



SUBJECT

Proposed Cannabis Microbusiness with Cultivation, Manufacturing, Distribution, Delivery, and Ancillary Storefront Retail Activities Located at 25571 Clawiter Road and 3329 and 3363 Enterprise Road (Assessor Parcel Nos. 439-0099-046-00 and 439-0099-045-01) Requiring Approval of Conditional Use Permit Application No. 201907374. Precision Apothecary DBA Juva Life (Applicant); James Larrick (Property Owner).

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit for the proposed cannabis microbusiness to allow cultivation, manufacturing, distribution, delivery, and ancillary storefront retail activities 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, Juva Life, is seeking approval of a Conditional Use Permit (CUP) to occupy existing tenant spaces totaling approximately 32,100 square feet, as well as an approximately 2,200 square foot new addition, located at 25571 Clawiter Road and 3329 and 3363 Enterprise Road, for the operation of a cannabis microbusiness facility that includes cultivation, manufacturing, distribution, delivery, and ancillary storefront retail activities. The proposed project includes upgrades and modifications to improve the site's appearance, 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, over two rounds, the City Manager recommended to the City Council the award of 23 commercial cannabis permits to 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, Precision Apothecary, now doing business as Juva Life, was one of the companies selected for a commercial cannabis permit, specifically for a cannabis microbusiness.

Public Outreach. On December 6, 2019, an initial Notice of Application Receipt for the project application was sent to 48 addresses including property owners, tenants, and businesses within a 300-foot radius of the project site.

On January 27, 2020, the applicant held a neighborhood meeting to present the project and provide an opportunity for questions and discussion. The same list of surrounding property owners, tenants, and businesses within a 300-foot radius were invited to the meeting via a mailed flyer, though no neighbors elected to attend.

On October 10, 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.

As of the date this staff report was written, Planning Division staff has been contacted by two neighboring business. Concerns were expressed about the type of traffic and/or clientele the business might generate, the perceived lack of parking on the site, and the poor existing landscaping at the site. In addition, the business owner of an auto repair shop operating out of another tenant space on site expressed concern about the proposed addition to the greenhouse that would effectively remove the alleyway between the existing buildings.

PROJECT DESCRIPTION

Existing Conditions. The project is located on two contiguous parcels totaling 1.9 acres located at 25571 Clawiter Road and 3329 and 3363 Enterprise Avenue. 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 three industrial buildings totaling approximately 50,000 square feet, which were originally constructed in the 1980s and 1990s, and a parking lot that spans the length of the site in the rear. Surrounding land uses include a range of industrial uses, including warehousing, distribution, and auto repair.

Proposed Project. As detailed in the Business and Operations Plans, Juva Life's core mission is to produce products that improve the quality of life for individuals enduring debilitating symptoms of serious illnesses, such as cancer, epilepsy, multiple sclerosis, autism, chronic pain, PTSD, and others. They aim to provide "precision cannabis," which they define as the right medicine to the right patient at the right dose and at the right time.

As proposed, an existing building and greenhouse at 25571 Clawiter Road and 3329 Enterprise Avenue and an existing tenant space at 3363 Enterprise Avenue would be occupied by a cannabis microbusiness with cultivation, manufacturing, distribution, delivery, and ancillary storefront retail activities. The project plans and Business and Operations Plans [Attachments IV and V] provide details on the proposed operation, logistics and floor plans. As shown in the floor plan, the 25571 Clawiter building would house rooms for cultivation and manufacturing, research and development, loading, offices, and employee break areas. In addition, this building will feature a small retail storefront facing Clawiter Road, which will sell products directly to the public on site. Exterior enhancements will include the use of wooden slats and new awnings to give the façade an updated, more attractive appearance.

Next to the 25571 Clawiter building is a greenhouse where the cultivation of cannabis plants will occur. The existing greenhouse, which is just over 11,000 square feet will be augmented with a 2,200 square foot addition to house additional cultivation space. As conditioned, the existing property lines will be adjusted so that the entire greenhouse will be contained on a single parcel with the 25571 Clawiter building. The existing greenhouse will be almost entirely rebuilt to enhance security and improve energy efficiency and bring the structure up to code.

Juva Life will also occupy the tenant space located at 3363 Enterprise Avenue, which is a part of the western most building on the site. This space will house storage for the distribution and delivery operations, as well as a packaging room, offices, and an employee break area. No significant changes are proposed to the exterior of this building, other than the installation of new fire connections and security features, which are discussed further below.

