

**CITY OF HAYWARD PLANNING COMMISSION
PROPOSED CANNABIS FACILITY WITH CULTIVATION,
MANUFACTURING, AND DISTRIBUTION ACTIVITIES
MIJOSA, 2459 RADLEY COURT
CONDITIONAL USE PERMIT AND ADMINISTRATIVE USE PERMIT
APPLICATION NO. 202101300**

CONDITIONS OF APPROVAL

GENERAL

1. The applicant shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. The applicant, property owner, or designated representative shall allow the City's staff to access the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.
3. Prior to operation or issuance of a Building Permit or the Certificate of Occupancy, the applicant shall contact the Planning Division and be subject to a site inspection by the designated project planner to verify that all applicable mitigations and conditions of approval have been satisfied. The cost of inspection, including any subsequent inspections that are deemed necessary by the City, shall be paid by the applicant.
4. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City and agreed to by the applicant, may result in failure to obtain a building final and/or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project.
5. All outstanding fees owed to the City, including permit charges and staff time spent processing or associated with the development review of this application shall be paid in full prior to any consideration of a request for approval extensions and/or the issuance of a building permit.
6. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement

Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.

7. A copy of these conditions of approval shall be scanned and included on a separate, full-sized sheet(s) in the building permit plan check set.
8. The owner shall maintain in good repair all building exteriors, walls, lighting, drainage facilities, landscaping, driveways, and parking areas. The premises shall be kept clean and weed-free.
9. The Approving Body may revise or revoke the conditions of this use permit for failure to comply with, or complete all, conditions of approval or improvements indicated on the approved plans.
10. The proposed use shall operate according to these conditions of approval and the approved narrative/plan set dated November 23, 2021. Any future change, modification or expansion of the approved use shall require the submittal of a new use permit application and be subject to additional review and approval by the City.

Cannabis Facility Use & Operations

11. The cannabis facility with cultivation, manufacturing, and distribution activities shall be subject to and comply with the regulations and standards of Chapter 6, Article 14 (Commercial Cannabis Businesses) and Chapter 10, Article 1, Section 10-1.3600 (Cannabis) of the Hayward Municipal Code.
12. While the facility may be operational at any time, distribution to and from the facility may only occur between the hours of 8:00 a.m. and 5:00 p.m. Pacific Time, Monday through Friday. Upon license renewal, the City may impose more restrictive hours of operation due to site specific conditions or as the result of excessive and/or extraordinary calls for service, as determined by the City's Police Department.
13. The applicant shall take all reasonable steps to discourage and correct conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding a permitted facility. Such conditions include but are not limited to: smoking; creating a noise disturbance; loitering; littering; and graffiti. Graffiti must be removed from property and parking lots within 72 hours of discovery.
14. All loading and unloading of distribution vehicles shall be done inside an enclosed building from the designated shipping/receiving area, as shown on the approved set of plans date stamped November 23, 2021.
15. Distribution vehicles shall not be stationed on public right of way.

16. The cannabis facility with cultivation, manufacturing, and distribution activities shall operate according to these conditions of approval, the Business Plan and Operations Summary dated October 2021, and the accompanying Environmental Plan and Security Plan, including the hours of operation, intensity of use and mode/character of the proposed facility operation. Any future change or modification of the operational plan and/or any expansion of the approved use may require the submittal of a new use permit application and commercial cannabis permit and shall be subject to additional review and approval by the City prior to any change, modification, or expansion.
17. Permittees shall employ only persons at least 21 years of age at any permitted facility within the City of Hayward. Employee records shall be kept and maintained, and proof of age shall be provided to the City upon request.
18. Permittees shall have an on-site manager at each permitted facility within the City of Hayward who is responsible for overall operation during times that employees are conducting operations and shall provide the City with contact information for all such persons, including telephone number and email address. Permittees shall also provide the City with the name and contact information, including phone number of at least one manager, that can be reached 24-hours a day.
19. The proposed cannabis use shall operate in a manner to prevent possible diversion of cannabis and shall promptly comply with any track and trace program established by the State.
20. The applicant shall notify the City if it intends to transfer any portion of ownership or operational control of a Commercial Cannabis Business and shall complete the New Owner/Investor Application Attestation Form as provided by the City. All new owners/investors are subject to the LiveScan fingerprint background check and the transferee shall be responsible for complying with all applicable local and state licensing requirements. Any conditions imposed upon the transferor by the original use permit shall be binding upon any subsequent transferees. Any transfer of ownership or operational control of a Commercial Cannabis Business which results in a lapse of normal operations for a period of six months or more shall be required to obtain a new use permit and/or commercial cannabis permit, consistent with Sections 10-1.3170 or 10-1.3270 of the Hayward Municipal Code, as applicable.
21. The Commercial Cultivation of Medical and Non-Medical Cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).
22. Any manufacturing, processing and analytical testing devices used by the applicant must be UL (Underwriters Laboratories) listed or otherwise certified by an

