

**CITY COUNCIL MEETING  
TUESDAY, DECEMBER 1, 2020**

**DOCUMENTS RECEIVED  
AFTER PUBLISHED AGENDA**

# **AGENDA QUESTIONS & ANSWERS**

## **Item 8**

**AGENDA QUESTIONS & ANSWERS**  
**MEETING DATE: December 1, 2020**

**Item #8: [PH 20-087](#) Commercial Cannabis Retail Dispensary: Adopt a Resolution Approving a Conditional Use Permit for a Proposed Commercial Cannabis Retail Dispensary with Ancillary Retail Delivery within an Existing Commercial Building located at 22701 Foothill Boulevard and 1055 C Street (Assessor Parcel Nos. 428-0066-058-01 and 428-0066-056-00), Application No. 201906312. Rajiv Pottabathni, Jiva Life LLC (Applicant); Ryan Bridge LLC (Property Owner) (Report from Development Services Director Simpson) (Continued from November 17, 2020)**

On the dispensary item, I'm concerned about a repeat of what happened with Hayward Station. I understand that capital was needed and we're trying to make processes shorter. At the same time, I didn't feel that we vetted or voted on Cookies and thus it seemed a bit of a bait and switch.

I recall that Harborside was very interested in the Art's Crabshack site. We turned them down. On page 64 of the Business and Operations Plan (Attachment IV) under Directors it lists Existing Cannabis Company TBD. Do we have a way of knowing or vetting the entity we are really getting to operate this dispensary?

Have any of the six other Jiva Life/other name sites owned/operated by Rajiv Pottabathni opened?

Our current cannabis regulations only require that prior to any ownership change, applicants are required to obtain City approval via a formal request and submittal of a New Owner Attestation form. While there is not a "percentage" indicated in the Muni Code, City staff has been consistent in allowing partial ownership changes (up to 49%) where the majority of ownership remains in the hands of the original operator selected. City staff has tried to maintain some element of flexibility in areas where the Code is not prescriptive. If Council wants to further restrict an operators ability to change hands, they can provide that direction with the Code update but it's important to realize that this could have an adverse impact to existing or new cannabis operators who are smaller in size and have limited access to financial capital.

The applicant has also acknowledged they are aware of the New Owner Attestation form requirement should they want to bring on a strategic partner.

Please see below for other store locations statuses:

- San Bernardino opened on September 25th
- Union City is opening in April of 2021.
- Santa Rosa is opening in June of 2021, CUP was just renewed in November 2020
- Napa is opening in June of 2021
- San Francisco is awaiting a building permit.

Stockton property is in the process of being secured, submitting to planning this month for approval within 30 days, Planning Commission hearing to be scheduled thereafter.

Shouldn't condition #12 be removed now that the City has increased the Cannabis tax from 6-7% and plans to make direct General Fund contributions to the Hayward Foundation?

Staff believes that the council inquiry was referring to COA #13 – not #12. It was determined that leaving this condition in the resolution continued to obligate the applicant to provide the community benefits component they originally agreed to when they were selected for a cannabis permit by the City Council in 2018. It is important to note that applicants were

	<p>originally scored and evaluated on their community benefits component in 2018 so the Planning Division elected to maintain this condition since there may have been several applicants who were not selected for a cannabis permit, and it is possible that the reason they didn't score high enough was due to a weak Community Benefits component. If Council wants to remove that condition they can do so, but it would be inconsistent with how the Planning Division has treated the other cannabis applicants, including Hayward Station (Condition # 9 in Approved Reso, May 2019) and Aunty Honey's (Condition # 12 in Approved Reso, March 2020).</p>
<p>Regarding the conditions of approval for the cannabis dispensary.</p> <p>Is there something missing from the end of condition 81?</p> <p>81. Prior to issuance of building permit, detailed landscape and irrigation improvement plans prepared by a licensed landscape architect shall be approved by the City and submitted concurrently with the building plan check review process. The plans shall comply with the City's Water Efficient Landscape Ordinance (California Building Code Title 23) and all relevant Municipal Codes. The landscape plan shall be prepared on a surveyed map, and shall identify all existing tree species, locations and trunk diameter size measured at fifty-four inches from the ground. The landscape plan shall identify the status of existing trees for preservation and removal and identify proposed trees from the existing.</p>	<p>Staff inadvertently left the sentence incomplete. The last sentence of the Condition shall read as follows:</p> <p>"The landscape plan shall identify the status of existing trees for preservation and removal and identify proposed trees from the existing <u>trees for preservation</u>".</p> <p>Planning Division staff will mention the correction at the City Council hearing.</p>
<p>I thought the point of the cannabis tax was to quantify the community benefits a business was providing. Of course, I want to see a business be a productive partner in Hayward, but I thought we weren't requiring a plan any more?</p> <p>Conditions of approval</p> <p>13. The applicant shall provide a detailed Community Benefits program and coordinate the implementation of</p>	<p>Please review response above.</p>

