

**CITY COUNCIL
MEETING**

DECEMBER 16, 2025

PRESENTATIONS

Item #11

PH 25-049

**Phenos
Hayward CUP**

Phenos Hayward Conditional Use Permit Application No. UP-25-0011

City Council Meeting
December 16, 2025
Steve Kowalski, Senior Planner



Background

- **Fall 2017:** Council adopts ordinance regulating commercial cannabis businesses
- **July 2018:** Council grants Esther Lopez one of three Commercial Cannabis Business Permits to operate retail dispensary in the City
- **March 2020:** Council approves CUP application to operate dispensary at 1147 B Street
- **April 2025:** Applicant files new CUP application to locate at former Walgreens site
- **September 2025:** PC votes 5-1 (w/ one recusal) to recommend denial of CUP

Project Details

- ±21,800 sq. ft. retail center containing martial arts studio, donut shop & dental office
- Dispensary would occupy ±14,900 sq. ft. anchor space; retail floor area to be ±4,000 sq. ft.
- 61 total shared parking spaces for all tenants
- Open 9:00 AM to 8:00 PM daily
- Minimum of three employees per shift, plus two professional security guards
- NO delivery service provided & NO on-site consumption permitted

Primary Concerns Raised at Planning Commission Hearing

- Inappropriate location next-door to martial arts studio where children train daily; minors may be enticed to enter dispensary
- Martial arts studio patrons & nearby residents may be exposed to undesirable nuisance activity (e.g., loitering, public consumption/intoxication, etc.)
- Could be magnet for serious/dangerous crimes such as burglaries, armed robberies, etc.
- Will generate more traffic on already busy Foothill Boulevard corridor and worsen Foothill/Grove intersection congestion
- Insufficient parking on-site for dispensary customers and patrons of other businesses
- Too close to another dispensary; will create cluster & convey negative image of area

Addressing Planning Commission Concerns

Inappropriate Location:

- Applicant team operates several dispensaries throughout California, all of which are designed to be inconspicuous
- Minimal signage & no exterior advertising of products offered

Potential for Minors to Enter:

- All patrons required to provide government-issued ID at entrance
- Applicant team has never had an attempt by minor to enter/purchase products at any of its dispensaries

Potential for Clientele to Engage in Undesirable Activity:

- One security guard to regularly sweep exterior of premises to ensure no loitering or public consumption occurs
- No history of complaints regarding such activity at either Cookies or Garden of Eden
- Staff surveyed cities of San Leandro & Union City and neither experienced such problems at their dispensaries

Addressing Planning Commission Concerns, continued

Possibility of Use Generating Serious Crimes:

- 5 total attempted robberies/burglaries at Cookies over past 2 years
- 1 robbery involving vehicle used as battering ram through entrance at Union City dispensary in past 5 years; subsequent installation of bollards across the storefront has since prevented such robberies
- Robust security plan to be implemented which features:
 - ✓ Two professionally licensed & armed security guards on site during all business hours; will monitor premises to ensure no illegal activities occur and no minors enter
 - ✓ 24-hour professionally monitored security alarm system
 - ✓ Internet protocol, high-definition surveillance camera system covering entire interior and exterior of dispensary, including parking lots and walkways shared with adjacent businesses
 - ✓ Industrial grade steel bollards to be installed across storefront entrance to prevent ram-style break-ins
 - ✓ Commercial grade locks to be installed on all window & doors

Addressing Planning Commission Concerns, continued

Increased Traffic:

- According to latest Institute of Transportation Engineers Trip Generation Manual (standard used by all public agencies), dispensaries generate less trips than drugstores

Insufficient On-Site Parking:

- Proposed dispensary's retail floor area is approximately 1/3 the size of former Walgreens store; as such, its parking requirement is significantly lower

Two Dispensaries So Close Together Creates Cluster:

- Hayward Municipal Code requires minimum distance of 500 feet between dispensaries to prevent clustering; Garden of Eden is ±740 feet away (in unincorporated Alameda County); Cookies is ±1.5 miles away

Applicants' Community Benefits Package & Outreach Efforts

- One-time \$20,000 contribution to *Women and Men On The Way*, non-profit organization providing support for adults suffering from various addictions
- Additional charitable donations of up to \$80,000 to other local non-profit organizations willing & able to accept monetary gifts
- Advance payment to City of \$1 million of projected cannabis tax revenues from 1st year of operation
- Provided numerous letters of recommendations from various elected officials, city managers & police chiefs of cities where they operate dispensaries
- Approached & obtained support of next-door martial arts studio owners and several of their members

Additional Concerns Expressed Since Planning Commission Hearing

- Concerns from other dispensary owners about “big-box chain” nature of dispensary and negative impacts it could have on smaller competitors
- Concerns from other business owners along Foothill about negative image that two neighboring dispensaries could convey for City & surrounding area
- Concerns about Co-Applicant Bert Sarkis’ past practices as business owner of some dispensaries in Central Valley (based on info found on social media)
- Several more emails repeating previously-expressed concerns about traffic, undesirable behavior by customers, overconcentration and crime