approved third-party testing agency or engineer and approved for the intended use by the City's Building Official and Fire Code Official.

23. No person who is younger than the minimum age established by State law for the purchase, possession or consumption of cannabis and cannabis-related products shall be allowed on the premises of a permitted Commercial Cannabis Business.
24. As requested, the applicant shall provide the Police Department with information regarding any motor vehicle used for the distribution of cannabis goods, including the vehicle's make, model, color, vehicle identification number (VIN), license plate number and Department of Motor Vehicles registration information. Vehicles shall be registered with the Hayward Police Department.
25. Any motor vehicle used to transport cannabis goods is subject to inspection by the Hayward Police Department. Vehicles may be stopped and inspected by the Hayward Police Department at any licensed premises or during transport.

Security

26. The proposed cannabis use shall provide adequate security on the premises, including any on-site security, lighting, and alarms, to ensure the public safety and the safety of persons within the facility and to protect the premises from theft. The applicant shall provide at least one, State-licensed, security guard on the premises during hours of operation. Additionally, all Commercial Cannabis Businesses and Cannabis Operators shall maintain and implement a security and safety plan that includes the following minimum requirements:
 - a. *Security Cameras.* Security surveillance IP video cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour real-time basis of all internal and exterior areas where Cannabis is weighed, manufactured, packaged, stored, and transferred. The cameras shall allow for remote access to be provided to the Hayward Police Department. The security surveillance cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. IP cameras shall remain active at all times and shall be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for ninety (90) days.
 - b. *Alarm System.* A professionally monitored security alarm system shall be installed and maintained in good working condition. The alarm system shall include sensors to detect entry and exit from all secure areas and all windows. The applicant shall keep the name and contact information of the alarm system installation and monitoring company as part of the Commercial Cannabis Business's onsite books and records.
 - c. *Local Contact.* Cannabis Operators shall also identify a local contact who will be responsible for addressing security and safety issues and shall provide

and keep current that contact information to the Hayward Police Department as part of the permitting process.

- d. *Secure Storage and Waste.* Commercial Cannabis products and associated product cultivation, manufacturing, distribution, delivery, and retail waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards, and nuisance.
- e. *Transportation.* The proposed use shall implement procedures for safe and secure transportation and delivery of Commercial Medical and Non-Medical Cannabis, including all Cannabis products and currency, in accordance with local and state law. None of the vehicles associated with commercial use shall have markings or advertising that indicates the presence of cannabis on-site.
- f. *Building Security.* All points of ingress and egress to the proposed use shall be secured with Building Code compliant commercial-grade, non-residential door locks and/or window locks. All heating, ventilating, air-conditioning and service openings shall be secured with steel bars and/or metal grating.
- g. *Emergency Access.* Security measures shall be designed to ensure emergency access is provided to the Hayward Police Department and Hayward Fire Department for all areas on the premises in the case of an emergency.
- h. *Background Checks.* All employees working in conjunction with the cannabis microbusiness shall be subject to background/LiveScan checks. Additionally, all employees shall furnish the Hayward Police Department a state or federal registered Identification Card, upon request.
- i. *Inspections.* During regular business hours, the building premises shall be accessible, upon request, to an identified Hayward Police Department, Building Division, or Code Enforcement employee for random and/or unannounced inspections.
- j. *Security Guards.* The applicant shall provide at least one uniformed security guard licensed by the State of California.
 - i. The security guard(s) shall maintain order therein and prevent any activity which would interfere with the quiet enjoyment of the properties of nearby businesses.
 - ii. Said personnel shall carry his/her Guard Card on their person at all times and present it to any Peace Officer upon demand. Said personnel shall be clothed in such a manner as to be readily identifiable.

