



**DATE:** May 28, 2019

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Proposed Cannabis Retail Dispensary at 1004 B Street (Assessor Parcel No. 428-0061-056-00) by Siavash Afshar on Behalf of Hayward Station (Applicant); Alfred J Antonini (Property Owner), Requiring Approval of Conditional Use Permit Application No. 201806005

## **RECOMMENDATION**

That the City Council approves the Conditional Use Permit application for the proposed cannabis retail dispensary based on the analysis set forth in this report and the findings and conditions of approval in the attached Resolution (Attachment II).

## **SUMMARY**

Hayward Station is seeking Conditional Use Permit approval to establish a boutique, cannabis retail dispensary within a vacant, dilapidated historic building in Downtown Hayward. The proposed retail dispensary would provide cannabis and cannabis-related products to the members of the public that are 21 years and older for recreational use, and 18 years and older for medical use. The proposed project includes a security plan, odor control plan and would include improvements to the retail tenant space as well as the adjacent parking lot.

Activation of the space with a retail use and proposed façade and site improvements would energize the B Street commercial corridor, provided that the applicant treats the storefront appropriately, as conditioned.

## **BACKGROUND**

In 2015, the State of California enacted a comprehensive regulatory framework (AB 243, AB 266, SB 643) for the licensing and enforcement of cultivation, manufacturing, retail sale, transportation, storage, delivery and testing of medicinal cannabis in California. The legislation was collectively known as the Medical Cannabis Regulation and Safety Act (MCRSA).

On November 8, 2016, the voters of the state adopted 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 MCRSA and AUMA was to establish a comprehensive regulatory

system for cultivation, production and sale of cannabis and cannabis products, thereby weakening the illicit market for cannabis.

On June 15, 2017, the State enacted Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), which consolidated provisions of MCRSA into the regulatory framework of the AUMA, thereby creating a unified regulatory scheme for medicinal and adult use cannabis. MAUCRSA specifically authorizes local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses licensed pursuant to state law, including local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed pursuant to MAUCRSA.

On October 30, 2017<sup>1</sup> and November 28, 2017<sup>2</sup>, respectively, the City Council enacted regulatory and land use ordinances authorizing cannabis businesses within the City of Hayward subject to compliance with local and state regulations. At their October meeting, the Council also established a request for proposal process by which the City would select commercial cannabis businesses. The process involved four stages to help differentiate applicants who met the City's desired set of qualifications. These stages include:

1. Criminal Background Investigation
2. Competitive Scoring and Ranking
3. Proposer Interviews
4. City Council Approval

The RFP process commenced on December 8, 2017, with applications due on January 12, 2018. At that time, the City received 77 total applications for commercial cannabis companies. Four of these applications did not meet the background check requirements of the City's cannabis program; however, 73 applications were sent to a neutral, third party reviewer hired by the City to evaluate and score the proposals. Following an independent review by the outside consultants and interviews by key City staff, the City Manager recommended to City Council the award of commercial cannabis licenses to eleven commercial operators for land use activities that include cultivation, manufacturing, distribution, testing labs, delivery and retail. Once selected, applicants had six months to file their land use applications. The applicant, Hayward Station, was one of the eleven companies selected for a commercial cannabis permit and is the first retail dispensary to file for license review and approval in the City.

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<sup>1</sup> October 30, 2017 City Council Meeting Materials & Video  
<https://hayward.legistar.com/MeetingDetail.aspx?ID=570110&GUID=1F62F795-56FA-4667-9BD1-E5FDA22CB8C5&Options=info&Search=>

<sup>2</sup> November 28, 2017 City Council Meeting Materials & Video  
<https://hayward.legistar.com/MeetingDetail.aspx?ID=573134&GUID=C82D348A-0412-4741-854C-23697F2AE444&Options=info&Search=>

On March 19, 2019, the City Council adopted Ordinance Nos. 19-06 and 19-07, reducing the overconcentration buffer between retail dispensaries from 1,000 feet to 500 feet; and, giving authority to waive or reduce the 600-foot buffer between commercial cannabis uses and sensitive uses, subject to special findings<sup>3</sup>. It is essential to note that the reduction in overconcentration did not amend the regulations related to the total number of retail dispensaries permitted within the City, which is set at a maximum of three pursuant to City Council Resolution No. 17-158. Rather, the regulations were intended to relax distance requirements in the Downtown area where lots are smaller and uses are closer to each other by design.