<p>the proposed Community Benefits program with City staff within six months from use permit approval. The applicant will be subject to annual review and verification on the implementation of the approved Community Benefits program prior to permit renewal.</p>	
<p>Also, is this one legal? The applicant and/or business operator shall be required to volunteer 20 hours with the Keep Hayward Clean and Green Task Force and shall participate in either the “Adopt a Parking Lot” or “Adopt a Block” programs. Proof of volunteer completion and participation of the adoption programs shall be provided to the Planning Division with one year of the start date of the business operation.</p>	<p>This condition was proposed by Councilmember-Elect Andrews when she was on the Planning Commission and was accepted by the applicant. Following the publishing of the meeting agenda, the applicant further confirmed with staff that they are willing to do comply with said requirement.</p> <p>Out of the three dispensaries in Downtown, this would be the only application with this condition applied. If Council wants to remove this condition, they can do so.</p>
<p>Have there been any issues (code enforcement, law enforcement, increase in issues downtown, etc) that seem to be tied to Cookies operations?</p>	<p>The total calls for service Related to “Cookies” Marijuana Dispensary at 1004 B Street for the period 6/25/2020 – present is 11.</p> <p>Summary of Calls for Service:</p> <ul style="list-style-type: none"> <li>• Most calls were for self-initiated by officers, security checks, or walk-throughs.</li> <li>• Most are related to subjects, probably transients, causing disturbances outside the location.</li> <li>• There was an overdose incident regarding a subject inside his vehicle (9/1/20). HFD administered Narcan to the subject which revived him.</li> </ul> <p>District Command reported no real issues at the business. Staff is cooperative and friendly. DC provided a few small security recommendations.</p>

## **ITEM #2 CONS 20-039**

**Adopt a Resolution Authorizing  
the City Manager to Purchase an  
Unmanned Aerial System (UAS) and  
Adopt a UAS Program for the  
Hayward Police Department**

## **PUBLIC COMMENTS**

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**From:** Collin Thormoto  
**Sent:** Tuesday, December 1, 2020 3:19 PM  
**To:** List-Mayor-Council  
**Subject:** Against CONS 20-039

**CAUTION:** This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor and Councilmembers,

Given the recent political climate and history of injustice and surveillance by law enforcement in the United States at both the local, state, and federal level, I want to speak out against CONS 20-039 and encourage the council to NOT appropriate the \$50,000 for a drone for the Hayward Police Department.

I am aware that there are benefits to having it, including providing increased safety for officers in dangerous situations and during emergencies. I want all people of Hayward, officers included, to be safe. However, given the history of increased surveillance in public places, including around City Hall, and the relatively recent information that the FBI worked with local law enforcement to use drones to identify activists and persons protesting the death of George Floyd, the UAS policy as written is not robust enough to prevent abuses.

I understand there is no expectation of privacy in a public place, but being seen and being recorded are two totally different things. I know that the HPD has requested this equipment and it was discussed in the recent survey of HPD staff and officers, but given that the Public Safety Survey recently showed that the largest concern of Hayward Residents, by far, was homelessness, this will not help with that. HPD already comprises 50% of the General Funds budget and is one of the few unions to not take a voluntary furlough during the COVID-19 pandemic.

This money can be better spent in other ways that will benefit the community. Presenting an edge case of one active shooter situation several years ago is not enough to outweigh the risks of aerial surveillance by law enforcement.