Rationale for Staff's Approval Recommendation



- ✓ Features robust & proven security plan which Hayward Police Department has reviewed and approved
- ✓ Dispensary will be subject to annual renewal/inspection requirements of Commercial Cannabis Business Program
- ✓ CUP can be revoked if dispensary causes excessive problems for Hayward Police Department or neighbors
- ✓ Also requires license from State Department of Cannabis Control which can be revoked
- ✓ Consistent w/ goals and policies contained in Land Use, Economic Development & Community Safety Elements of Hayward 2040 General Plan
- ✓ Favorable Community Benefits package

A nighttime aerial photograph of a city, likely Hayward, California. A large bridge with multiple spans is visible in the upper half of the image, illuminated with lights. The city below is densely packed with lights, and the foreground shows rolling green hills. The sky is dark with some light trails from vehicles.

STAFF RECOMMENDATION:

That the City Council adopt the Draft Resolution in Attachment II approving the Conditional Use Permit to allow operation of the proposed retail dispensary as shown in Attachment IV, based on the draft findings and subject to the recommended conditions contained in the Resolution.

Item #12

WS 25-040

**City Budget
Status Update**

Budget Update

Hayward City Council

December 16, 2025

Activity	Estimated	Realized
Transfer/loan of funds from Measure C	9,750,000	9,750,000
One-time transfers in or reductions of transfers out from other funds	1,900,000	
Anticipated one-time revenue & recovery from taxes and deposits	1,500,000	
Increase to the Transient Occupancy Tax	250,000	
Additional vacancies and overtime reductions	2,900,000	
Reductions in services and supplies	3,000,000	3,000,000
End assignments for temporary employees	400,000	
Remaining gap, to be covered through personnel-related savings	6,747,495	3,000,000
Additional personnel-related savings due to previously unbudgeted contractual COLA	1,086,900	1,086,900
TOTAL Activities	27,534,395	16,836,900

Frequent Questions

Why can't we spend down Measure C further?

- We need a cash contingency to manage cash flow, bond requirements, and for use in case of an emergency.

Why can't we borrow from the enterprise funds?

- This is not a sustainable solution. The City would be required to pay interest with a defined payment plan which only increases expenses to the general fund and does not resolve the longer-term structural issue.

Why don't we increase our revenue projections, especially for sales tax?

- The City works with a sales tax consultant (Nuemo also known as MuniServices)
- We have the first three months of data. Sales tax is up slightly from same period last year, but the September amount, which includes the County true up, showed a large decline:

Sales Tax	July	Aug	Sep (Q3)	Total for the Quarter
FY25	3,838,905	3,508,871	5,220,265	12,568,041
FY26	4,227,334	4,732,347	3,622,053	12,581,734

- As part of November update, staff moved from consultant's "most likely" estimate to their "optimistic estimate"
- Nuemo does not recommend changing the forecast further and anticipate further declines, especially a reduction in Hayward's share of the Council pool

Why don't we have budget to actuals to share tonight?

- Staff is rebuilding the budget based on the November 18 Council presentation and the actions taken since. This will be completed in early January. At that time, the budget will be approved and accurate.
- Starting in January, staff will present budget to actuals with the City Council on a regular basis and Department Heads will be running budget to actuals regularly and reviewing them with the City Manager
- This item will be discussed further at the Council Budget and Finance Committee on 12/17/25

Next Steps

December 17	Layoff notices issued
December 17	Council Budget & Finance Committee Meeting <ul style="list-style-type: none">• Status of Fiscal Year 26 budget activities• Discuss February Update / Fiscal Sustainability Plan• Discuss budget-to-actual reporting samples
January 6	Council Meeting: Work session to brainstorm ideas that Council wants included in the February meeting
January 20	Council meeting: Budget Update
February 3	Council Closed Session: Property Disposition
February 28 (pending Council polling)	Saturday Council Budget Work Session: Budget update and Fiscal Sustainability Plan

Questions?

Item #13

LB 25-046

**Temporary
Moratorium**

A wide-angle photograph of Hayward City Hall at dusk. The building is a large, light-colored stone structure with a prominent glass-enclosed entrance. The sky is filled with dramatic, colorful clouds in shades of pink, orange, and blue. In the foreground, there is a paved plaza with some trees and a small white tent where a few people are standing. A street with some traffic is visible to the right.