On May 9, 2019, the Planning Commission held a public hearing to consider the proposed CUP and voted 6:0:1 to recommend approval for the project (Attachment VI). One member of the public spoke against the use in this location. The Commissioners expressed concerns about issues of compatibility between the use and all-age events that are held Downtown and felt that a typical retail, restaurant, or office use would be preferred in the historic building. However, they felt that the proposed security measures and design measures to screen the interior would minimize nuisances related to the use.

## **DISCUSSION**

Existing Conditions. The proposed project would occupy a portion of the ground floor of an existing 8,253 square foot commercial building at the corner of B Street and Main Street in Downtown Hayward. The building was constructed in 1927 as a commercial bank building in a classical revival architectural style. Characteristic building features include fluted columns at the building corners, terra cotta detailing around the entrance, substantial glazing along both building frontages separated by pilasters, and a decorative cornice along the roofline. The main entrance to the ground floor tenant space is on B Street with secondary entrances on Main Street.

The site is currently vacant and underutilized. According to business license records, the Ashanti Actovese Aesthetic Arts Academy filed a business license application at the tenant space in June 2017; however, it does not appear that the use was established. Surrounding land uses include a combination of ground floor commercial and service uses including nail salons, retail uses, restaurants, bars, cafes and vacant tenant spaces, with second and third floor office and residential uses along B and Main streets.

Two nearby uses would be classified as youth centers or sensitive uses according to State Law including High Scores Arcade, located approximately 290 feet to the east of the project site on B Street; and Stellar Prep, a tutoring center for high school aged children, located approximately 400 feet west of the project site on B Street. The main branch of the Hayward Public Library is identified as a sensitive use in the City's Municipal Code and is located approximately 750 feet southwest of the project site on Mission Boulevard.

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<sup>3</sup> March 19, 2019 City Council Meeting Materials & Video  
<https://hayward.legistar.com/MeetingDetail.aspx?ID=680215&GUID=4249ED39-B6F2-4823-AC4D-DD7B8718F8D4&Options=info&Search=>

The proposed project includes improvements to the adjacent approximately 6,064 square foot property (22564 Main Street, APN 428-0061-057-00), which is currently being used as a parking lot for the Funky Monkey bar located at 22540 Main Street. The parking lot property and subject property are separate parcels under the same ownership.

Proposed Project. The proposed project includes establishment of a cannabis retail dispensary in approximately 3,429 square feet of the ground floor of the subject retail building. The dispensary would specialize in organic, local, and boutique cannabis and cannabis related products such as edibles, oils, and concentrates for recreational and medical use. The business would operate daily from 9 a.m. to 9 p.m. Staffing may fluctuate within the first year of operations, but the current estimate is that there will be 12 staff members on-site including a manager, a buyer, inventory control staff, sales people, administrative staff and two security guards (see Security Plan below for additional information). All staff would be required to attend a five-day training course including compliance, security, point-of-sale software, operation protocol, position training and shadowing prior to starting work. In addition, the business will have a single point of contact for all neighborhood and community concerns from loitering to odor control.

The retail dispensary would occupy the ground floor of the project site. Approximately two-thirds of the tenant space would be open to the public, and the rear third of the tenant space would be utilized as an inventory control room, vendor meeting room, and office and storage. The public entrance would be located on the south side of the building (along B Street), and the vendor entrance would be located on the west side of the building (along Main Street). According to the proposed floor plan for the retail area, there would be a front check in desk set back from the entrance, and a combination of four and six-foot-tall display cases would be placed to minimize visibility of the products from the entrance and windows, and a new cornice supported by columns would be constructed within the building to frame the sales area and the first floor of the building.

Proposed exterior modifications to the historic building include: installation of a new ADA compliant entrance doors; removal of exterior wood paneling, ATM and bank equipment and replacement with matching glazing; repainting; installation of a new mural on the rear wall of the building; and signage for the new business. According to a memo prepared by an architectural historian, the minor proposed modifications would not compromise the integrity of the historic building provided that the applicant follows the recommendations set forth in the memo. See additional information under Environmental Review below.

Proposed parking lot improvements include: restriping to create 18 parking spaces (with two ADA-compliant parking spaces); installation of new lighting; and, construction of a new trash enclosure. According to the project plans, four of the 18 parking spaces would be reserved for future tenants of the third-floor offices.