I encourage the council to take one or more of the following steps:

1. Spend the money on something else that will more directly help the community.
2. Amend the HPD UAS Policy with a greater focus on citizen privacy and with a mindfulness of historic abuses of surveillance powers by law enforcement.
3. Give control of the UAS to another department like the Fire Department which will ensure that it is primarily used in emergency situations and search and rescue operations.

Thank you for your time and consideration.

Regards,  
Collin Thormoto  
Citizen  
Hayward, CA

## **ITEM #8 PH 20-087**

**Commercial Cannabis Retail Dispensary with Ancillary Retail Delivery: Approve a Conditional Use Permit for a Commercial Cannabis Retail Dispensary with Ancillary Retail Delivery Service within an Existing Commercial Building located at 22701 Foothill Boulevard and 1055 C Street (Assessor Parcel Nos. 428-0066-058-01 and 428-0066-056-00) Application No. 201906312. Rajiv Pottabathni, Jiva Life LLC (Applicant); Ryan Bridge LLC (Property Owner) (Report from Development Services Director Simpson)**

## **PUBLIC COMMENTS**

***(Comments received for November 17 Council meeting from which this item was continued)***



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**From:** Kim Huggett  
**Sent:** Sunday, November 15, 2020 2:32 PM  
**To:** List-Mayor-Council  
**Cc:** CityClerk  
**Subject:** City Council Agenda Item 6 Jiva Life  
**Attachments:** JIVA LIFE Support Ltr.pdf

**CAUTION:** This is an external email. Do not click on links or open attachments unless you know the content is safe.

November 13, 2020

Hayward City Council  
777 B St.  
Hayward, CA 94541

Members of the Hayward City Council:

The Hayward Chamber of Commerce is pleased to endorse the application for a conditional use permit for Jiva Life to operate a cannabis retail dispensary with ancillary delivery service at 22701 Foothill Blvd. The company has considerable experience in the cannabis business and will be a responsible and active member of the business community.

With its proven track record, we are confident that the Jiva Life management team will develop the property and attract a staff of industry professionals with care, safety and security.

The chamber is impressed with the high professional standards of the Jiva Life business plan and how the company will use sound, ethical, traditional business principles. In addition, we believe Jiva Life will be a good corporate citizen in Hayward. The company is committed to appropriate civic service and support of the business community downtown and as a whole, nonprofit organizations, and education.

Sincerely,

Kim Huggett  
President & CEO



November 13, 2020

Hayward City Council  
777 B St.  
Hayward, CA 94541

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The chamber is impressed with the high professional standards of the Jiva Life business plan and how the company will use sound, ethical, traditional business principles. In addition, we believe Jiva Life will be a good corporate citizen in Hayward. The company is committed to appropriate civic service and support of the business community downtown and as a whole, nonprofit organizations, and education.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kim Huggett', with a long horizontal line extending to the right.

Kim Huggett  
President & CEO

## Merry Monlux

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**From:** Allen J Baden <allen@baden.law>  
**Sent:** Tuesday, December 1, 2020 3:16 PM  
**To:** Laura Simpson; List-Mayor-Council  
**Cc:** Benjamin D Schwartz  
**Subject:** Public Comment for December 1, 2020 Meeting of the City of Hayward City Council | Objection to File # PH 20-087 (Jiva Life) Agenda Item 8  
**Attachments:** Simpson Hayward re Jiva Life Protest PH 20-086 4850-1295-2786 v.1.pdf  
**Importance:** High

**CAUTION:** This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Council Members and Staff

As my November 16, 2020 letter of protest concerning Jiva Life's application for a conditional use permit to operate a cannabis dispensary in Hayward, which was originally scheduled for hearing on November 17, 2020 (but not heard, given time limitations), is not attached to the Agenda for today's scheduled meeting, I am resending my letter, which concerns Item 8 on tonight's meeting's Agenda, File # PH 20-087 (previously File # PH 20-086).

In summary, Juva Life, Inc. objects to Jiva Life's operation of a cannabis dispensary in Hayward (and other municipalities) using a name confusingly similar to my client's name and trademark, for which it has senior rights. Two entities operating cannabis dispensaries and providing related goods and services cannot coexist without causing public confusion and resultant harm. As a result, Juva Life strongly objects to issuance of the requested conditional use permit to Jiva Life.

I plan to participate in tonight's online hearing and will be available to answer associated questions.

