, obtained City Council approval at a public hearing on March 3, 2020³.

Since 2020, Ms. Lopez was unable to reach a final agreement with the property owner to operate a retail dispensary at the approved location on B Street and ultimately chose to look for a new location as well as partner with another operator, Angilbert Sarkis, who has extensive experience operating retail dispensaries and could assist with the financing and management of the business. The subject location along Foothill Boulevard was chosen by the applicants because it has significantly greater visibility, being situated along one of the City's major commercial thoroughfares at a signalized intersection that has easy access to Interstate 580 and State Route 238, and plentiful on-site parking located directly outside the storefront entrance.

The shopping center housing the subject tenant space was originally constructed in the 1950s and underwent an exterior remodel in 1983. The two adjoining tenant spaces are currently occupied by a donut shop and martial arts studio, while a dental office occupies the remaining tenant space. The subject tenant space was last occupied by a Walgreens drugstore which ceased operations and vacated the premises in April 2024.

Planning Commission Meeting. On September 25, 2025, the Planning Commission held a public hearing to consider the CUP application and voted 5-1 (with one Commissioner recusing) to recommend denial to the City Council. Thirty members of the public spoke at the hearing, with 27 citizens speaking in opposition and three citizens speaking in support. Nearly all the citizens

¹ July 17, 2018 City Council Meeting: <https://portal.laserfiche.com/Portal/Browse.aspx?id=215505&repo=r-b6d2994c>

² January 23, 2020 Planning Commission Meeting: <https://hayward.legistar.com/LegislationDetail.aspx?ID=4310293&GUID=199A3DE0-0567-4C3D-9E36-527D524E1DBA&Options=&Search=>

³ March 3, 2020 City Council Meeting: <https://hayward.legistar.com/LegislationDetail.aspx?ID=4345461&GUID=50C12DDA-1CB9-4D45-AAE0-57D9A95FDB02&Options=&Search=>

who spoke against the proposal expressed concerns that the location was not appropriate for a dispensary since there was a martial arts studio directly next-door which many children train at on a daily basis, and a residential neighborhood behind and directly across the street from the shopping center which could be adversely impacted by undesirable and/or unlawful activity associated with the dispensary, such as loitering, public consumption/intoxication, and other, potentially more serious crimes such as burglary or armed robbery. The opponents also cited the fact that another dispensary (Garden of Eden) was located only one block away to the north along Foothill Boulevard in unincorporated Alameda County, and that having two dispensaries so close together would result in the creation of a cluster of uses that could convey a negative image for the area at one of the main gateways into the City.

The people who spoke in support of the project cited Ms. Lopez's longstanding commitment and numerous contributions to the Hayward community as a local business owner who assists many residents with their personal finances, as well as the successful track record of her business partner/team from their experience running several dispensaries in other cities throughout the state. The applicants have prepared a lengthy rebuttal document that attempts to address the concerns raised by the Planning Commission and the citizens who spoke in opposition to the dispensary. This document is included as Attachment VII to this staff report. The following list summarizes the highlights from this document:

- To address concerns about minors and, particularly, youth who attend the martial arts studio next-door, attempting to enter the dispensary and be exposed to cannabis products, the applicants have demonstrated that neither Cookies (the City's lone operating retail dispensary) nor any of their 14 dispensary locations throughout California have ever had such an incident occur. They attribute this to their stringent check-in policies which all customers must follow.
- To address concerns about insufficient parking at the site, the applicants and City staff have confirmed that the parking requirements for a 4,000-square-foot dispensary would be significantly less than for a ±10,000-square-foot drugstore (of the nearly 15,000 total square feet of the subject lease space, the Walgreens utilized approximately 10,000 square feet for the retail floor area). Additionally, using the latest Institute of Transportation Engineers (ITE) Trip Generation Manual, staff has confirmed that a 4,000-square-foot dispensary would generate fewer daily and afternoon peak hour trips to the site than the Walgreens that previously occupied the space.
- To address concerns about the potential for dispensary customers to loiter in and around the shopping center and consume cannabis products in public, the applicants asked the Police Department to see if such trends had occurred at either Cookies or Garden of Eden. The Hayward Police Department did not find a history of complaints or crimes pertaining to these types of nuisance activities at either location within the past two years.
- To address concerns about the siting of two dispensaries so close together potentially leading to an overconcentration in the area, the applicants point out that, although Garden of Eden is outside the City's limits and not subject to its siting restrictions, the two dispensaries are still separated by more than the minimum distance of 500 feet required by the Zoning Ordinance.

