



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**

This meeting was conducted utilizing teleconference and electronic means consistent with State of California Executive Order No. 29-20 dated March 17, 2020, and Alameda County Health Officer Order No. 20-10 dated April 29, 2020, regarding the COVID-19 pandemic. Members of the Planning Commission, City Staff, and members of the public participated via the Zoom Webinar platform.

MEETING

A special meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair Bonilla.

ROLL CALL

Present: COMMISSIONERS: Ali-Sullivan, Andrews, Goldstein, Patton, Roche, Stevens
CHAIRPERSON: Bonilla
Absent: COMMISSIONER: None

Chair Bonilla welcomed new Planning Commissioner Ali-Sullivan to his first meeting. Commissioner Ali-Sullivan thanked the Commission and staff for all their help.

Staff Members Present: Billoups, Buizer, Chan, Martinez, Vigilia, Wright

PUBLIC COMMENT:

Mr. Greg, Hayward resident, spoke in reference to Item #1, about traffic concerns, public smoking, and issues with the homeless in the parking garages.

Chair Bonilla reminded the speaker that this Public Comment section is for items not on the agenda.

PUBLIC HEARING:

For agenda item No. 1, the Planning Commission may make a recommendation to the City Council.

1. Proposed Commercial Cannabis Retail dispensary with Ancillary Retail Delivery within an Existing Commercial located at 22701 Foothill Boulevard and 1055 C Street (APNs 428-0066-058-01 and 428-0066-056-00), Requiring Approval of Conditional Use Permit Application No. 201906312. Rajiv Pottabathni, Jiva Life LLC (Applicant); Ryan Bridge LLC (Property Owner).



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**

Associate Planner Martinez provided a synopsis of the staff report and PowerPoint presentation.

Mr. Raj Pottabathni, applicant, spoke about the project and presented a PowerPoint presentation and introduced Patrick Orosco, Property Owner; Matt Nohr, Facility Development; and Armando Guido Lopez, Architect.

Mr. Patrick Orosco, Property Owner, spoke about the project.

Discussion ensued between the Commissioners, staff, the applicant, and property owner, regarding the following:

Commissioner Roche asked about the role of the community liaison; the applicant's experience with intervention dealing with public and community issues; asked staff about what will happen if there are issues with the three cannabis dispensaries.

Commissioner Goldstein asked about concerns regarding people smoking pot in the downtown parking lots. Mr. Goldstein said the Conditions of Approval (COA) addresses the business owners' responsibilities to monitoring their area and that the dispensaries are subject to additional review and that said there is a direct link between HPD and the dispensaries to make sure the areas are kept safe and free of illegal activity.

Commissioner Ali-Sullivan asked about sales tax estimates, number of potential customers, community benefit program, other stores opening, and improvement plans for the adjoining building.

Commissioner Andrews asked about the neighborhood community liaison, trash issues and partnering with the Keep Hayward Clean and Green Task Force (KHCGTF) to clean up Hayward's streets; suggested they consider participating in the Adopt a Block program and incorporate a public art element; encouraged them to hire locally with a focus on the equity program; and participate in pop up programs. Ms. Andrews said the Hayward Police Department (HPD) needs to address nuisance issues and to have a plan to address these issues.

Commissioner Stevens asked why are the cannabis dispensaries concentrated in the downtown (DT) area, why was the buffer reduced, have there been studies that show increase in revenue for surrounding businesses as a result of the cannabis dispensaries; process of earmarking a tax for a specific use; compare and contrast the differences between a cannabis dispensary and a liquor store.



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**

Chair Bonilla appreciated Commissioner Stevens' last question, referred to the new ban on flavored cigarettes primarily because of tobacco stores proximity to sensitive uses; cannabis products names are attractive to youth; and are there studies that indicate cannabis is healthier than tobacco. Mr. Bonilla said the same argument for banning flavored tobacco products can be applied to cannabis dispensaries and that it is important to set policy based on a consistent set of standards.

Mr. Pottabathni spoke about the role of the neighborhood community liaison; they want to be a good neighbor; successful training of employees to deter issues; they will hold a virtual open house. He shared that at a store grand opening there was increased foot traffic for other retailers.

Associate Planner Martinez responded that the cannabis dispensaries are relatively new and the City will be gathering data over this initial year; the current lack of activity in the downtown garages lends itself to illegal activity and since the Cookies dispensary just recently opened, he cannot say if there is a link between the dispensaries and the illegal activity and that staff will do its best to deter public consumption. Mr. Martinez shared that Council direction was that the land use designation was to be in the downtown area and Council reduced the buffer because of the proximity of the chosen applicants. Mr. Martinez said liquor and cannabis are both controlled substances and are regulated.

Planning Manager Buizer said that by Council direction that the DT area was chosen as they wanted to permit a limited number of cannabis dispensaries; Council did not want the dispensaries to be in satellite commercial centers that were closer to other residential uses.

Mr. Patrick Orosco spoke about the building plans and future tenants and spoke about group shopping for convenience and safety and how it helps bolster retail.