Respectfully submitted,

Allen J Baden  
Edge Law Group  
Counsel for Juva Life, Inc., a California corporation

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**From:** Allen J Baden  
**Sent:** Monday, November 16, 2020 3:45 PM  
**To:** 'Laura.Simpson@hayward-ca.gov' <Laura.Simpson@hayward-ca.gov>; 'list-mayor-council@hayward-ca.gov' <list-mayor-council@hayward-ca.gov>  
**Cc:** Benjamin D Schwartz <ben@baden.law>  
**Subject:** Public Comment for November 17, 2020 Meeting of the City of Hayward City Council | Objection to File # PH 20-086 (Jiva Life) Agenda Item 6  
**Importance:** High

Director Simpson

Please refer to the attached public comment, in the form of a letter of objection, for which I also copy [list-mayor-council@hayward-ca.gov](mailto:list-mayor-council@hayward-ca.gov), as it pertains to the City Council Meeting on November 17, 2020, Agenda Item 6 (PH 20-086).

Separately, I plan to submit the comment via the iLegislate application used by City Council and City staff, and advise that I plan to remotely participate in tomorrow's meeting.

Respectfully submitted,

**ALLEN J. BADEN**

**EDGE LAW GROUP**

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[abaden@edgelawgroup.com](mailto:abaden@edgelawgroup.com) | <http://www.edgelawgroup.com>

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November 16, 2020

Atty. Ref. No. 7115.26

**Via Email and Expediated Service ([Laura.Simpson@hayward-ca.gov](mailto:Laura.Simpson@hayward-ca.gov))**

Laura J. Simpson, Director of Development Services  
City of Hayward, California  
777 B Street  
Hayward, CA 94541

**RE: Objection to File # PH 20-086 (Jiva Life)**

Dear Director Simpson:

I represent Juva Life, Inc., a California corporation ("Petitioner"), and write to object to the City of Hayward's approval of a Conditional Use Permit for a Commercial Cannabis Retail Dispensary with Ancillary Retail Delivery Service at 22701 Foothill Boulevard and 1055 C Street in Hayward (Assessor Parcel Nos. 428-0066-058-01 and 428-0066-056-00), Application No. 201906312 for Rajiv Pottabathni, Jiva Life LLC ("Applicant") and Ryan Bridge LLC (Property Owner). The approval is on the agenda for the Hayward City Counsel meeting scheduled for Tuesday, November 17, 2020, Agenda topic 6.

Petitioner and its predecessor entities have sold and offered delivery of hundreds of cannabis and related products to consumers in the Peninsula, from South San Francisco to Santa Clara, and to the Stockton area, from Lodi to Manteca. Juva Life's footprint will continue to expand, as it raised over \$17.5M USD from approximately 3,000 individual investors through its Regulation A+ offering qualified by the U.S. Securities and Exchange Commission on August 21, 2019, and because its listings on the U.S., Canadian and German stock exchanges are scheduled to take place over the next several weeks. The fundraising success enjoyed by Petitioner results directly from its founders' long history of providing safe and efficacious cannabis and healthcare related products and services.

Petitioner also owns multiple applications to register the JUVA trademark with the United States Patent and Trademark Office—see printout detailing the trademark filings, attached. Many of Petitioner's applications received Notices of Allowance, meaning issuance of federal registrations for its trademarks is forthcoming.

In contrast, Jiva Life LLC, the Applicant, has no local experience in the production and distribution, including at the retail level, of cannabis products. As a neophyte, it risks developmental and operational problems that may affect public health. At the very least, the Applicant's use of the JIVA and JIVA LIFE names concurrently with Petitioner's JUVA and JUVA LIFE names risks marketplace confusion among residents of Hayward and its environs.

Specifically, Petitioner objects to Applicant's plans because its JIVA and JIVA LIFE names are virtually identical with Petitioner's trade names and trademarks, and because there is significant overlap in the products and services to be offered under the brands, and in both entities' targeted consumers,

Laura J. Simpson, Director of Development Services  
City of Hayward, California  
November 16, 2020  
Page 2



channels of trade, and geographies. The net result is a high likelihood of confusion between the names and marks.