Proposed Moratorium on New Massage Businesses

Police Dept., Development Services Dept., City Attorney's Office
December 16, 2025

Existing Massage Regulations

- **Zoning Ordinance**

- Allowed by right in the Downtown core
- Conditional Use Permit (CUP) required in select other commercial districts
- Prohibited in all other parts of the City

- **Massage Permit Ordinance**

- Requires permit to operate massage business
- Establishes criteria for issuance, suspension and revocation of permits
- Imposes specific operational criteria

Current Challenges

- **Increase of Massage Establishments**

- Since 2020, 7 new businesses have opened/ changed ownership in the City of Hayward
- 17 permitted massage establishments

- **Illicit activity/ unpermitted premises**

- 5 unpermitted massage establishments
- 10 permitted locations have complaints of illicit activity

- **Police Department Staffing**

- 1 Vice Detective/ 1 Sgt assigned to Vice unit to regulate massage establishments/ investigate complaints

Proposed Solutions

- **Phase 1: Temporary Moratorium**

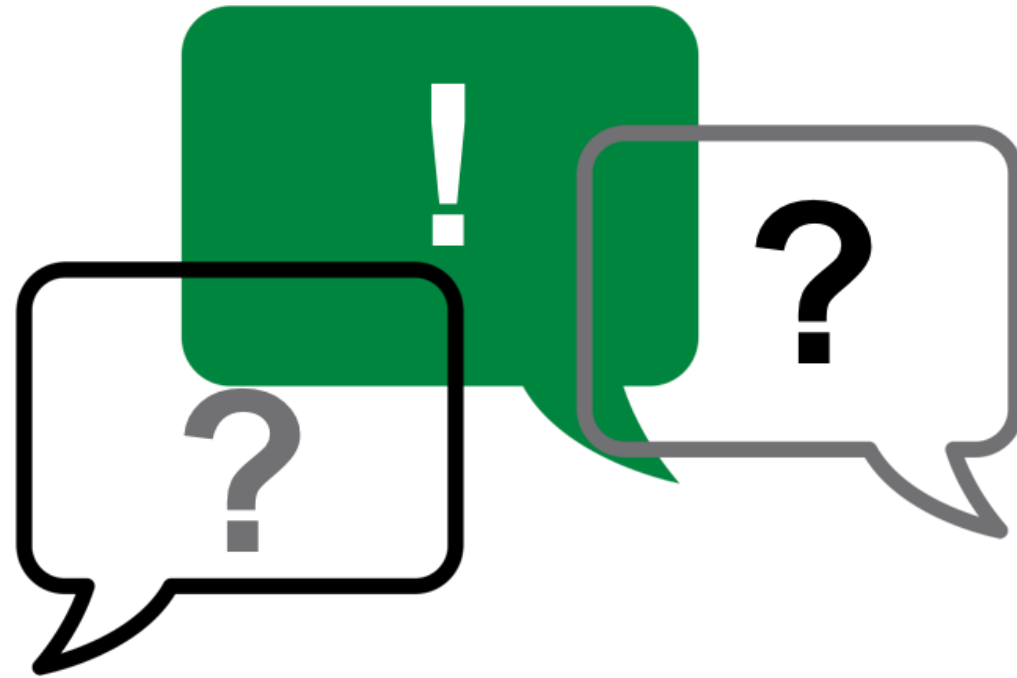
- State Law allows adoption of temporary moratorium on new uses to address public health, safety and welfare.
- 45-day initial term with extensions allowing up to 2-year total term.

- **Phase 2: Permanent Amendments** *(Anticipated Adoption Spring 2026)*

- Zoning Ordinance
 - *Require CUP for massage establishments in select zoning districts, including Downtown*
 - *Prohibit massage establishments in all other zoning districts*
- Massage Ordinance
 - *Strengthen operational requirements*
 - *Expand criteria for suspension or revocation of permits*
 - *Require a CUP for change of ownership of massage establishments*

Staff Working Group

- **Hayward Police Department – Vice Unit**
 - Sgt. Anthony Carrasco
 - Det. Gabrielle Wright
- **Development Services Department**
 - Elizabeth Blanton, Senior Planner
- **City Attorney's Office**
 - Michael Vigilia, Senior Assistant City Attorney



Item #14

LB 25-047

**Mayor Pro Tempore
Election**

MAYOR PRO TEMPORE

ITEM 14: LB 25-047

Mayor Pro Tempore Election: Adopt a Resolution Authorizing the Election of Mayor Pro Tempore of the City of Hayward for 2026

Tuesday, December 16, 2025
Miriam Lens, City Clerk

MAYOR PRO TEMPORE

CITY CHARTER: Section 605

- Shall serve for a term of one year (January 1st to December 31st).
- Shall have served at least two years on the Council prior to being elected.
- Shall perform the duties of the Mayor during the Mayor's absence.

MAYOR PRO TEMPORE

CURRENT MAYOR PRO TEMPORE: Council Member Roche

- January 1, 2025 to December 31, 2025

ELIGIBLE MAYOR PRO TEMPORE: Council Member Syrop

- January 1, 2026 to December 31, 2026

RECOMMENDATION

That Council:

1. Accepts public comment; and
2. Comments on the report; and
3. Adopts a resolution electing the Mayor Pro Tempore of the City of Hayward for 2026.