The cultivation greenhouse will have a canopy of 9,900 square feet. The cultivation process involves several steps, including breeding, cloning, vegetation, flowering, harvesting, drying, trimming, and curing. The manufacturing processes consist of using cannabis extracts and plant materials and “non-active” ingredients, such as food grade flavor additives and colorants, binding agents and stabilizers, to produce a range of cannabis goods, including edibles, soft-gel capsules, transdermal patches, oral film stops, inhalers, and suppositories. Depending on the product, different manufacturing processes are employed, including blending, grinding, extracting, emulsifying, heating, cooling, filtering, and purifying. Once manufactured, they will be safely and properly packaged. A research and development component of the facility will be involved in creating, developing and testing various formulations of cannabis products. The distribution component of the business will procure and distribute cannabis products produced on site or from other licensed operators to licensed retailers, manufacturers, and microbusinesses. Finally, Juva Life’s retail component will be two-fold. The delivery operation will deliver product directly to customers using its vehicle fleet. In addition, a small on-site storefront retail store will sell products directly to members of the public.

As proposed, the facility will open in two phases. Phase One will entail operations from the 25571 Clawiter building, excluding the greenhouse cultivation and storefront retail components. During this time, improvements to the 3363 Enterprise building and the greenhouse will be ongoing. Once those are complete, Phase Two will commence, in which the full range of microbusiness activities will operate. During both phases, the hours of operation will be 6:00 a.m. to 9:00 p.m.

Safety and Security Plans. The applicant has provided detailed Safety and Security Plans [Attachment V] to ensure public and product safety. According to the Plans, 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. All cannabis and cannabis products will be stored in secure storage areas within locked rooms. Employees will wear identification badges with photos which will be required to access areas of the business not designed for public access. A new metal fence with a security gate will be installed around the property and all loading and unloading will occur inside enclosed buildings, outside of public view. Delivery vehicles will be outfitted with built-in lock boxes for product to be stored. Exterior lighting will also be enhanced in the parking lot and around the building exterior to improve visibility.

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 Safety and Security Plans provide further detail about the numerous additional security measures that will be taken with each component of the business. All proposed security measures have been reviewed and deemed appropriate by the Hayward Police Department.

Odor Mitigation Plan. The Odor Mitigation Plan [Attachment VI] proposes a three part odor control system to prevent the emission of any cannabis odors outside of the buildings. This will include a series of carbon filters, a negative air pressure exhaust system that ensures that air does not escape out any cracks or gaps in the building, and a high-pressure fog system with a scientifically formulated essential oil mixture which neutralizes odor. Odor control systems will be appropriately sized for the facility and regularly inspected to ensure proper functioning.

Sustainability Plan. The Sustainability Plan [Attachment VII] includes a number of sustainability measures for the proposed facility. The cultivation operation will employ a reverse osmosis system that operates at up to a three to one ratio of usable water to wastewater produced. This is a significant upgrade from the industry standard of reverse osmosis systems which typically result in more wastewater produced than usable water. Juva Life will also employ a low volume drip irrigation system with very little to no water runoff. The greenhouse will have the ability to utilize natural daylight, which reduces the need for artificial light. Additionally, humidity in the greenhouse will be controlled using a liquid desiccant technique which will reduce the need for nighttime ventilation or cooling, resulting in a significant reduction in energy use. The company's vehicle fleet will also make use of route management software to reduce the number of trips and vehicle miles traveled. 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

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

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 largely operate within existing buildings as well as an approximately 2,200 square foot addition. As conditioned, the new addition meets the development standards of the IG zoning district. In addition, the new security fencing proposed as part of the project reduces an existing non-conformity and provides for new landscaping along Enterprise Avenue.

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:

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.

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_ART1Z00R_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_ART1Z00R_S10-1.3200COUSPE

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 cannabis licenses from the State. Failure to obtain the proper State licenses 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, delivery, and ancillary storefront retail 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, distribution, and auto repair. 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 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

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

proposed Business and Operations Plans, Security and Safety Plans, and Odor Mitigation Plan, Sustainability Plan, 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 existing structures with a minor addition less than 2,500 square feet. Therefore, no environmental review is necessary.

NEXT STEPS

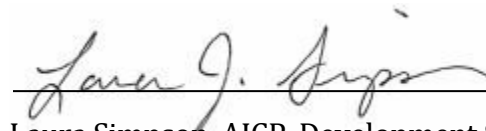
If the Planning Commission approves the Conditional Use Permit, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council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

Prepared by: Elizabeth Blanton, AICP, Associate Planner

Approved by:



Sara Buizer, AICP, Planning Manager



Laura Simpson, AICP, Development Services Director