The overlap also means that consumers and the trade may mistakenly associate the two companies, believing they are related or that Petitioner granted Applicant a license to use its mark. There is also a substantial risk negative publicity arising from Applicant's use of its name and trademark may damage the goodwill Petitioner developed and is developing in its JUVA and JUVA LIFE trademarks.

And, because the products at issue are for human consumption, there is a significant public interest in avoiding human error tied to marketplace confusion.

Petitioner has contacted Applicant to object to its plans. Meanwhile, Petitioner requests the City of Hayward maintain the status quo by denying or postponing indefinitely its decision to grant Applicant's request for a conditional use permit.

Respectfully submitted,



Allen J. Baden

Enclosure

cc: Doug Chloupek, Juva Life, Inc.

Trademark	Classes	Classes & Goods (Table)	App No	App Date
JUVA	40	40 - Processing of dried plants, herbs, live plants and plant seeds; Processing of herbs	88206128	26 Nov 2018
JUVA	31	31 - Dried plants; Herb seeds for planting; Live plants; Plant seeds	88206122	26 Nov 2018
JUVA	30	30 - Dried herbs	88206119	26 Nov 2018
JUVA	5	5 - Herbs for medicinal purposes; Medicinal herb extracts; Medicinal herbs in dried or preserved form; Medicinal herbs; Plant and herb extracts sold as components of medicated cosmetics	88206117	26 Nov 2018
JUVA	1	1 - Plant and herb extracts for use in the manufacture of cosmetics	88206114	26 Nov 2018
JUVA	42	42 - Product development for others; Research and development of new products for others	88206130	26 Nov 2018
JUVA	25	25 - Athletic tops and bottoms for casual and recreation use; Bandanas; Hats; Pants; Sweatshirts; T-shirts	88784342	04 Feb 2020
JUVA	16	16 - Notebooks; Printed matter, namely, paper signs, books, manuals, curricula, newsletters, informational cards and brochures in the field of supplements, plants, herbs, cosmetics and wellness; Blank journals	88784312	04 Feb 2020
JUVA	5	5 - Dietetic foods adapted for veterinary use; Dietetic infusions for medical use; Dietetic preparations adapted for medical purposes; Disinfectants; Hand-sanitizing preparations; Pharmaceutical agents affecting digestive organs; Pharmaceutical agents affecting metabolism; Pharmaceutical agents affecting peripheral nervous system; Pharmaceutical preparations for the treatment and prevention of anxiety, depression, inflammation, nausea, seizures, pain, muscle spasms, eating disorders and glaucoma; Pharmaceutical preparations for treating hypertension; Pharmaceutical preparations, namely, antidepressants; Pharmaceutical skin lotions; Veterinary pharmaceutical preparations for the treatment of anxiety, pain, inflammation and seizures; Balms for pharmaceutical purposes; Disinfectants for sanitary purposes; Inhaled pharmaceutical preparations for the treatment of respiratory diseases and disorders; Plant extracts for pharmaceutical purposes	88863236	07 Apr 2020

Trademark	Classes	Classes & Goods (Table)	App No	App Date
<b>JUVA</b>	5, 31	5 - Dietetic foods adapted for veterinary use; Dietetic infusions for medical use; Dietetic preparations adapted for medical purposes; Disinfectants; Hand-sanitizing preparations; Pharmaceutical agents affecting digestive organs; Pharmaceutical agents affecting metabolism; Pharmaceutical agents affecting peripheral nervous system; Pharmaceutical preparations for the treatment and prevention of anxiety, depression, inflammation, nausea, seizures, pain, muscle spasms, eating disorders and glaucoma; Pharmaceutical preparations for treating hypertension; Pharmaceutical preparations, namely, antidepressants; Pharmaceutical skin lotions; Veterinary pharmaceutical preparations for the treatment of anxiety, pain, inflammation and seizures; Balms for pharmaceutical purposes; Disinfectants for sanitary purposes; Inhaled pharmaceutical preparations for the treatment of respiratory diseases and disorders; Plant extracts for pharmaceutical purposes 31 - Dried plants; Herb seeds for planting; Live plants; Plant seeds	A0095732	07 Apr 2020
<b>JUVA LIFE</b>	35	35 - Business management and consultation; Business management consultancy as well as development of processes for the analysis and the implementation of strategy plans and management projects; Business management for a trade company and for a service company; Business management of logistics for others; Business consultation and management regarding marketing activities and launching of new products; Business knowledge management services; Business organization and management consultancy including personnel management; Business project management services; Business records management services relating to business entity formation and associated state reporting requirements; Management and operation assistance to commercial businesses; Advisory services relating to business management and business operations; Branding services, namely, consulting, development, management and marketing of brands for businesses and/or individuals; Total quality management services, namely, business management services for establishing business quality policy and determining business means for implementing those policies to improve customer satisfaction	88923944	19 May 2020