Security Plan. The applicant submitted a detailed security plan to ensure public and product safety. According to the security plan, two security guards would be on site at all times. One security guard would be stationed at the main entrance to check identification cards for all individuals entering the establishment to ensure that they are 21 years or older (and 18 years

or older with a medical marijuana card), and one security guard would be stationed at the Main Street vendor entrance to escort vendors to and from the parking lot, and to ensure safe product delivery.

Other proposed security measures include: a CCTV system with approximately 20 cameras covering the building entrance, vendor entrance, parking lot and interior areas (both front and back of house); an alarm system; and a set of operational security procedures related to opening and closing, shipping and receiving, product storage and money/cash handling.

Odor Control Plan. Although the proposed business does not include cultivation and manufacturing, there is a potential for odors from cannabis products. The odor mitigation plan would organize the rooms into separate, insulated areas and connect the rooms to ducting with high Minimum Efficiency Rating Value (MERV) commercial standard and carbon filters prescheduled to filter the air in each room on 15-minute intervals. Conditions of approval would require that the proposed duct work and filtration system be included in the building permit application submittal along with submittal of Standard Operating Procedures such as staff training on the system, maintenance and other operational components.

Community Benefits. As part of the RFP review and selection criteria, the applicant committed to provide a community benefit component as part of their commercial cannabis license proposal. The community benefit component for cannabis operators was a part of the business plan submitted to the City through the RFP process and did impact the screening and scoring criteria when selected. As such, staff has included a condition of approval that requires the applicant provide more specific details of their Community Benefits program and to coordinate the implementation of the Community Benefits program with City staff within six months from use permit approval.

#### *POLICY CONTEXT AND CODE COMPLIANCE*

Hayward 2040 General Plan. The project site is designated City Center – Retail and Office Commercial (CC-ROC) in the *Hayward 2040 General Plan*<sup>4</sup>. The CC-ROC land use designation applies to the Downtown core where development would generally include rehabilitation of historic buildings, development of infill and mixed-use development, rehabilitation of underutilized properties, and streetscape improvements to help transform Downtown into a vibrant, transit-oriented, mixed-use city center. Allowable uses include retail, dining and service uses, entertainment and recreational uses and office and residential uses above ground floor commercial uses. As a retail use, commercial cannabis dispensaries would be consistent with the allowable uses in the CC-ROC land use designation.

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<sup>4</sup> Hayward 2040 General Plan  
<https://www.hayward2040generalplan.com/>

The following General Plan Policies apply to the subject site, and to the establishment of such businesses in Hayward:

- *Land Use Policy LU-2.1, Downtown Arts and Entertainment.* The City shall encourage private-sector investment in Downtown to transform it into a safe, vibrant, and prosperous arts and entertainment district that offers enhanced shopping, dining, recreational, and cultural experiences and events for residents, families, college students, and visitors.
- *Land Use Policy LU-2.2, Downtown Activities and Functions.* The City shall maintain the Downtown as a center for shopping and commerce, social and cultural activities, and political and civic functions.
- *Land Use Policy LU-2.3, Downtown Pedestrian Environment.* The City shall strive to create a safe, comfortable, and enjoyable pedestrian environment in the Downtown to encourage walking, sidewalk dining, window shopping, and social interaction.
- *Land Use Policy LU-2.4, Downtown Retail Frontages.* The City shall require retail frontages and storefront entrances on new and renovated buildings within the “retail core” of Downtown Hayward, which includes properties along B Street between Watkins Street and Foothill Boulevard, and Main Street between A Street and C Street. This policy does not apply to historic building originally designed without retail frontage or storefronts.
- *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 including:
  - Restaurants and cafes;
  - Art studios and galleries;
  - Entertainment and cultural venues;
  - Housing and live-work units;
  - Exercise and physical fitness facilities;
  - Office space and business incubators; and
  - Community-operated workspaces where people with common interests can meet, collaborate, and develop their business ideas and products.
- *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 local residents.
- *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.

Further discussion of the consistency between the proposed use and policies related to Downtown retail is included in the Staff Analysis section below and in Attachment II, Findings.

Downtown Specific Plan (DTSP). On April 30, 2019, the City Council approved the Downtown Specific Plan and Regulating Plan (DTSP), and it is expected to take effect in May 2019. The subject site is designated *Downtown Core* in the Downtown Specific Plan. The Vision of the Downtown Core is that the development be primarily pedestrian-oriented and include a variety of retail, restaurant and entertainment options.

