



SUBJECT

Proposed Cannabis Microbusiness with Cultivation, Manufacturing, Distribution, and Delivery Activities Located at 2730 Cavanagh Court (Assessor Parcel No. 439-0036-103-00) Requiring Approval of Conditional Use Permit Application No. 201805798. American Holdings (Applicant); Moose and Squirrel Holdings, LLC (Property Owner).

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit for the proposed cannabis microbusiness to allow cultivation, manufacturing, distribution, and delivery uses based on the analysis set forth in this report and the required Findings (Attachment II), and subject to the Conditions of Approval (Attachment III).

SUMMARY

The applicant, American Holdings, is seeking approval of a Conditional Use Permit (CUP) to occupy an approximately 11,000 square-foot existing industrial building, located at 2730 Cavanagh Court, for the operation of a cannabis microbusiness facility that includes cultivation, manufacturing, distribution, and delivery activities. The proposed project includes upgrades and modifications to the site and building to enhance security and allow for the safe operation of cannabis activities.

BACKGROUND

On October 30, 2017¹ and November 28, 2017², 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 (RFP) process by which the City would select commercial cannabis businesses. The process involved four stages to help differentiate applicants who meet the City's desired set of qualifications. These stages include:

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

¹ October 30, 2017 City Council Minutes

<https://hayward.legistar.com/MeetingDetail.aspx?ID=570110&GUID=1F62F795-56FA-4667-9BD1-E5FDA22CB8C5&Options=info&Search=>

² November 28, 2017 City Council Minutes

<https://hayward.legistar.com/MeetingDetail.aspx?ID=573134&GUID=C82D348A-0412-4741-854C-23697F2AE444&Options=info&Search=>

The RFP process commenced on December 8, 2017. 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 then 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 City staff, the City Manager recommended to the 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, American Holdings, was one of the eleven companies selected for a commercial cannabis permit, specifically for a cannabis microbusiness.

Public Outreach. On November 8, 2018, an initial Notice of Application Receipt for the project application was sent to 71 addresses including property owners, tenants, and businesses within a 300-foot radius of the project site.

As of the date this staff report was written, Planning Division staff has been contacted by two nearby businesses. One neighbor expressed a concern about whether or not there would be a retail component to the facility. The applicant reached out to this neighbor directly and assured that a retail component was not part of this application. The second neighbor emailed concerns about a potential increase in crime and a potential reduction in property values if the proposed business is allowed [Attachment VIII]. The applicant also reached out to this neighbor to set up a call or meeting to discuss their concerns. The neighbor declined the opportunity.

On May 1, 2020, a Notice of this Public Hearing for the Planning Commission meeting was sent to property owners, residents, and businesses within 300-feet of the project site as well as published in The Daily Review newspaper.

PROJECT DESCRIPTION

Existing Conditions. The project is located on a 0.46-acre parcel located at 2730 Cavanagh Court. The site is zoned General Industrial (IG) and has a land use designation of Industrial Technology and Innovation Corridor (IC) in the *Hayward 2040 General Plan*.

The site currently contains an approximately 11,000 square foot industrial building which was originally constructed in 1988, and a parking area. Surrounding land uses include a range of industrial uses, including warehousing, manufacturing, and contractors.

Proposed Project. As proposed, the existing building would be occupied by a cannabis microbusiness with cultivation, manufacturing, distribution, and delivery activities. The project plans and Business Plan [Attachments IV and V] provide details on the proposed operation, logistics and floor plans. As shown in the floorplan, the facility would be partitioned into 17 different rooms. On the ground floor will be offices for the delivery and distribution components of the business and flower rooms, a vegetative room, drying room, and servicing area for the cultivation component. Upstairs will be product storage rooms, a quarantine room, and a security office. In addition, there will be a packaging and labeling room for the manufacturing component of the business. No changes are proposed to the exterior of the building, other than relocating a door on the west façade and the installation of some security cameras and lighting, which is discussed further below.

