

**CITY OF HAYWARD PLANNING COMMISSION  
CONDITIONAL USE PERMIT APPLICATION NO. UP-25-0011  
PHENOS HAYWARD CANNABIS DISPENSARY - 21463 FOOTHILL BLVD.  
DRAFT CONDITIONS OF APPROVAL**

**General Conditions**

*Planning*

1. The applicant shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. The retail dispensary shall operate in accordance with these conditions of approval and the approved Project Plans prepared by PQ Design Studio Inc. dated June 12, 2025, and the approved Business and Operations Plan prepared by Gream Enterprises, Inc. DBA Phenos Hayward submitted on April 17, 2025. Any future changes to the approved plans and Business and Operations Plan may require the submittal of a new application for a Conditional Use Permit and shall be subject to additional review and approval by the City prior to their implementation.
3. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City and agreed to by the applicant, may result in failure to obtain a Building Final and/or Certificate of Occupancy until full compliance is achieved. The City's requirement for full compliance may require minor corrections and/or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with the design requirements and approvals that the applicant agreed to when permits were pulled to construct the project. The applicant acknowledges that the conditions set forth in this approval are not intended to supersede any obligations imposed pursuant to Chapter 6, Article 14 of the Hayward Municipal Code (HMC) related to commercial cannabis permits, as it may be amended from time to time.
4. The applicant/business owner, property owner or designated representative shall allow the City's staff to access the property for site inspections to confirm all approved conditions have been completed and are being adhered to in compliance with all adopted City, staff and federal laws.
5. The applicant/business owner shall obtain a sign permit prior to the installation of any new signage on the exterior of the building.
6. The applicant/business owner shall only employ persons at least 21 years of age and shall keep employment records that include each employee's proof of age. Said records shall be provided to the City upon request.
7. The retail dispensary shall have an on-site business manager at all times who is responsible for overall operation whenever employees are conducting operations and shall provide the City with the contact information for all such persons, including

mobile telephone numbers and email addresses. The applicant/business owner shall also provide the City with the name and contact information of at least one (1) manager who can be reached 24 hours a day in case of an emergency.

8. The applicant/business owner shall maintain records of all sales transactions in accordance with the requirements of state law.
9. No person shall be permitted to enter the retail dispensary without government-issued photo identification. The retail dispensary shall not offer cannabis or cannabis products to any underaged person or any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government-issued photo identification card or a valid physician's prescription under Section 11362.712 of the Health and Safety Code.
10. The retail dispensary shall be designed to prevent unauthorized entrance into areas containing cannabis or cannabis products. Limited access areas accessible to only authorized personnel shall be established.
11. Commercial cannabis and cannabis products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.
12. The retail dispensary shall not have an on-site or on-staff physician to evaluate patients and provide a recommendation for medical cannabis.
13. The business owner shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and other areas surrounding the premises during business hours, if directly related to the patrons of the retail dispensary. For the purposes of this condition, "reasonable steps" shall include calling the police in a timely manner, and requesting those engaging in nuisance activities to cease those activities unless personal safety would be threatened in making such a request.
14. The retail dispensary shall maintain a copy of the valid operating Conditional Use Permit and Commercial Cannabis Business Permit issued by the City on display during business hours and in a conspicuous location so that it may be readily seen by all persons entering the facility.
15. No on-site consumption of cannabis or cannabis products is permitted at any time.
16. The permitted business hours shall be from 9:00 AM to 8:00 PM, seven days a week. Any changes to the approved business hours shall require prior approval of the City of Hayward Development Services Director and Police Chief, or their designees.
17. Storefront windows shall be kept free and clear of all interior or exterior obstructions including, but not limited to, display cases, curtains, black-out window tinting, signage, posters or any other methods of obstructing or obscuring natural light and clear views into the tenant space.

