

**CITY OF HAYWARD PLANNING DIVISION
PROPOSED CANNABIS CULTIVATION FACILITY
HIDDEN FARMS, 3166 DIABLO AVENUE
CONDITIONAL USE PERMIT APPLICATION NO. 201805426**

FINDINGS FOR APPROVAL

Conditional Use Permit

Pursuant to Hayward Municipal Code Section 10-1.3200, The Planning Commission or other approving authority may approve or conditionally approve an application when all the following findings are made:

1. *The proposed use is desirable for the public convenience or welfare;*

The proposed cultivation facility would be desirable for the public convenience and welfare in that it would result in establishment of a cannabis cultivation facility in a vacant and underutilized industrial building within the Industrial General (IG) Zone. The cannabis cultivation facility would also positively contribute to the City by paying local taxes. Additionally, the site would be renovated, and the applicant would provide 24-hour security guard service on Diablo Avenue, benefitting the neighborhood.

2. *The proposed use will not impair the character and integrity of the zoning district and surrounding area;*

The proposed cultivation facility would occupy an existing building that has been vacant and underutilized for over two years. The subject building's lack of basic maintenance and investment of the site has resulted in a negative visual impact on the surrounding neighborhood. Occupancy of the vacant structure and proposed site improvements would signal increased investment in that area. Further, in the IG Zone, cannabis cultivation is an allowed use. If approved, the cannabis cultivation facility would operate in similar fashion as other surrounding industrial uses.

To ensure that the proposed use would not impair the character and integrity of the applicable zoning district, the proposed cultivation facility would have to adhere to all the requirements set forth by the City's Cannabis Ordinance, in addition to the requirements set forth by the Hayward Police Department, Hayward Fire Department, Hayward Building Division, and all other pertinent regulations established by State, County and local laws.

3. *The proposed use will not be detrimental to the public health, safety, or general welfare; and*

The proposed cannabis cultivation facility use would not be detrimental to the public health, safety or general welfare in that the facility, as conditioned, would operate within the permit requirements and regulations established by State, County and local laws. The applicant has provided an Odor Mitigation Plan to ensure that cannabis odors cannot be detected outside of the building, and a

detailed Security Plan that includes installation of security cameras inside and outside of the building; a security guards to be present at all time including after hours when the business is not operating. Additionally, the facility would have an alarm system; compliance with a State-mandated track and trace program to prevent diversion of cannabis; a records retention program; and identification of a local contact to handle all safety and security issues.

The applicant's Business and Security Plan were reviewed and evaluated by an independent consultant and determined to include procedures and protocols to ensure public safety. Additionally, the applicant and all employees associated with the business are subject to an extensive background check by the Hayward Police Department and will be subject to employee training.

4. *The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.*

Per Table 10-1.1603 of the Hayward Municipal Code, uses such as a cannabis cultivation facility, is an allowed use in the IG Zone. The proposed use would contribute positively to the City's tax base, and comply with the following 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.
- *Land Use Policy LU-6.2.* The City shall encourage the conversion of obsolete industrial and warehouse distribution space to a productive use, such as advanced manufacturing, professional office centers, corporate campuses, research and development parks, and flex space.
- *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.

Cannabis Ordinance

In addition to the required findings contained in Section 10-1.3125 (Conditional Use Permit), every land use application requiring discretionary review for cannabis and cannabis products shall be required to make the following findings prior to issuance:

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;*

The proposed cannabis cultivation facility would not be detrimental to the public health, safety or general welfare in that the facility, as conditioned, would operate within the permit requirements established by the State and by the City. Per the City's

Land Use requirements, cannabis cultivation facilities in excess of 5,000 sq. ft. are allowed in the IG Zone, by way of a Conditional Use Permit.

The proposed project would incorporate a robust Safety and Security Plan. Including but not limited to on-site security guards, cameras, security lighting, employee background checks, Conditions of Approval related to loitering and nuisances, and the facility would not be open to the public. Thus, assuring public health and safety within the vicinity of the subject site.

2. *Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste related to the cannabis operation;*

Physical and operational safeguards are in place to ensure this cannabis cultivation facility operates at the proposed location without impacts to other properties. The proposed project includes an Odor Mitigation Plan a robust Security Plan including but not limited to installation of cameras inside and outside of the building, provision for on-site security guards, ID scanners, and employee background checks among other safety and security measures.

As part of the initial RFP process, the applicant's business plan for this use permit was reviewed and scored by an independent, outside consultant who determined this operator would meet the City's objectives related to cannabis industry best practices. Furthermore, per the proposed Conditions of Approval and by Ordinance, cannabis permits shall be renewed annually. Providing the City, a yearly opportunity to reevaluate the proposed business, and ensure compliance with the approved business plan, the conditions of approval, and all pertinent City regulations.

3. *The cannabis operation is designed to be safe, secure and aesthetically compatible with the surrounding area; and*

The proposed cannabis cultivation facility would occupy an existing building that has been vacant for over two years. The subject building's lack of basic maintenance and investment has resulted in a divested building. Occupancy of the vacant structure along with the façade and site improvements would signal increased investment in that area.

To ensure aesthetic compatibility with the surrounding area, the loading and unloading of cannabis product would only be allowed by way of the loading dock located to the rear of the building. Additionally, the applicant would replace the existing landscape, paint the building, add security cameras, and security lighting to ensure safety and aesthetic compatibility with the surrounding area.

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

As proposed, the applicant would lease a currently vacant, dilapidated industrial space in the IG Zone. As conditioned, staff does not foresee an impact on public services. So long as the applicant adherence to the comprehensive Security and Safety Plan and

conditions of approval prohibiting loitering and on-site consumption. In addition, the applicant would be required to submit for an annual review. Requiring inspection of the cannabis cultivation use by way of the City's Code Enforcement Division, Police Department and Fire Department. Further, as conditioned, any excessive calls for service, including nuisance and code violations, may result in the revocation of the approval.

5. *The required 600-foot setback for sensitive uses may be reduced if it is found that the public convenience and necessity will be served by an alternate distance requirement, and that alternative measures to assure public health and safety are in place with respect to the commercial cannabis business.*

Per the City's land use regulations, cannabis cultivation facilities are allowed in the IG Zone if approved by way of Planning Commission. As proposed, the project site would adhere to the 600-foot buffer from sensitive uses and no reduction of this setback is required.

Environmental Review

1. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1), Existing Facilities, in that the proposed use would occupy an existing industrial building to accommodate a cannabis cultivation facility. As proposed and conditioned, the proposed use will not result in any significant effects related to traffic, noise, air quality and water quality.