



SUBJECT

Proposed Cannabis Microbusiness with Delivery, Distribution, and Manufacturing Activities Located at 2416 Radley Court, Unit 3 (Assessor Parcel No. 439-0058-112-00) Requiring Approval of Conditional Use Permit Application No. 201901980. Jeffrey Teicheira of Green Grizzly (Applicant); Diane Wright Trust (Property Owner).

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit for the proposed cannabis microbusiness to allow delivery, distribution and manufacturing 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, Green Grizzly, is seeking approval of a Conditional Use Permit (CUP) to occupy an approximately 1,736 square-foot tenant space within an existing industrial building, located at 2416 Radley Court, Unit 3, for the operation of a cannabis microbusiness facility that includes delivery, distribution, and manufacturing activities. The proposed project includes tenant improvements to the existing tenant space to comply with the California Building Code standards, enhance site security, and implement an odor mitigation plan to allow for the safe operation of commercial 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, Green Grizzly, was one of the eleven companies selected for a commercial cannabis permit, specifically for a cannabis microbusiness.

Public Outreach. April 11, 2019, an initial Notice of Application Receipt for the project application was sent to 78 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 property management companies stating their concerns over the proposed microbusiness. The representatives expressed concerns about the amount of parking on-site, potential water usage issues, and building design features such as its seismic integrity and retaining moisture. In addition, two letters of support were submitted to the City from neighboring businesses of the project site. Public correspondence is included as Attachment VI.

On January 29, 2021, 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 1.28-acre parcel at 2416 Radley Court. The site is zoned Industrial Park (IP) with a corresponding land use designation of Industrial Technology and Innovation Corridor (IC) in the *Hayward 2040 General Plan*.

The project site currently consists of an approximately 22,000 square-foot industrial building with ten industrial condominium units, originally subdivided and constructed in 1981, and approximately 60 parking spaces along the perimeter of the property. Surrounding land uses include a range of industrial uses, including small stores, catering businesses, printing shops, warehousing, manufacturing, and contractors.

Proposed Project. As proposed, the existing industrial condominium unit would be occupied by a cannabis microbusiness that will include delivery, distribution, and manufacturing activities. The project plans and business plan (Attachments IV and V) provide details on the proposed operation, logistics and floor plans. The proposed microbusiness would occupy Unit 3, which is approximately 1,736 square feet. As shown in the floorplan (see Sheet A2.0 of project plans), the facility will consist of six primary areas including a warehouse area for loading, unloading, and labeling; a non-volatile manufacturing area; a distribution room for cannabis product storage; a limited access area for administrative purposes, security equipment, vaults, and product storage; a lobby and entrance area; an employee break area; and a restroom. No significant changes are proposed to the exterior of the building, other than the installation of

security features such as surveillance cameras and lighting, which is discussed further below. Prior to operation, the applicant will be responsible for completing the tenant improvement to the industrial unit including replacing and strengthening interior walls, installing fire and building alarm systems, an odor control system, bathroom upgrades to meet ADA compliance, installing a secure roll-up door and commercial grade locks on all doors, etc.

As detailed in the Business Plan, the proposed microbusiness will provide safe and secure delivery of cannabis products (e.g., cannabis flower, concentrates, edibles, vape pens, oils) from their facility directly to customers through an online ordering system and via phone orders. No members of the public will be permitted entry to the facility. Some of the delivered product will be produced in the manufacturing component of the facility where Green Grizzly intends to use an ice water hash extraction process which does not use ethanol, or toxic substances in the extraction process. The ice water hash process involves agitating the plant matter in the ice water, the cannabinoids in the trichomes (also known as resin) separate and are collected to be used to create a hash product. The manufacturing processes are solventless and do not involve any chemicals or hazardous materials. The remainder of delivered product will be sourced from other licensed cultivators and manufacturers via Green Grizzly's distribution component. The delivery component will operate from 10 a.m. to 8 p.m., seven days a week. The manufacturing and distribution components will operate Monday through Friday from 8 a.m. to 4 p.m. In addition, Green Grizzly intends on hiring eight full-time employees with approximately five to six present on-site and two delivery drivers.