- To counter the Planning Commission's concerns that the dispensary may not generate the estimated cannabis tax revenue for the City, the applicants have committed to pay an advance of \$1 million to the City towards their first-year municipal cannabis tax.

Public Outreach: On April 25, 2025, the City mailed 172 Notices of Application Receipt for the project to the owners and occupants of all properties within a 300-foot radius of the project site. At the time, the Planning Division staff received two emails (included as Attachment V) and four phone calls expressing opposition to the proposed dispensary use. All of the individuals who contacted staff expressed similar opinions that the location was too close to the residential neighborhood where they live and the martial arts studio in that retail center may train children and as a result, the dispensary may result in public nuisances and/or crimes, such as loitering, public consumption, and theft.

On September 15, 2025, a Notice of Public Hearing for the September 25th Planning Commission meeting was sent to the same list of addresses that received the Notice of Application Receipt and published in *The Daily Review* newspaper. While approximately 40 citizens attended the public hearing, staff did not receive any additional written comments from members of the public regarding the proposed project prior to the Planning Commission meeting. However, one additional letter of opposition was submitted by a citizen on the night of the hearing, and this letter has been added to the two emails in Attachment V.

On December 5, 2025, a Notice of Public Hearing was mailed to the same list of addresses that received all of the prior public notices associated with the project and published in *The Daily Review* newspaper as well. Since the September 25th Planning Commission meeting, the applicants have submitted 68 letters of support from various members of the community. These letters are provided in Attachment VI.

PROJECT DESCRIPTION

Existing Conditions: The subject tenant space is the anchoring space in a neighborhood shopping center located on a 1.33-acre parcel at the northwest corner of Foothill Boulevard and Grove Way. The total floor area of the shopping center is 21,833 square feet, of which 14,928 would be leased by the applicants for the retail dispensary. The remainder of the floor area is currently occupied by a donut shop, martial arts studio and dental office. The subject property is surrounded by a mix of commercial, residential and institutional uses to the north and east along Foothill Boulevard, and single-family and multi-family residential uses to the south and west along Grove Way and Locust Street.

A total of 61 unassigned parking spaces, including two accessible spaces, are provided on the site for use by all four tenants. Vehicular access to the site is provided via two-way driveways along both Foothill Boulevard and Grove Way, as well as an exit-only driveway along Locust Street. Fifteen of the 61 total parking spaces are provided in a separate parking lot around the back side of the shopping center along Locust Street.

Proposed Project: The proposed retail dispensary would occupy the entire 14,928 square feet of floor area previously occupied by a Walgreens drugstore. Approximately 4,000 square feet of the total floor area facing Foothill Boulevard would serve as the retail area open to the public,

with a security/reception desk situated immediately inside the main entrance, a product display area, and a manager's office. The remaining two-thirds of the tenant space would serve as warehouse/storage space, a breakroom and restrooms for staff, and an information technology room. The proposed floor plan would require a number of minor alterations to the tenant space, but no changes to the building's exterior are proposed.

As proposed and reflected in the business plan, the dispensary will offer a range of cannabis and cannabis-based products for both recreational and medicinal use, including edibles, oils, salves, and concentrates. It will be open for business seven days a week from 9:00 AM to 8:00 PM, with staff arriving at approximately 8:45 AM to prepare for opening and staying until 9:00 PM to prepare for closing. Employees will work in three shifts of at least three employees per shift, with the morning shift running from 8:45 AM to 1:45 PM, the afternoon shift from 1:45 PM to 6:00 PM, and the evening shift from 4:00 PM to 9:00 PM. The dispensary would only offer on-site sales with no in-house delivery or on-demand delivery by a third-party provided. A copy of the business plan and project plans are included as Attachments III and IV, respectively.

Safety/Security Requirements. The applicants submitted a detailed safety and security plan to ensure the safety of the employees and product inventory, the adjacent businesses, and the general public. The plan has been reviewed and approved by the Hayward Police Department, which includes many robust security measures including providing two professionally licensed, armed security guards to be present onsite during all business hours and during daily morning pre-opening time beginning at 8:45 AM and after-closing time until 9:00 PM, or whenever the last employee leaves. One of the security guards would be stationed at the entrance to the dispensary and be responsible for checking each patron's government-issued identification (ID) card to ensure that they are either at least 21 years of age if purchasing for recreational use or at least 18 years of age and possessing a valid physician's prescription, if purchasing for medicinal use. The second guard would be responsible for monitoring the vendor/back entrance, the product storage area, and the exterior of the premises to ensure that no loitering, public consumption or other illegal activities are occurring which could pose a public nuisance or be threatening in any way to the adjoining businesses and their patrons.