According to Chapter 6, Development Code of the DTSP, the site will be zoned Downtown Main Street with a Required Shop Frontage. In compliance with the Downtown Core Specific Plan designation, the Downtown Main Street zone is intended to support a walkable, vibrant, urban main street with commercial, retail, entertainment, civic and public uses. Buildings with the “Required Shop Frontage” designation (DTSP Section 3.4.110 Shopfront) shall have substantial glazing between the shopfront base and the ground floor ceiling and may include an awning that overlaps the sidewalk. In the Downtown Main Street zone, Commercial Cannabis Retail Dispensaries are subject to Conditional Use Permit approval (DTSP Table 2.3.010.A).

Further discussion of the consistency between the proposed cannabis retail use and requirements for a transparent shop frontage is explored in the Staff Analysis section below and in Attachment II, Findings.

Zoning Ordinance. The project site is located within the CC-C (Central City-Commercial) District and CC-P (Central City-Plaza) District where a Commercial Cannabis Retail Dispensary is permitted subject to approval of a Conditional Use Permit<sup>5</sup>. As noted above, the project is also subject to the performance and operational criteria of the adopted Cannabis land use ordinance and the regulatory framework of the Business, Professions and Trades section of the Hayward Municipal Code for Commercial Cannabis Businesses<sup>6</sup>.

In addition to the general findings in the City’s Zoning Ordinance for Use Permits, the project is subject to four additional cannabis-specific findings, which were adopted as part of the Cannabis Ordinance. Further analysis related to the cannabis findings is included in Staff Analysis below and in the attached Resolution.

Mandatory Buffers. Pursuant to HMC Section 10-1.3607(c)(1), to avoid overconcentration of commercial cannabis retail dispensaries, such business shall be a minimum of 500 feet from any other such business. The proposed location satisfies this minimum distance requirement from other proposed cannabis dispensaries proposed within the Downtown area.

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<sup>5</sup> Conditional Use Permit  
[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH10PLZOSU\\_ART1Z00R\\_S10-1.1600INDII\\_S10-1.1620COPEUS](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1Z00R_S10-1.1600INDII_S10-1.1620COPEUS)

<sup>6</sup> Commercial Cannabis Businesses  
[https://library.municode.com/ca/hayward/codes/municipal\\_code?nodeId=HAYWARD\\_MUNICIPAL\\_CODE\\_CH6BUPRTR\\_ART14COCABU](https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU)

Sensitive Uses. Pursuant to HMC Section 10-1.3603(B), commercial cannabis businesses are subject to a minimum 600-foot minimum setback from sensitive land uses, including kindergarten, schools (grades 1 through 12), day care centers, youth/recreation centers, and parks which contain a children's playground. As noted above, there are three such uses that are located within 600 feet of the project site. Pursuant to the HMC, the buffer may be reduced as part of a Conditional Use Permit approval 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 proposed commercial cannabis business.

Further analysis and discussion of the reduction of distance between the proposed use and nearby sensitive uses is included in Staff Analysis below and in the attached Resolution.

Parking. Pursuant to HMC Section 10-2.400(b), additional parking is not required when a new use is established in the Central Parking District (Downtown Hayward). The application includes improvement of an adjacent lot with restriping and installation of ADA-accessible parking as well as a new trash enclosure to serve the subject building.

Commercial Cannabis Permits. As part of the regulatory framework approved by the City, cannabis operators are required to obtain multiple approvals through a two-step process at the local level in addition to State licensing. First, an applicant is required to obtain approval of a Commercial Cannabis Business Permit by the City to assure that all regulatory requirements are met. The applicant satisfied this task through the RFP process described in the Background section above. Second, the applicant is required to obtain the necessary land use entitlements that consider the location, size, and types of proposed uses allowed, consistent with the Zoning Ordinance standards, which is the subject of this application. Following local land use entitlement, the applicant shall also obtain a cannabis license from the State. Failure to obtain the State license would be grounds for revoking the City's permit.

Commercial Cannabis Permits issued by the City are good for one year and must be renewed annually following the completion of a mandatory safety inspection and demonstrated compliance with all local and State regulations, including any conditions of approval adopted as part of a Use Permit process.

#### *STAFF ANALYSIS*

Staff believes that the City Council can make the required Findings to approve the Conditional Use Permit application to allow for the establishment of a commercial cannabis retail dispensary at the proposed site and to reduce the minimum distances required, subject to conditions of approval.