Safety and Security Plan. As part of their Business Plan, the applicant included a detailed Safety and Security Plan to ensure public and product safety. Proposed security measures include the installation of an alarm system, motion detection system, inventory management system, and approximately fifteen high definition 24-hour cameras located in the interior and exterior of the building. The company's fleet of vehicles will be outfitted with interior cameras and a money drop box as well as a built-in lock box for product to be stored meeting Bureau of Cannabis Control (BCC) standards.

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 Plan provides further detail about the numerous 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.

Sustainability Plan. The Sustainability Plan included within Attachment V contains the required Odor Mitigation Plan and Sustainability Plan. To control odor, Green Grizzly will utilize an exhaust system with activated carbon filters combined with building pressure control to prevent the emission of any cannabis odors. HEPA and MERV-8 filters will also be installed in all vents. As conditioned, the final version of the Odor Mitigation Plan shall be certified by a licensed professional engineer or industrial hygienist and shall include operational processes and maintenance plans, staff training procedures, and details about proposed engineering controls and systems. The Sustainability Plan also includes several sustainability measures for the proposed facility. This includes the use of two Toyota Priuses in its vehicle fleet, one hybrid

cargo size van, LED lighting, non-cannabis water recycling, and installation of a separate water meter to track water usage. The Environmental Services Division has reviewed the Sustainability Plan 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 goals and policies of the *Hayward 2040 General Plan*:

- Land Use Goal 6. Enhance the Industrial Technology and Innovation Corridor to expand the economic and employment base of Hayward and to achieve a healthy balance between a manufacturing-based economy and an information- and technology-based economy.
- Land Use Policy LU-6.2. The City shall encourage the conversion of obsolete industrial and warehouse distribution space to a productive use, such as advanced manufacturing, professional office centers, corporate campuses, research and development parks, and flex space.
- Economic Development Goal ED-1. Diversify the economic base of Hayward to support a robust and stable economy with a diverse range of employment, shopping, and cultural opportunities for local residents.
- Economic Development Policy ED-1.4. The City shall establish business attraction efforts that focus on small and medium-sized businesses within emerging and growing business sectors.
- Economic Development Policy ED-1.6. The City shall encourage the establishment and expansion of advanced and specialized manufacturing businesses to counter declining employment trends in traditional industrial manufacturing.
- 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 the Findings, Attachment II.

Zoning Ordinance. The project site is located within the Industrial Park (IP) zoning district⁴. The IP district conditionally permits the establishment of a commercial cannabis facility with

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

manufacturing activities via the approval of a Conditional Use Permit⁵. As the project makes use of an industrial tenant space within an existing building, no significant exterior changes are proposed as part of this application. The Planning Commission may conditionally approve a Conditional Use Permit for a cannabis operation that includes a manufacturing component 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;
- 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. Applicants are 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's Bureau of Cannabis Control (BCC). 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.

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

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

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 delivery, distribution, and manufacturing 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 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 and Operations Plan, Safety and Security Plan, and Environmental 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.

In response to the concerns raised by the property management companies, the applicant will be required to install a separate water meter to the City's specifications to track water usage and water quality associated with the cannabis manufacturing process. The project site has approximately 60 parking spaces for the ten industrial condominium units on-site which provide ample surplus parking spaces if deemed necessary. Lastly, to mitigate issues related to the building's retainment of moisture, the applicant will be implementing their Odor Mitigation Plan to ensure proper ventilation in the tenant space and the applicant's tenant improvement plans will undergo a technical plan check review process with the City's Building Division to ensure compliance with the California Building, Electrical, Mechanical, and Plumbing Codes.

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 a tenant space within an existing structure. Therefore, no environmental review is necessary.

NEXT STEPS

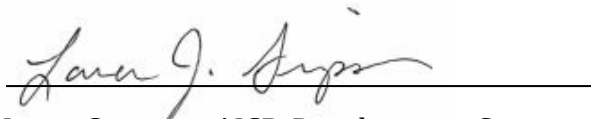
If the Planning Commission approves the Conditional Use Permit, then a 10-day appeal period will commence from the date of decision. If no appeal is filed, then the decision will be deemed final. If an appeal is filed within the 10-day time frame, then the application will be heard by the City Council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

Prepared by: Marcus Martinez, Associate Planner

Approved by:

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Sara Buizer, AICP, Acting Deputy Director, Development Services

A handwritten signature in black ink, appearing to read "Laura J. Simpson", is written over a horizontal line.

Laura Simpson, AICP, Development Services Director