Other safety and security requirements include: 1) installation of a professionally monitored security alarm system that includes entry/exit detection sensors on all door and window openings as well as motion sensor lighting; 2) installation of a surveillance Internet Protocol (IP) camera system covering the entire interior and exterior of the dispensary, including the parking lots, and retention of all video footage for a minimum of 90 days; and 3) installation of commercial-grade Building Code-compliant locks on all windows and doors.

Community Benefits Package. As allowed pursuant to HMC Section 6-14.13(c)(16)⁴, the applicants have opted to commit to providing community benefits that are in alignment with the City's priorities and needs. These commitments are as follows:

⁴ HMC Section 6-14.13 – Commercial Cannabis Business Permit Application:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU_S6-14.13COCABUPEAP

- 1) A one-time contribution of \$20,000 to *Women and Men on the Way*, a local non-profit organization that provides support for men and women suffering and attempting to recover from various addictions.
- 2) A \$1 million advance payment to the City towards the dispensary's projected first-year revenue business tax obligation.

It should also be noted that the applicants have contacted several other non-profit community organizations with offers to contribute funding to their missions, but most have either been unable or unwilling to accept their offers for various reasons. The applicants have committed to pay up to \$100,000 to various community organizations that would be willing and able to accept their contributions. To ensure that this occurs, staff has added a condition of approval requiring the applicants to continue their efforts to find willing entities and fulfill their financial commitment as part of their overall community benefits package. The updated condition of approval is included as Condition #6 in the draft resolution (Attachment II).

POLICY CONTEXT AND ZONING CODE COMPLIANCE

Hayward 2040 General Plan: The project site has a land use designation of Commercial/High-Density Residential (CHDR) in the *Hayward 2040 General Plan*⁵. This land use designation applies to commercial and larger-scale residential properties situated along the City's primary arterial streets. Allowable uses include all types of retail, dining and service uses, professional offices, multi-story apartment and condominium buildings and mixed-use developments containing ground-floor commercial uses and residential units on upper floors.

The proposed use will add a new specialized retail establishment for adults who choose to purchase legal cannabis products for personal recreational or medical use along one of the City's main commercial thoroughfares, as allowed under State law. Further, legally operated cannabis businesses can provide significant cannabis tax revenues for the City which, in turn, can assist with the provision of essential services to the City's residents. Allowing the proposed use would be consistent with the following *Hayward 2040 General Plan* goals and policies:

- *Land Use Policy LU-5.1 – Mix of Uses and Activities*: The City shall encourage a mix of retail, service, dining, recreation, entertainment, and cultural uses and activities in regional and community centers to meet a range of neighborhood and citywide needs.
- *Economic Development Goal ED-1*: Diversify the economic base of Hayward to support a robust and stable economy with a diverse range of employment, shopping, and cultural opportunities for residents.
- *Economic Development Goal ED-1.4*: The City shall establish business attraction efforts that focus on small and medium-sized businesses in emerging and growing business sectors.
- *Community Safety CS-1.12 – On-Site Security*: The City shall require conditions of approval related to the provision of on-site security and safety measures for bars, nightclubs, live entertainment businesses, and related uses. Conditions shall promote a healthy balance of public safety and nightlife vibrancy, and may include surveillance cameras, crowd management practices, and on-site security staff.

⁵ Hayward 2040 General Plan: <https://www.hayward-ca.gov/2040-General-Plan>

Additional discussion on the consistency between the proposed use and the *Hayward 2040 General Plan* is included in the Staff Analysis section below and contained in the findings in the Draft Resolution contained in Attachment II.

Zoning Ordinance: The project site is located within the General Commercial (CG) zoning district⁶. The CG district allows the establishment of commercial cannabis retail dispensaries subject to approval of a CUP⁷. While most CUP applications are typically decided by the Planning Commission, pursuant to HMC Section 10-1.3250⁸, the Commission may refer a CUP application to the City Council at any time, with or without a recommendation. Due to the sensitive nature of retail dispensaries, the Commission has historically referred these CUP applications to the City Council for their consideration. In this case, the Commission considered the application on September 25, 2025, and voted to recommend denial to the Council. The Council must now consider the Commission's recommendation and decide whether to approve or deny the CUP request.