- iii. The security guard shall be contracted out through a licensed security employer. If the business owner chooses to hire security guards under his/her business, he/she must hold a PSE license (Proprietary private Security Employer). See further information from the Bureau of Security and Investigative services:

<https://www.bsis.ca.gov/consumers/faqs/ppse.shtml>.

- k. *Records Retention.* All financial records, personnel records, training records, contracts, permits, security records, destruction records, data entered into track-and-trace, and an accurate record of all business activities must be made available to the Hayward Police Department upon request.

Odor Control

- 27. No cannabis odors shall be detectable outside of the facility. The applicant shall incorporate and maintain adequate on-site odor control measures such that the odors resulting from cannabis cultivated, manufactured, and/or stored on-site cannot be readily detected from outside of the structure in which the Business operates or from other non-cannabis businesses adjoining the Commercial Cannabis Business.
- 28. The building permit application shall include an Odor Mitigation Plan certified by a professional engineer or industrial hygienist that includes the following:
 - a. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system remains functional;
 - b. Staff training procedures; and
 - c. Engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.

Commercial Cannabis Permit

- 29. The applicant shall obtain and maintain a valid Commercial Cannabis Permit from the City, including any other applicable State and local permits, including any inspections. Commercial Cannabis Permit renewals are subject to the requirements of Section 6-14.15 of the Hayward Municipal Code. Commercial Cannabis Permits are valid for a period of one year from the date that the permittee received land use approval and shall be renewed annually. The permit is invalid if the term has expired and the annual fee, as established in the City of Hayward Master Fee schedule, has not been timely paid in full. Non-payment will result in a violation

penalty fee in accordance with the Master Fee Schedule for Cannabis uses. Additionally, the City may invalidate or suspend a Cannabis Permit for excessive calls for service or nuisance citations.

30. The proposed commercial cannabis use shall not commence operations until the Business can demonstrate compliance with all necessary state and local licenses (dual licensing) and agency permits. Failure to demonstrate dual licensing in accordance with the Hayward Municipal Code shall be grounds for revocation of a City approved permit. Revocation of a local permit and/or a state license shall terminate the ability of the Commercial Cannabis Business to operate until a new permit and/or state license is obtained.
31. The applicant shall maintain books, records, accounts, public safety calls for service, and all data and information relevant to its operations of the commercial cannabis use, including the implementation of the proposed community benefits component, and allow the City access to such records for purposes of conducting an audit or examination to determine compliance with the Hayward Municipal Code, and other local regulations, including compliance with local tax obligations. Prior to the applicant's commercial cannabis permit renewal each year, the applicant shall provide these records to the City for review to verify compliance.
32. The applicant shall allow inspections by the City of any facility permitted pursuant to this Article to verify compliance with the requirements of this Article, the Hayward Municipal Code and the requirements of State law.

Building Design & Signage

33. All exterior and rooftop mechanical equipment shall be screened. Mechanical and rooftop equipment shall include, but is not limited to, electrical panels, pull boxes, air conditioning units, gas meters, and other equipment. All rooftop screening and mechanical equipment shall be shown on the project plans and be subject to final review and approval by City staff prior to the issuance of an occupancy permit.
34. Any light fixtures affixed to the building shall incorporate a shield to allow for downward illumination. No spillover lighting to adjacent properties is permitted and all exterior lighting on walls shall be recessed/shielded to minimize impacts.
35. Any above-ground structures that may be required to provide utilities for the project shall be compatible as to location, form, design, exterior materials, and noise generation. The applicant shall obtain staff approval prior to issuance of permits.
36. There shall be no display of cannabis goods and/or cannabis related products visible to the general public at the licensed premises. The establishment shall not display any cannabis related paraphernalia that may be used to administer commercial cannabis and/or commercial cannabis products.