Trademark	Classes	Classes & Goods (Table)	App No	App Date
<b>MYJUVA</b>	5	5 - Balms for pharmaceutical purposes; Dietetic foods adapted for veterinary use; Dietetic infusions for medical use; Dietetic preparations adapted for medical purposes; Disinfectants; Hand-sanitizing preparations; Herbs for medicinal purposes; Inhaled pharmaceutical preparations for the treatment of respiratory diseases and disorders; Medicinal herbs; Medicinal herbs in dried or preserved form; Pharmaceutical agents affecting digestive organs; Pharmaceutical agents affecting metabolism; Pharmaceutical agents affecting peripheral nervous system; Pharmaceutical preparations for treating hypertension; Pharmaceutical preparations for the treatment and prevention of anxiety, depression, inflammation, nausea, seizures, pain, muscle spasms, eating disorders and glaucoma; Pharmaceutical preparations, namely, antidepressants; Pharmaceutical skin lotions; Plant and herb extracts sold as components of medicated cosmetics; Veterinary pharmaceutical preparations for the treatment of anxiety, depression, inflammation, nausea, seizures, pain, muscle spasms, eating disorders and glaucoma	88928271	21 May 2020
<b>JUVA</b>	5	5 - Balms for pharmaceutical purposes; Dietetic foods adapted for veterinary use; Dietetic infusions for medical use; Dietetic preparations adapted for medical purposes; Disinfectants; Hand-sanitizing preparations; Herbs for medicinal purposes; Inhaled pharmaceutical preparations for the treatment of respiratory diseases and disorders; Medicinal herbs; Medicinal herbs in dried or preserved form; Pharmaceutical agents affecting digestive organs; Pharmaceutical agents affecting metabolism; Pharmaceutical agents affecting peripheral nervous system; Pharmaceutical preparations for treating hypertension; Pharmaceutical preparations for the treatment and prevention of anxiety, depression, inflammation, nausea, seizures, pain, muscle spasms, eating disorders and glaucoma; Pharmaceutical preparations, namely, antidepressants; Pharmaceutical skin lotions; Plant and herb extracts sold as components of medicated cosmetics; Veterinary pharmaceutical preparations for the treatment of anxiety, depression, inflammation, nausea, seizures, pain, muscle spasms, eating disorders and glaucoma	90095812	05 Aug 2020

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**From:** Roger Shepard

**Sent:** Monday, November 16, 2020 1:01 PM

**To:** CityClerk <CityClerk@hayward-ca.gov>

**Subject:** City Council agenda item #6 for 11/17/2020 meeting - Cannabis dispensary

Thank you for returning my call but I was unfortunately unable to answer it. I got your message and have typed out a letter below that you can forward to the city council and make part of the record.

I write to you with the concern that there are 4 sensitive uses that are within 500 feet of the proposed cannabis dispensary set to be approved by the Hayward City Council during the meeting on Tuesday night, November 17th. This is a concern because the state requires a 600ft buffer from schools, parks, and youth centers but Hayward City Council could override that requirement and allow the dispensary.

Regardless of your opinion of cannabis and whether or not it should be legal, the state of California (in fact every state that regulates cannabis) puts sensible limits on where cannabis businesses can be located. In fact, the city of Hayward also thought those regulations were important and included them in the Hayward Municipal Code. Why should Hayward disregard the wisdom and common-sense regulations put in place to protect our most vulnerable citizens - our children?

We should be protecting our children by doing everything we can to distance them from all commercial cannabis activity, but especially cannabis retail. We should not be overriding the regulations put in place to ensure our children's health and safety.

We have to stop this dispensary from locating so close to where children frequent and congregate!

I hope you can join me in this effort to protect the children of Hayward.

Sincerely,  
Roger Shepard