Pursuant to HMC Section 10-1.3225⁹, the deciding body may approve or conditionally approve a CUP when all of the following findings are met:

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

The proposed dispensary would help meet a specialized demand for a legal drug product that can be used for both recreational and medicinal purposes throughout the state. While there may be perceptions that such a business could have the potential to adversely impact the surrounding area, a set of stringent conditions crafted by the Police Department requiring implementation of several robust security measures and prohibiting any nuisance-related activities involving cannabis such as loitering and public consumption/intoxication in and around the premises would be placed upon the CUP. In addition, any operator that has been determined to be a public nuisance with excessive calls for service or by operating in violation of their approved conditions of approval may be subject to revocation of the Commercial Cannabis Business Permit and the Conditional Use Permit by the City Council. Additional

⁶ HMC Section 10-1.1000 – General Commercial District (CG)

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOOR_S10-1.1000GECODICG

⁷ HMC Section 10-1.3200 - Conditional Use Permit:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=CD_ORD_CH10PLZOSU_ART1ZOOOR_S10-1.3200COUSPE

⁸ HMC Section 10-1.3250 – Referrals:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOOR_S10-1.3200COUSPE_S10-1.3250RE

⁹ HMC Section 10-1.3225 – Conditional Use Permit Findings:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOOR_S10-1.3200COUSPE_S10-1.3225FI

analysis related to the required findings is included in the Staff Analysis section below and within the Draft Resolution in Attachment II.

Cannabis Land Uses: HMC Section 10-1.3600¹⁰ governs all commercial cannabis businesses that cultivate, manufacture, transport, distribute, or sell any type of cannabis or cannabis-based products throughout the City. The various subsections of HMC Section 10-1.3600 contain numerous regulations and requirements governing all commercial cannabis businesses, all of which have been included as conditions in Attachment II. In addition, HMC Section 10-1.3612¹¹ prescribes a small number of additional findings meant to supplement those required for approval of a CUP listed above which the decision-making body must make when considering an application for a CUP to operate a retail dispensary. Specifically, these additional findings are required to determine whether the proposed use will detrimentally affect the surrounding neighborhood or place a disproportionate burden on public safety services as compared to other commercial or industrial uses whose businesses do not involve cannabis or cannabis-related products. The findings are as follows:

1. 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;
2. Appropriate measures have been taken to address nuisances related to odor, noise, exhaust and waste related to the cannabis operation;
3. The cannabis operation is designed to be safe, secure, sustainable and aesthetically compatible with the surrounding area; and
4. The cannabis operation will not place a burden on the provision of public services disproportionate to other industrial or commercial uses.

As stated previously, the proposed use would meet a specialized demand by offering legal cannabis and cannabis-based products for recreational and medicinal use in Hayward and while such activities do have the potential to have adverse impacts on nearby uses, several stringent operational and security-related conditions have been included on the CUP which are designed to prevent such impacts from occurring. As with the CUP findings, a more detailed analysis related to the findings required for approval of the commercial cannabis businesses is included in the Staff Analysis section below and contained in the Draft Resolution in Attachment II.

Commercial Cannabis Business Permit: Pursuant to HMC Section 6.14-13¹², an applicant for a new commercial cannabis business must obtain approval of a Commercial Cannabis Business Permit by the City Council to ensure that all regulatory requirements are met. Ms. Lopez completed this task when she obtained CCBP approval to operate a retail dispensary (Aunty Honey's) at 1147 B Street from the City Council on July 17, 2018. Since Ms. Lopez is now

¹⁰ HMC Section 10-1.3600 – Cannabis:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3600CA

¹¹ HMC Section 10-1.3612 – Findings:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3600CA_S10-1.3612FI

¹² HMC Section 6-14.13 – Commercial Cannabis Business Permit Application:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU_S6-14.13COCABUPEAP

transferring partial, minority ownership and operational control of her previously approved business to Mr. Sarkis, Mr. Sarkis was required to undergo the required background/LiveScan check to ensure that he did not have a history of committing any drug-related or other serious crimes. His background check was previously processed by the Hayward Police Department as part of the New Change of Owner/Attestation required by the City and did not reveal any criminal history.

HMC Section 6.14-13 also requires that the applicants obtain the necessary land use entitlements which in this case, the CUP is subject to City Council review. Should the CUP application be approved, the applicants would be required to obtain a cannabis license from the State Department of Cannabis Control prior to operation and failure to obtain the State license, as well as maintaining the license in good standing, would be grounds for revocation. In addition, all Commercial Cannabis Business Permits issued by the City are valid for one (1) year and must be renewed annually following the completion of mandatory safety inspection and demonstrated compliance with all local and state regulations, including all conditions of approval of the CUP.