37. No signs are approved with this project. Any signs shall be reviewed and approved by the Planning Division and Building Division and a separate Sign Permit application shall be required, consistent with Hayward Municipal Code Sign Ordinance requirements.

Expiration & Revocation

38. This Use Permit approval is void 36 months after the effective date of approval unless:
- a. Prior to the expiration of the 36-month period, a building permit application has been submitted and accepted for processing by the Building Official or a time extension of the approval has been granted by the Planning Director.
 - b. If a building permit is issued for construction of improvements authorized by the use permit approval, said approval shall be void two years after issuance of the building permit, or three years after approval of the application, whichever is later, unless the construction authorized by the building permit has been substantially completed or substantial sums have been expended in reliance on the use permit approval. A request for an extension must be submitted in writing to the Planning Division at least 30 days prior to the above date.
 - c. Business operations have commenced in accordance with all applicable conditions of approval.
39. All administrative and conditionally permitted uses that cease operation for a period of more than six consecutive months shall be deemed to be discontinued, and the use permit establishing said use shall become null and void. Reestablishment of said use shall only be permitted upon obtaining a new use permit.
40. The Planning Commission may require modification, discontinuance, or revocation of this Use Permit if it is determined that the use is operated or maintained in a manner that it:
- a. Adversely affects the health, peace or safety of persons living or working in the surrounding area;
 - b. Contributes to a public nuisance; or
 - c. Has resulted in excessive nuisance activities including disturbances of the peace, illegal drug activity, diversion of cannabis or cannabis products, public intoxication, smoking in public, harassment of passerby, littering, or obstruction of any street, sidewalk or public way; or
 - d. Violates any provision of the Hayward Municipal Code or condition imposed by a City issued permit, or violates any provision of any other local, state,

regulation, or order, including those of state law or violates any condition imposed by permits or licenses issued in compliance with those laws.

CODE ENFORCEMENT

41. All tenant improvements and modifications and/or demolition require approval of a building permit prior to the start of the work. Verified violations of the California Building Code Section 105.1 are subject to a penalty fee of 205% of the required permit fees in addition to the regular Building Division fees in accordance with the City of Hayward Master Fee Schedule.
42. No outdoor storage or uses permitted. All cannabis related activities are to be conducted indoors.
43. The Commercial Cannabis establishment shall maintain and visibly post valid copies of all required State, Local, and Municipal permits, including but not limited to the State of California Cannabis Bureau license, the Hayward Cannabis license, City of Hayward business license, and other pertinent permits and licenses according to the specific cannabis use.
44. Every owner of real property within the City is required to manage the property in a manner so as not to violate the provisions of the Cannabis Ordinance and/or any State and Municipal regulations. The property owner remains ultimately liable for all penalties and fees as a result of violation of any of the requirements for the Commercial Cannabis operation thereof regardless of any contract or tenant agreement or other third parties.

BUILDING

45. The proposed tenant improvement requires a building permit and the associated plan review process. During that review, additional comments will be provided.
46. For the building permit drawings, please include a plumbing fixture calculation based on the California Plumbing Code.

TRANSPORTATION

47. Applicant shall maintain adequate sight distance at all project driveway(s), internal driveway(s)/drive aisle(s) and intersection(s).
48. Truck deliveries/pickups shall be limited to the hours of 8:00 am to 5:00 pm Monday through Friday.

ENGINEERING

During Construction

49. Street Encroachment Permit shall be secured before start of any construction activity in the City Street right-of-way.
50. Damaged street improvements shall be removed and replaced with new matching improvements complying with the City Standard Details as applicable.