18. No cannabis odors shall be detectable outside of the retail dispensary. The applicant/business owner incorporate and maintain adequate on-site odor control measures such that any cannabis-related odors cannot be readily outside of the dispensary or within any adjoining businesses within the subject shopping center.
19. The applicant/business owner shall notify the City if it intends to transfer ownership or operational control to any individual/entity other than the applicants of record for this approved Conditional Use Permit. The transferee(s) shall be responsible for complying with all applicable local and state licensing requirements. Any conditions imposed upon the transferor by this Conditional Use Permit shall be binding upon any subsequent transferee(s). Any transfer of ownership or operational control which results in a lapse of normal business operations for a period of six (6) months or more shall be required to obtain approval of a new Conditional Use Permit.
20. The City may require modification, discontinuation or revocation of this Conditional Use Permit if it determines that the retail dispensary is being operated in a manner that:  
(a) adversely affects the health or safety of persons living or working or patronizing the other businesses in the area surrounding the dispensary; (b) contributes to or creates a public nuisance in the opinion of the City Manager and/or Chief of Police; (c) has resulted in excessive nuisance activities, including disturbances of the peace, illegal drug-related activity, diversion of commercial cannabis or cannabis products, public intoxication, smoking in public, harassment of passersby, littering, or obstruction of any street, sidewalk or public walkway, including the walkways around the subject shopping center; or (d) violates any provision of the Hayward Municipal Code or condition imposed by a City-issued permit, or violates any provision of any other local or state regulation or order, including those of state law, or violates any condition imposed by permits or licenses issued in compliance with those laws.
21. This approval shall expire three (3) years after the effective date of approval unless a building permit application with plans matching the approved plans for this Conditional Use Permit have been submitted and accepted for processing by the Building Official.
22. The applicant/business owner shall obtain and maintain a valid Commercial Cannabis Business Permit from the City, in addition to any other state and local permits. Commercial Cannabis Business Permit applications and renewals are subject to the requirements of HMC Section 6-14.15. Commercial Cannabis Business Permits are valid for a period of one year and shall be renewed annually by the business owner. The permit is invalid if the term has expired and the annual fee, as established in the City of Hayward Master Fee Schedule, has not been paid in full and on time. Non-payment will result in a violation penalty fee in accordance with the Master Fee Schedule. Additionally, the City may invalidate or suspend a Commercial Cannabis Business Permit for excessive calls for service or nuisance citations.
23. The retail dispensary shall not commence operations until the applicant/business owner can demonstrate compliance with all necessary state and local licenses (dual licensing) and jurisdictional agency permits. Failure to demonstrate dual licensing in accordance with the Hayward Municipal Code shall be grounds for revocation of a City-

approved permit. Revocation of a local permit and/or a state license shall terminate the ability of the retail dispensary to operate until a new permit and/or state license has been obtained.

24. The applicant shall maintain books, records, accounts, public safety calls for service, and all data and information relevant to its operations, and allow the City access to such records for purposes of conducting an audit or examination to determine compliance with the Hayward Municipal Code and other local regulations, including compliance with local tax obligations. Prior to the applicant's Commercial Cannabis Business Permit renewal each year, the applicant shall provide the records to the City for review to verify compliance.

#### *Code Enforcement*

25. The retail dispensary shall maintain and visibly post valid copies of all required State, and City permits, including, but not limited to, the State Department of Cannabis Control license, City of Hayward Commercial Cannabis Business Permit and business license, and any other pertinent permits and licenses.
26. Every owner of real property containing a Commercial Cannabis Business within the City is required to manage the property in a manner so as not to violate any provisions of the Cannabis Ordinance, HMC Section 10-1.3600, or any State regulations. The property owner remains ultimately liable for all penalties and fees as a result of a violation of any of the requirements of the Commercial Cannabis Business thereof, regardless of any contract or tenant agreement or other third parties' involvement.

#### *Building*

27. The project shall comply with the edition of the California Building Code (CBC) in effect on the date of the building permit application for the project's tenant improvements.
28. The project shall comply with the California Plumbing Code (CPC) with regard to plumbing fixtures. Please note that if the change of use or occupancy from the prior tenant results in an increase of occupant load, a plumbing fixture analysis will be required (see the notes in 2022 CPC Table 422.1 under the heading). A change in occupant load may result in additional fixtures being required in the restrooms.
29. The proposed project will require disabled access upgrades based on CBC Ch. 11B section 202. For the building permit application, please include path of travel upgrade drawings and a completed *Summary of Disabled Access Upgrades* form which can be found on the City of Hayward Building Division's website.
30. For the building permit drawings, please include PME sheets as needed and a complete Title 24 energy report.

#### *Fire Safety*

31. A building permit is required for the installation of steel storage racks greater than six (6) feet in height. A Fire Department Annual Operational Permit is required for any

combustible storage (floor and/or rack) which exceeds 12 feet in height (Class I-IV type commodities) and/or any high hazard storage which includes commodities such as hazardous materials, flammable liquids, plastics, foam and rubber products, or any other classified commodity as dictated by the California Fire Code (CFC) and National Fire Protection Association (NFPA) 13 Standards, which exceeds 6 feet in height.