Staff believes that establishment of a cannabis retail dispensary at the subject site would be beneficial in that the site has been vacant and underutilized for years. The building's prominent location at the corner of B and Main Streets, arguably in the heart of the Downtown commercial core, the building's relatively large size and the state of disrepair, has resulted in a disproportionate impact on the surrounding neighborhood and signaled a lack of investment

in Downtown. The proposed façade and site improvements at the adjacent parking lot as well as establishment of a new, unique retail use in the vacant building will improve the appearance of the building and activate that corner, which will likely have a positive impact on the adjacent properties and the Downtown neighborhood, in general.

Despite the growing demand for such products, there are relatively few locations that provide boutique cannabis and cannabis related products in the immediate area. North of Hayward there are cannabis retail dispensaries in unincorporated Alameda County, San Leandro, Oakland, Berkeley and San Francisco, but the nearest cannabis retailer south of Hayward is in San Jose. Cannabis retail sales are a burgeoning retail category that would contribute positively to the sales tax base in Hayward and attract a regional clientele to the area, particularly from areas south of the City. Establishment of a cannabis retailer in Downtown Hayward would bring retail consumers to not only shop at Hayward Station but also patronize surrounding businesses and restaurants, which would contribute further to the sense of activation of the commercial core.

Retail uses, such as a cannabis retail dispensary, are consistent with the CC-ROC land use and Downtown Core designations; however, cannabis is only available to individuals that are 21 and older (and 18 years or older with a medical marijuana card) and is a highly sensitive material due to its recent legalization. Therefore, the display of cannabis products in a prominent manner and in a traditional storefront setting is not appropriate. Thus, there is a tension in making the findings related to impairing the integrity of the zoning district and General Plan policies that call for vibrant, interesting pedestrian-oriented storefronts and the desire for discretion due to the sensitivity of the use. To address the disconnect between the required open shopfront and the sensitive nature of the use, the applicant is proposing to add etched or decorative glass decorated with a branded symbol that would extend approximately eight feet from grade. Etched or decorative glass would provide opacity while allowing light to filter into and out of the space while placing an interesting design element at eye level for pedestrians. To balance the opacity of the lower level of the storefront, staff recommends that the etched or decorative glass only extend to seven feet above grade, that the windows be kept clear of materials or tinting above the etching, and that all of the display cases be located and sized to minimize their view from the sidewalk (proposed Condition of Approval Nos. 24-27). The etched or decorative glass design element will result in an exclusive and high-end look to the ground floor retail while retaining the tall, open glazing that is a major characteristic of the building.

This is the first of three proposed cannabis retail dispensaries anticipated in the Downtown area. Downtown Hayward is characterized by a vibrant commercial core along B Street and perpendicular streets, small lots with buildings built to the street edge. Thus, by design the businesses within Downtown are located in close proximity to each other making it difficult to maintain minimum distances between cannabis businesses and between cannabis businesses and other uses that may not be compatible. However, the attraction of cities is rooted in mixing a variety of uses that appeal to all ages, demographics, and desires, and in the unpredictability and excitement of those uses and individuals connecting in the public realm. As noted above, there are two sensitive uses that serve youth within 600 feet of the project site including High Scores Arcade, an interactive museum of classic arcade games, and Stellar

Prep, a tutoring center/school for high school aged children. The main branch of the Hayward Library is outside of the 600-foot buffer. Per HMC Section 10-1.3603(B), the deciding authority may waive the minimum setbacks provided that public convenience and necessity will be served by an alternative distance requirement and provided that adequate safety controls are in place to assure public health and safety. As noted above, an alternative distance requirement is necessary because of the nature of Downtown development to place a variety of uses in close proximity to each other. As conditioned, staff believes that the on-site security guards, numerous cameras at the entrances and parking lot, and the etched or decorative glass design along storefronts would assure public health and safety.

In addition to the consultant review of the business plan, the Hayward Police Department, Code Enforcement Division, and Fire Department have reviewed the project proposal with Planning Division staff to ensure the use can be operated in a safe manner. Conditions of Approval are included to ensure that the proposed use and operations of the cannabis business will provide a safe and secure environment for the surrounding neighborhood and mitigate potential impacts to adjacent properties. Specifically, proposed Conditions of Approval (5 through 21) would require the applicant adhere to the approved business plan, security plan, and odor minimization measures as part of normal operational protocols.