STAFF ANALYSIS

Staff has reviewed the project plans, business plan, and safety/security plan submitted by the applicants and believes the City Council can make the required findings to approve the CUP, subject to the findings and recommended conditions of approval in the Draft Resolution contained in Attachment II. As mentioned previously, the proposed use would contribute to the public welfare by providing a safe and secure environment for adults to purchase legal cannabis and cannabis-based products for their private consumption at a convenient location along a major thoroughfare that currently offers a wide variety of other retail and service uses. It is also possible that the dispensary's customers may patronize other nearby businesses, including the many restaurants located along Foothill Boulevard. Sales and cannabis tax revenues from a legal cannabis dispensary could also be significant for the City and could help to fund essential City services.

Furthermore, allowing the proposed use would be consistent with the goals and policies of the *Hayward 2040 General Plan*, which call for supporting local small businesses and providing a wide range of goods and services within the City that meet the everyday and specialized needs of Hayward residents, including legal drugs such as cannabis that can be used in California for recreational and medicinal purposes. Additionally, the zoning on the property allows for a wide variety of retail uses, including cannabis dispensaries, subject to approval of a CUP, so the proposed use is permissible subject to the decision-making body being able to make the prescribed findings in support of an approval.

A significant amount of discussion at the September 25th Planning Commission hearing focused on the potential for the proposed dispensary to generate undesirable and/or criminal activity, including public consumption/intoxication, loitering, robberies and sales to minors. In response to questions raised about possible undesirable and/or illegal activity that might occur, the Hayward Police Department analyzed the recent history of calls for service at the City's lone operational retail dispensary, Cookies, the Garden of Eden dispensary located nearby in

unincorporated Alameda County, and the Walgreens drugstore that previously occupied the site. The following table summarizes the results of this analysis:

Business	Total Calls for Service in 2024-2025	Incidents Involving Minors	Loitering, Public Consumption, and/or Intoxication	Theft, Robberies, and/or Burglaries
Cookies	47	0	0	4 burglaries; 1 robbery
Garden of Eden	14	0	0	0
Walgreens	114 (in 2023-2024; business closed in 2025)	N/A	N/A	36 petty thefts; 3 grand thefts; 3 robberies

It should be noted that some of the calls for service listed in the table did not directly involve a crime or incident at the premises. In some cases, the business simply happened to be the closest location to a reported, unrelated incident such as the issuance of a parking ticket or a moving violation. While Cookies has been the target of five attempted burglaries/robberies over the past two years, neither it nor Garden of Eden has a recent history of allowing minors to enter their premises and purchase products, and there have been no issues with customers or other members of the public loitering and/or consuming cannabis products publicly outside either establishment. The Walgreens that previously occupied the site had a higher volume of calls for services and was the subject of a high number of petty thefts (the stealing of items having a value of \$950 or less), as well as a small number of grand thefts (involving items having a value greater than \$950) and robberies.

As reflected in the above table, neither dispensary has generated a significant number of calls for service involving serious crimes such as armed robbery, burglary or selling products to minors. While Cookies has been the target of some attempted robberies and burglaries over the past two years, the applicants' security plan contains several effective measures which have been reviewed and approved by the Hayward Police Department designed to reduce the likelihood of such crimes occurring at the proposed dispensary. However, even with the implementation of such measures, it is nevertheless impossible to stop all criminal activity from occurring. Staff contacted the Planning Directors of both San Leandro and Union City to see if their cannabis dispensaries had generated a significant number of serious crimes or nuisance complaints from neighbors. San Leandro currently has three dispensaries operating in its industrial areas and, according to its Planning Director, none of have generated significant problems for that City; a fourth dispensary is currently in application and is expected to be approved in the coming year. Union City has two dispensaries currently in operation, with one in the Union Landing Shopping Center and one in an industrial area along Decoto Road less than a block from the Alvarado residential neighborhood. Neither dispensary has a history of generating nuisance-related complaints from adjacent businesses or nearby residents; however, the Decoto Road location was the victim of a break-in and robbery with the perpetrators driving a vehicle through the storefront entrance. To prevent this from re-occurring, the dispensary installed a row of steel bollards outside its storefront entrance. The

applicants are proposing to install the same type of bollard outside their storefront entrance as well.