As detailed in the Business Plan, the proposed microbusiness has a three-step process for cultivating cannabis. First small plants delivered from licensed nurseries will be located in the vegetative room. Once plants reach the flowering stage, they will be transported to the flowering rooms. When the flowers are ready for harvest, they will be cut and brought to the drying room. Once the flowers are dry, the plants will be trimmed and the product will be sent to the manufacturing component of the facility as well as other licensed manufacturers.

The manufacturing component of the business will be minor – limited to packaging and labelling product and the destruction of cannabis goods that do not pass testing. The distribution component will ship packaged products sourced from American Holdings and other licensed operators to licensed dispensaries and delivery businesses as well as to the delivery component of American Holdings. The delivery component of the business will deliver straight to customers. No members of the public will be permitted entry to the facility. American Holdings will operate between the hours of 6:00 a.m. and 10:00 p.m.

Safety and Security Plan. The applicant has provided a detailed Security and Safety Plan [Attachment VI] to ensure public and product safety. According to the Plan, and as conditioned, a minimum of one security guard will be on site at all times during hours of operation. Other proposed security measures include the installation of an alarm system and high definition 24-hour cameras located in the interior and exterior of the building. Rooms with cannabis or cannabis products will have limited access that only managers or supervisors have keys to. A new metal fence with a security gate will be installed around the property and a new security screen will be installed to block views of the loading and unloading area from the street. Delivery vehicles will be outfitted with money drop boxes as well as built-in lock boxes for product to be stored.

Surveillance videos and inventory reports will be made available to the City upon request. The applicant has also specified that an employee-training program will be implemented so that each employee understands their role in keeping the facility, themselves, and the products safe and secure. The Security and Safety Plan provides further detail about the additional security measures that will be taken with each component of the microbusiness. All proposed security measures have been reviewed and deemed appropriate by the Hayward Police Department.

Environmental Compliance Program. The Environmental Compliance Program [Attachment VII] includes the required Odor Control Plan and Sustainability Plan. In the Odor Control Plan, American Holdings proposes a number of measures to prevent the emission of any cannabis odors outside of the building. A forced exhaust system will be used to create negative pressure in the facility, which will minimize or eliminate odor seepage through open doors, windows, or through cracks, seams, and joints. In addition, exhaust outlets will be equipped with carbon filters or commercial UV-light odor eliminators to filter air before it leaves the building. Odor control systems will be appropriately sized for the facility and regularly inspected to ensure proper functioning.

The Sustainability Plan includes a number of sustainability measures for the proposed facility. This includes the use of non-filtered water directly from the tap, rather than water generated from a reverse osmosis process, which generates a significant amount of lost backwash. In addition, double bottom grow tubs will collect runoff water to be wicked back up to the plants as the upper soil tries. This ensures that there will be no wasted water as a result of watering

plants. To lower energy consumption, American Holdings will use light fixtures called “cool tubes” that continuously suck the hot air generated from the grow light bulbs into an air duct that is expelled from the room. This will prevent the heat from grow lights from raising the air temperature in the grow rooms, which would increase the need for cooling. The Environmental Services Division has reviewed the Environmental Compliance Program and deems it appropriate.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. The project site is in an area designated as Industrial Technology and Innovation Corridor (IC) in the *Hayward 2040 General Plan*³. The Corridor is expected to grow as an economic and employment center and evolve to achieve a healthy balance of traditional manufacturing and warehousing and newer information- and technology-based uses. Allowable uses include professional offices, corporate campuses, research and development, warehousing and logistics, manufacturing, and biotechnology.

The proposed cannabis microbusiness would support the following *Hayward 2040 General Plan* goals and policies:

- 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.
- 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 are included in the Staff Analysis section below and in Attachment II, Findings.

Zoning Ordinance. The project site is located within the General Industrial (IG) zoning district.⁴ The IG district conditionally permits the establishment of a cannabis facility with manufacturing activities and cultivation in a space over 5,000 square feet with approval of a Conditional Use Permit.⁵ The proposed use would operate within an existing building. The only site and building improvements proposed are the relocation of a door and the addition of security fencing and screening.