UTILITIES

51. Existing Water Services: The property has an existing $\frac{3}{4}$ " domestic water meter (account 30124), 1 $\frac{1}{2}$ " irrigation water meter (account 30125), and a 6" fire service (account 30463). Any modifications to the existing water services shall be performed by City of Hayward Water Distribution personnel at the Applicant/Developer's expense.
52. Sewer Services: The property has an existing industrial sanitary sewer connection with a permitted sewer capacity of 210 gallons per day of domestic-strength wastewater discharge. Based on the Wastewater Discharge Survey, additional sewer capacity will be required to accommodate the proposed facility. The Applicant/Developer is responsible for payment of sewer connection fees at the current rates at the time when application for water and sewer service is submitted. Sewer connection fees for non-residential connections are calculated based on the volume and strength of the wastewater discharge. The development's permitted sewer capacity and related sewer capacity fees shall be further assessed during the building permit application.
53. The Applicant or Developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each irrigation water meter, per City of Hayward Standard Detail 202 (SD-202). Backflow preventions assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.
54. The Applicant/Developer is responsible for applicable water and sewer connection/capacity fees, at the rates in effect at the time of application for water and sewer service, prior to water connection and sewer discharge.

WATER POLLUTION SOURCE CONTROL

55. All outdoor equipment and materials storage areas must be covered and bermed, or must be designed with best management practices to limit the potential for runoff to contact pollutants.

56. Outdoor Process Equipment Areas (such as process equipment areas associated with industrial activity): Process equipment areas must not discharge to the storm drain system.
57. Storage areas containing non-hazardous liquids must be covered by a roof and be contained by berms, dikes, liners, vaults, or similar spill containment devices. Discharge to the storm drain system is prohibited.

SOLID WASTE

58. The owner or property manager shall be responsible for litter-free maintenance of the property and shall remove any litter on or within 50 feet of the property daily to ensure that the property and its street frontage remain clear of any abandoned debris or trash per Municipal Code Sec.11-5.22.
59. Owner or property manager will be responsible for staging all waste containers (landfill, recycling, and organics) for waste collection on collection days. The waste will be staged on the curb near the driveway entrance to 2459 Radley Court on collection days. The containers cannot be placed at the curb any earlier than 6:00 a.m. the day before scheduled collection and are required to retrieve them no later than midnight the days the containers are emptied.

FIRE

60. Submit for proper building permit. All proposed building construction shall meet the requirements of adopted California Building (CBC) and Fire Code (CFC).
61. Fire sprinkler alterations are required to provide overhead sprinkler coverage in the newly proposed interior configuration of the building.
62. Per the requirement of Hayward Public Works Department, a static pressure of 80 PSI should be used when a water test data indicates a higher pressure. The residual pressure should be adjusted accordingly.
63. Fire department connection shall be located on the street/fire apparatus access side of buildings, within 100 feet to a fire hydrant, fully visible and recognizable from the street or nearest point of fire department vehicle access. Fire department connection shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the building for other fire apparatus.
64. Install portable fire extinguishers having a minimum size of 5 lbs. and a minimum rating of 2A:10BC in centrally located and accessible locations (as approved by the Fire Department) with maximum travel distance of 75 feet within the tenant space.
65. A fire alarm system is required for fire sprinkler waterflow and interior occupant notification. This system shall be installed per all NFPA 72 and NEC Standards. Additional requirements may be applicable for all fire protection systems.

66. A building permit is required for the installation of storage racks greater than 6 feet in height. A Fire Department annual operation permit is required for any combustible storage (floor and/or rack) which exceeds 12 feet in height (Class I-IV type commodities), AND/OR any high hazard storage which includes commodities such as hazardous materials, flammable liquids, plastics, foam and rubber products, or any other classified commodity as dictated by the California Fire Code and NFPA 13 Standards, which exceeds 6 feet in height.
67. Machinery, aboveground tanks, and equipment utilizing hazardous materials shall be braced and anchored in accordance with seismic design requirements of the California Building Code (CBC).
68. If this facility does change its operation, including the use of hazardous materials or the generation of hazardous waste, then the Hayward Fire Department and Planning Division shall be notified by the operator prior to the changes to allow review and/or determine if additional conditions of approval will be required by the City.
69. All proposed equipment shall be listed, installed, and operated per manufacturer guild lines and listing agency or third-party standards.