Senior Assistant City Attorney Vigilia stated that the 7% sales tax is a general tax and is not earmarked until the City Council makes budget decisions.

Detective Wright spoke about police procedures when they are called for incidences of smoking tobacco or pot and that if there is increased nuisance activity then her unit will be called in to address issues.

Chair Bonilla opened the public hearing at 8:18 p.m.

Mr. Greg, Hayward resident, spoke about the need to have controls for alcohol; City is not able to control the people who visit downtown; there is trash from Cookies; traffic and speeding issues; cannabis dispensaries will encourage youth usage; and concerns about impacts to parking garages and the downtown area.



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**

Mr. Kim Huggett, Hayward Chamber of Commerce President, spoke in favor of cannabis dispensaries; the Chamber is pleased with Cookies operations, traffic has not been an issue; and the HPD are pleased with the safety measures in place. Mr. Huggett said he has not seen trash from Cookies and that Cookies has taken to heart the Use Permit restrictions. Mr. Huggett referred to his letter of support for JIVA Life.

Chair Bonilla closed the public hearing at 8:28 p.m.

Commissioner Patton said the staff report does not address the previous Hayward Fishery restaurant which was an iconic Hayward business in the east bay and has concerns that this former business should be covered under the City's historical cultural resource. Mr. Patton asked as part of the applicant's community benefit, what ideas does the applicant have such as retaining the Hayward Fishery signage; donating the sign to the Historical Preservation Society; or establishing a space within the dispensary that can pay tribute to the Fishery.

Mr. Patrick Orosco responded about having had similar discussions about the sign and that the report addressed the state of the building which was unsalvageable. Mr. Orosco said they will discuss about incorporating the history of the Hayward Fishery through the public art. He said the sign was donated to the party that paid to have it removed about a year ago.

Commissioner Roche said regarding the concerns about the dispensaries' impacts to Hayward's downtown, the safety measure in place is that these are all one-year permits subject to annual review. Ms. Roche has the same concerns as Chair Bonilla regarding the recent passing of the tobacco ban and that possibly a missed opportunity was to have the smoke shops be required to have the same security measures in place as the dispensaries. It is important that the Planning Commission have consistent standards that the Commission can refer to when reviewing projects. She supports Commissioner Andrews' suggestion of incorporating community art as this is a gateway location onto Foothill Boulevard. Ms. Roche encourages the applicant to partner with the City and local organizations, such as the KHCGTF and the Downtown Streets Team, which will enable them to be a benefit to Hayward's downtown area. She hopes that other dispensaries can benefit from the applicant's experience.

Commissioner Ali-Sullivan asked if the applicant had any concerns about the proximity of the two other stores. Mr. Ali-Sullivan stated that nothing has been presented that this retail business will add more to the City's trash or traffic perspective than any other type of retail business; and there is a clear incentivized regime for the applicant to ensure compliance with the strict annual requirements at the state, county, and local levels. Mr. Ali-Sullivan acknowledges that the applicant has met the requirements of the City's rules and regulations.



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**

Mr. Pottabathni said each store will bring a different demographic; parking access; customer service; they will price match; and are geared towards the new user.

Commissioner Andrews echoed Planning Commissioner Roche's comments that the dispensaries are subject to annual reviews to make sure they are a good business and not a nuisance and if there are any issues, the public can contact Hayward staff via Access Hayward; call HPD; and contact the Planning Department. Ms. Andrews suggested that the applicant be open to community service beyond the downtown area; partner with KHCGTF and participate in the Adopt-a-Block program. Ms. Andrews was glad Planning Commissioner Patton mentioned the Hayward Fishery sign and if there is an opportunity to bring the sign back it could be the sculpture piece or the applicant can work with another artist on an art piece.

Commissioner Stevens appreciates all the previous efforts of staff and Council; he supports Proposition 64 and the sale of cannabis products in Hayward; appreciates JIVA business model and architectural design. Mr. Stevens has concerns that the City is racing into retail cannabis without any really good studies being done; concentrating the dispensaries in the downtown area and he said that this is a land use issue and on how the City plans the downtown area. Mr. Stevens said for guidance, he researched the Downtown Specific Plan and that the introduction states that downtown Hayward is the Heart of the Bay and is a destination for visitors and residents. He said with all the great new development coming downtown it will eventually be a great place. He said the plan specifically says that stakeholders seek a greater diversity in business, housing, and mixed used development. Mr. Stevens said with three dispensaries and the Garden of Eden to the north, there is an over concentration in a small area and over saturation of the market. He said cannabis is a controlled substance and can present challenges in the future and compared the parallels between land use and alcohol sales, the many studies on alcohol use and impacts and with the lack of studies on cannabis, why is the City experimenting with downtown Hayward. Mr. Stevens does not support the item as it is not consistent with the Downtown Specific Plan, he would support the item if there was actually tax monies generated by the dispensaries that would be used to help make the downtown a more vibrant place and help other businesses thrive and meet the goals of the DT Specific Plan.