The Planning Commission may conditionally approve a Conditional Use Permit with a cannabis use that includes manufacturing and cultivation in a space over 5,000 square feet when all of the required Findings pursuant to Sections 10-1.3225 and 10-1.3609 of the Hayward Municipal Code are met. The required Findings are listed below:

³ Hayward 2040 General Plan: <https://www.hayward2040generalplan.com/>

⁴ Section 10-1.1600 (Industrial Districts) of Hayward Municipal Code:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.1600INDI

⁵ Section 10-1.3200 (Conditional Use Permit) of Hayward Municipal Code:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=CD_ORD_CH10PLZOSU_ART1ZOOR_S10-1.3200COUSPE

Conditional Use Permit Required Findings

- The proposed use is desirable for the public convenience or welfare;
- The proposed use will not impair the character and integrity of the zoning district and surrounding area;
- The proposed use will not be detrimental to the public health, safety, or general welfare; and
- The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

Cannabis Required Findings

- The proposed cannabis use will not be detrimental to the public health, safety, or general welfare in that the cannabis operation is situated in an appropriate location where sensitive land uses will not be adversely impacted;
- Appropriate measures have been taken to address nuisances related to odor, noise, exhaust, and waste related to the cannabis operation;
- The cannabis operation is designed to be safe, secure, and aesthetically compatible with the surrounding area; and
- The cannabis operation will not place a burden on the provision of public services disproportionate to other industrial or commercial uses.

Further analysis related to the cannabis findings is included in the Staff Analysis section below and contained in Attachment II, Findings.

Commercial Cannabis Permits. An applicant is required to obtain approval of a Commercial Cannabis Permit by the City to ensure that all regulatory requirements are met.⁶ The applicant has satisfied this requirement.

The applicant must also obtain the necessary land use entitlements, which must be consistent with the Zoning Ordinance standards, which are the subject of this application. Following entitlement, the applicant will be required to 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 Council are valid for one year and must be renewed annually following the completion of a mandatory safety inspection and demonstration of compliance with all local and State regulations, including any Conditions of Approval of this Conditional Use Permit.

STAFF ANALYSIS

Staff has reviewed the project application and believes that the Planning Commission can make the required Findings to conditionally approve the establishment of the proposed cannabis microbusiness with cultivation, manufacturing, distribution, and delivery activities at the subject property. As mentioned previously, the proposed use is located within the City's industrial area, surrounded by a mix of industrial uses including warehousing, manufacturing, and contractors. With approval of a Conditional Use Permit, the proposed project is consistent with the General Industrial Zoning District, as well as the goals and policies of the City's General

⁶ Chapter 6, Article 14 (Commercial Cannabis Businesses) of the Hayward Municipal Code: https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.1600INDI

Plan, which calls for a diverse mix of industrial uses, including those associated with new technologies and emerging industries.

As part of the initial RFP process to obtain their Commercial Cannabis Permit from the City Council, the applicant's business plan 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. Planning Division staff has further determined that potential nuisances associated with the facility will be mitigated with the implementation of the proposed Business Plan, Security and Safety Plan, and Environmental Compliance Program, as well as the attached Conditions of Approval.

The Hayward Police Department, Code Enforcement Division, and Fire Department have reviewed the project proposal with Planning Division staff to ensure the proposed microbusiness can be operated in a safe manner. As conditioned, the proposed use would provide a safe and secure environment for employees and mitigate potential impacts to adjacent properties. The conditions require the applicant to adhere to the approved plans, including the comprehensive list of security, odor, noise, and sustainability measures. Additionally, Commercial Cannabis Permits are renewed annually, providing the City an opportunity to revoke a permit if determined that the applicant does not adhere to the City's requirements and Conditions of Approval.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class I for existing facilities in that the project involves the use of an existing structure. Therefore, no environmental review is necessary.

NEXT STEPS

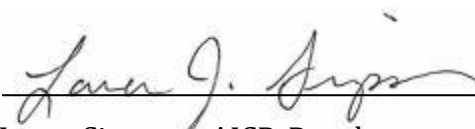
If the Planning Commission approves the Conditional Use Permit, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council for final disposition.

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