32. All building units shall have approved address numbers. Address identification numbers shall be placed in a position that is plainly legible and visible from the street or road fronting the property. Where access is by means of a private driveway or parking lot and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.
33. Duct smoke detectors that are installed within the heating/ventilation/air conditioning (HVAC) system (AHU's and Smoke Dampers) shall meet the California Mechanical Code for installation and the California Fire Code. Such detectors shall be interconnected to the building's main fire alarm control panel and zoned separately.
34. 2A:10BC type fire extinguishers are required throughout the building for every 75 feet of travel or every 3,000 square feet of space, including in dining/breakroom and service areas.
35. The existing overhead fire sprinkler system shall be altered to provide adequate coverage for the new operation. A separate submittal and permit is required for the fire sprinkler alteration by a California licensed C16 contractor.
36. The existing fire alarm system shall be altered to provide adequate coverage for the newly remodeled building. A separate submittal is required for the fire alarm alteration by a California licensed C10 contractor.

#### *Police*

37. The business shall provide adequate security on the premises, including on-site security, lighting and alarms, to ensure public safety and the safety of persons within the facility and to protect the premises from theft. Additionally, all Commercial Cannabis Businesses and Cannabis Operators shall include a security and safety plan prepared and implemented to the satisfaction of the Hayward Police Department.
38. Surveillance IP video cameras shall be installed at the public and vendor entrances and shall be maintained in good working order to provide coverage on a 24-hour real-time basis of all internal and exterior areas where Cannabis is dispensed. The cameras shall allow for remote access to be provided to the Hayward Police Department and shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. The surveillance cameras shall cover all parking lots and exterior viewpoints of the cannabis business. IP cameras shall remain active at all times and shall be capable of operating under any lighting condition. Security video footage must use standard industry format to support criminal investigations and shall be maintained for a minimum of 90 days.

39. Security guards shall use an identification (ID) card scanner to verify the authenticity of IDs for all patrons who enter the business.
40. All points of ingress and egress to the proposed use shall be secured with Building Code compliant commercial-grade, non-residential door locks and/or window locks. There shall be two security guards present during all business hours. One guard shall be stationed at the vendor entrance and be responsible for monitoring the exterior of the dispensary to ensure no loitering or public consumption occurs, and one shall be stationed at the public entrance, unless otherwise permitted in writing by the Chief of Police.
41. A professionally monitored security alarm system shall be installed and maintained in good working condition. The alarm system shall include sensors to detect entry and exit from all secure areas and all windows. The applicant shall keep the name and contact information of the alarm system installation and monitoring company as part of the Commercial Cannabis Business's onsite books and records.
42. Cannabis products and associated product distribution and dispensing waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance.
43. The business shall implement procedures for safe and secure transportation and delivery of commercial medical and non-medical cannabis, including all cannabis products and currency, in accordance with local and state law. None of the vehicles associated with the business shall have markings or advertising that indicates the presence of cannabis on-site.
44. Security measures shall be designed to ensure emergency access is provided to the Hayward Police Department and Hayward Fire Department for all areas on the premises in case of an emergency.
45. During regular business hours, the building premises shall be accessible, upon request, to any identified Hayward Police Department, Building Division or Code Enforcement employee for random and/or unannounced inspections.
46. All employees working in conjunction with the retail dispensary shall be subject to background/LiveScan checks. Additionally, all employees shall furnish the Hayward Police Department a state or federal registered Identification Card upon request.
47. The business operator shall identify a local contact who will be responsible for addressing security and safety issues and shall provide and keep current contact information to the Hayward Police Department as part of the permitting process.
48. The business operator shall notify the Hayward Police Department regarding any theft or loss of product, robbery or unauthorized access or breaches.

**Prior to the Issuance of Building Permit**

*Planning*

49. All outstanding fees owed to the City for the staff time spent processing and obtaining the approval of this Conditional Use Permit application shall be paid in full prior to consideration of any approval extension requests and/or the issuance of a building permit to construct the project.

*Water Pollution Source Control*

50. The trash enclosure shall have a drain connection to the sanitary sewer serving the property with a minimum 5 percent slope to the drain. Details for the sewer connection shall be included in the building permit plan set for the project.

*Solid Waste*

51. All construction and demolition debris shall be recycled. Submittal of a waste management plan shall be required at the time of building permit application submittal. Please either visit the City's Green Halo website at: <https://wastetracking.com/city/hayward/> and create a waste management plan online or complete a Debris Recycling Statement, available online here: <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.
52. The applicant shall contact Waste Management of Alameda County at (510) 537-5500 to determine whether the business's carts/bins can be serviced at the trash enclosure or be required to be placed out at the curbside for collection. If the carts or bins must be placed curbside for collection, such carts or bins shall not be placed earlier than 6:00 AM on the day before scheduled collection, and shall be retrieved and removed from public view by midnight on the day of collection.

-End of Conditions-