As part of the regulatory toolkit established by the State of California and the land use ordinances adopted by the City in 2017, staff believes that physical and operational safeguards are in place to ensure this cannabis retail dispensary can operate at the proposed location without impacts to other properties. As part of the initial RFP process, the applicant's business plan and the specific location under consideration with this use permit was reviewed and scored by an independent, outside consultant who determined this operator would meet several of the City's objectives related to best practices for the cannabis industry. Further, according to the proposed Conditions of Approval and by Ordinance, cannabis permits shall be renewed annually providing the City with an opportunity to determine if the use is causing disproportionate impacts to City services or operating in a manner that is unsafe or out of compliance with the approved business plan. Thus, the applicant has an interest in complying with Conditions of Approval and maintaining a safe, high quality establishment.

## **ENVIRONMENTAL REVIEW**

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 commercial structure that was designed to accommodate retail uses.

In addition to the proposed use, the proposed project includes exterior modifications to a historic building. According to a memo prepared by an architectural historian and conditions assessment specialist with Garavaglia Architecture, dated October 29, 2018, the proposed alterations, which include removal and replacement of doors to ensure ADA-compliance, removal and replacement of ATMs and replacement with glazing to match the existing building, and miscellaneous repairs to damaged areas of the building, would not alter or damage the surrounding historic features of the building. In conformance with the recommendations of the report, the final building permit plan set will be reviewed for

compliance with the City's local Historic Resource Ordinance and the Secretary of the Interior Standards prior to the approval of building permits (proposed Condition of Approval 23). Therefore, the proposed exterior modifications to the existing building would be exempt from CEQA pursuant to Section 15331 (Class 31), Historical Resource/Rehabilitation, and no further environmental review is necessary.

### **ECONOMIC IMPACT**

The proposed project will result in revitalization and activation of a currently vacant and underutilized property at the heart of Downtown Hayward. Establishment of a cannabis retail dispensary in this location will provide a regional draw for customers who will likely patronize surrounding businesses resulting in cascading benefits to local businesses and increases in sales tax revenues from surrounding businesses.

### **FISCAL IMPACT**

The proposed project will include significant investment in an existing, underutilized commercial space that will generate revenues related to provision of building permits for tenant improvements, annual renewal of the cannabis permit, and sales tax revenues. Cannabis businesses are required to pay a local six percent tax rate on gross receipts. Although it is difficult to determine the amount of revenue that will be generated by an entirely new, future use, the applicant did submit a three-year pro-forma and financial projections with the business plan. The applicant projected revenues of approximately \$6.7 million in sales which could conceivably generate approximately \$402,000 cannabis tax revenues in year one to about \$13.9 million which could conceivably generate approximately \$834,000 in cannabis tax revenues to the City in year three. Given the level of revenue generated from the sale of adult use cannabis, these estimates are likely inflated and staff is unsure that this is a realistic estimate of revenues at this time.

While there will likely be some impact on public services, the proposed project includes a robust security plan, which should reduce the need for public services. Further, annual renewal of the cannabis permit will allow the City to determine if the business results in a negative or disproportionate impact to City services and to adjust conditions for renewal accordingly.

### **STRATEGIC INITIATIVES**

This agenda item relates to establishment of an individual business and does not specifically relate to the Council's Strategic Initiatives.

### **PUBLIC CONTACT**

On November 16, 2018, an initial Notice of Application Receipt for the project application was sent to 244 addresses including property owners, residents, and businesses within a 300-foot radius of the project site. Following that notice, City staff received a letter from Ginny Cox Delaney stating opposition to the project and a response from the applicant (Attachment V).

Between November 16 and December 3, 2018 following submittal of the CUP application, the applicant walked the area around the project site to introduce the proposed project. A description of the applicant's outreach efforts is included as Attachment IV to this report.

On May 17, 2019, a Notice of Public Hearing for the City Council meeting was sent to property owners, residents, and businesses within 300-feet of the project site and published in The Daily Review newspaper.

### **NEXT STEPS**

If the CUP is approved by the City Council, the applicant will apply for a State cannabis license, which will take between 90 days and six months. The applicant may submit a building permit application for tenant improvements while the State is processing the cannabis permit. Following completion of tenant improvements and issuance of a State cannabis license, the use may be established.

*Prepared by:* Leigha Schmidt, Senior Planner

*Recommended by:* Laura Simpson, Development Services Director

Approved by:



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Kelly McAdoo, City Manager