Staff has drafted a rigorous set of conditions of approval regulating the daily operations of the proposed dispensary, including several crafted by the Hayward Police Department that specifically pertain to security measures in an effort to mitigate any perceived unsafe, nuisance and/or criminal activity at the establishment. With the inclusion of these conditions, staff does not believe that the use will have a detrimental impact on public safety or welfare. The applicants will be required to adhere to the conditions at all times and City staff will conduct annual compliance inspections at the establishment to ensure it is operating in accordance with all applicable requirements for a retail dispensary. Any failure to do so, or if the use consistently generates a high volume of calls for service for the Hayward Police Department involving illegal activities, could constitute grounds for revocation of the CUP. For these reasons, staff recommends that the Council approve the CUP based on the findings and subject to the conditions in the Draft Resolution in Attachment II.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301, Existing Facilities, which exempts projects that utilize existing structures while only making minor modifications to them. The proposed project involves only minor alterations to an existing commercial building with no expansion of the subject tenant space or changes that would be visible to the exterior.

At the Planning Commission meeting there was concern expressed by many of the neighbors that the retail dispensary would generate significantly more traffic than the drugstore that previously occupied the site, and that said traffic would exacerbate the congestion that already occurs along Foothill Boulevard in the afternoon. City Transportation staff compared the trip generation rates for a drugstore and retail dispensary using the Institute of Transportation Engineers' 10th Edition Trip Generation Manual and determined that a drugstore such as a Walgreens or CVS would be expected to generate 15 more trips to the site during the PM peak hour and 70 more total daily trips. As such, a retail dispensary would be expected to generate fewer trips than a drugstore or similar retail use such as a neighborhood market.

ECONOMIC IMPACT

The proposed dispensary could result in a minor positive economic benefit for other nearby businesses by drawing more customers to the subject shopping center, who, in turn, might elect to patronize other establishments in the surrounding area such as shops and restaurants, but the City has no concrete evidence that its lone operational dispensary at 1104 B Street has generated spillover economic benefits for other downtown businesses. Nevertheless, there has been high demand for cannabis and cannabis-based products for both medicinal and recreational use ever since the State legalized consumption, and the applicants' management team has a track record of running successful dispensaries throughout the Central Valley that have contributed economically to the cities where they are located.

STRATEGIC ROADMAP

In January 2024, the Council adopted six Strategic Priorities as part of its three-year Strategic Roadmap:

1. Enhance Community Safety & Quality of Life
2. Preserve, Protect & Produce Housing for All
3. Confront Climate Crisis & Champion Environmental Justice
4. Invest in Infrastructure
5. Grow the Economy
6. Strengthen Organizational Health

Included as one of the five projects under Strategic Priority No. 5, “Grow the Economy,” was Objective 2: Invest in plans and programs that create thriving commercial corridors with an added focus on the Downtown. The proposed use would fill a long-vacant medium-sized tenant space that cannot be easily occupied by a wide variety of uses along a major commercial thoroughfare at one of the main gateways into the City with a business having the potential to reactivate the subject shopping center and generate significant sales tax revenue for City. The previous tenant occupying the space was a corporate drugstore chain, but such uses are no longer expanding or relocating because they are being replaced by a combination of big-box retailers with in-house pharmacies and online pharmaceutical/prescription filling/delivery services. There is no longer a large retail rental market for tenant spaces of this size.

NEXT STEPS

If the Council votes to approve the CUP, the applicants would be required to obtain a building permit to remodel the space and convert it from the former drugstore into the proposed dispensary. The applicants would also be required to obtain a business license and all operational licenses required by the State Department of Cannabis Control. Following approval, City staff would work closely with them to ensure all operational requirements contained in the conditions of approval are adhered to and that all safety/security measures in the security plan are implemented and in place prior to the dispensary’s commencing operations and opening to the public.

If the Council votes to deny the CUP, it should provide staff with clear direction as to the basis for the denial and direct staff to return with a resolution containing findings for denial, which would be scheduled for a future Council meeting at a date to be determined.

In addition, if Council would like staff to evaluate other areas in the City where retail cannabis dispensaries could be located, it could direct staff to look at increasing the number of zoning districts where they may locate. Any potential changes to the Zoning Ordinance would be addressed as part of the ongoing Business Friendly Ordinance project which staff expects to be completed by early Summer 2026.

Prepared by: Steve Kowalski, Senior Planner

Recommended by: Sara Buizer, AICP, Development Services Director

Approved by:

A handwritten signature in blue ink, appearing to read "Jennifer Ott".

Jennifer Ott, City Manager