Chair Bonilla shared similar concerns with Planning Commissioner Stevens but feels the cannabis dispensary could work at this location; agrees with the suggestions of incorporating public art and/or sculpture; appreciates the applicant's comprehensive business plan; has fundamental concerns when viewing the products that these could be marketed and attractive to youth. Mr. Bonilla said this is a prominent corner within our City and whatever can be done to make this corner more attractive would be highly beneficial. Chair Bonilla suggested Adopt a Parking Lot and for the applicant to research partnering with the City staff on this and that it could be an opportunity for the dispensaries to help the communities' perception that they are more of a community resource as opposed to how liquor stores or bars are negatively



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**

perceived.

Planning Commissioner Roche asked the applicant what has the applicant done to ensure the products they have for sale are not attractive to youth.

Mr. Pottabathni responded that his stores have a medical identity with a recreational vision and his products will be different than other dispensaries; they are retail stores and have not received any complaints and that just because a product is colorful does not mean they are being marketed to youth. He said they will do their best not to have any products that are attractive to youth noting that there is a lot of product variety and the opportunity for their stores to carry different products from different manufacturers and distributors.

Chair Bonilla asked if there are similar decoy operations for cannabis dispensaries as there are for tobacco products.

Detective Wright said HPD staff is currently brainstorming on how to conduct decoy operations on cannabis dispensaries and that HPD informs all establishments, tobacco and liquor shops and cannabis dispensaries that HPD has decoy operations because the City wants all the establishments to always be checking IDs and to be in compliance.

A motion was made by Commissioner Ali-Sullivan, seconded by Commissioner Roche, to approve the staff recommendation to make a recommendation of approval (?) to the City Council.

Planning Commissioner Andrews made friendly amendments for three additional conditions of approval (COA), for the applicant to: 1) volunteer 20 hours with the KHCGTF; 2) participate in the Adopt a Parking Lot or Adopt a Block program; and 3) guarantee to incorporate a public art component.

Associate Planner Martinez stated that this is the last cannabis dispensary application and questioned if these conditions asked of the previous two dispensary applicants.

Planning Commissioner Andrews stated that the recommendation for a public art component was added for Auntie Honey's and there was already art on the Cookies building. Ms. Andrews said she does not recall if the cleanup condition was added for the other two cannabis dispensaries but since this is such a prominent location, she wanted to make sure that this particular applicant is doing their part for the City.

Mr. Pottabathni was amenable to the three additional COAs.

Planning Commissioner Ali-Sullivan commented that he has concerns about shifting the



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**

burden of cleanliness of a municipal parking lot onto a private individual but since the applicant is amenable to the additional three COAs, he then accepts the three friendly amendments as proposed.

Planning Commissioner Roche accepts the three friendly amendments.

A motion was made by Commissioner Ali-Sullivan, seconded by Commissioner Roche, to approve the staff recommendation to make a recommendation to Council with the additional three conditions of approval for the applicant to: 1) volunteer 20 hours with the KHCGTF; 2) participate in the Adopt a Parking Lot or Adopt a Block program and 3) guarantee to incorporate a public art component. The motion passed with the following roll call votes:

AYES: Commissioners Ali-Sullivan, Andrews, Goldstein, Patton, Roche
Chair Bonilla
NOES: Stevens
ABSENT: None
ABSTAIN: None

APPROVAL OF MINUTES

2. Approval of the Planning Commission Meeting Minutes of September 10, 2020.

A motion was made by Commissioner Andrews seconded by Commissioner Stevens to approve the Planning Commission Meeting Minutes of September 10, 2020. The motion passed with the following roll call votes:

AYES: Commissioners Andrews, Goldstein, Patton, Roche, Stevens
Chair Bonilla
NOES: None
ABSENT: None
ABSTAIN: Ali-Sullivan

COMMISSION REPORTS

Oral Report on Planning and Zoning Matters:

Planning Manager Buizer said to address Commissioner Stevens' comments on the previous item, on October 20, 2020, as part of the City Council meeting, there will be a broker's panel with the City Council, where there will be experts in industrial, retail, office development and more, these experts will be asked about the COVID-19 impacts in those sectors and their forecasts.



**MINUTES OF THE SPECIAL MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
REMOTE PARTICIPATION
Thursday, October 8, 2020, 7:00 p.m.**


Commissioners' Announcements, Referrals:

Chair Bonilla reminded the community to make sure to get out and vote and be part of the solution. If anyone has any questions about the elections or voting, they can call the City Clerk's office at (510) 583-4400.

ADJOURNMENT

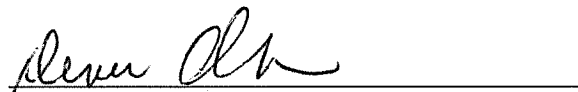
Chair Bonilla adjourned the meeting at 9:11 p.m.

APPROVED:



Julie Roche, Secretary
Planning Commission

ATTEST:



Denise Chan, Senior Secretary
Office of the City Clerk