



HAWTHORNE PLANNING COMMISSION STAFF REPORT

DATE: May 15, 2024

SUBJECT: Conditional Use Permit CU-2023-0014 and Design Review DR-2024-0001 for cannabis retail

FROM: Gregg McClain, Director of Planning

BY: Staff

PROJECT INFORMATION

SUMMARY: Conditional Use Permit and Design Review for new cannabis retail business

LOCATION: 11425 Hawthorne Boulevard

APPLICANT: Herbarium Hawthorne LLC, dba Herbarium

REPRESENTATIVE: Chonsu "Jason" Pak

PROPERTY OWNER: Anais, LLC (Raul Sanchez)

BACKGROUND

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) was approved California voters as Proposition 64 and became part of the California Constitution on November 9, 2016 (Cal. Const., art. II, § 10(a)). Proposition 64 legalized the nonmedical use of cannabis by persons 21 years of age and over, and the personal cultivation of up to six cannabis plants.

On June 27, 2017, Governor Brown signed the Legislature-approved Senate Bill 94. This bill combined elements of the Medical Cannabis Regulation and Safety Act (MCRSA) and AUMA to establish a streamlined singular regulatory and licensing structure for both medical and nonmedical cannabis activities given that there were discrepancies between the MCRSA and AUMA. The new consolidated provisions under SB 94 is now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to be governed by the California Bureau of Cannabis Control. MAUCRSA refers to medical cannabis as "medicinal cannabis" and nonmedical or recreational cannabis as "adult-use cannabis."

On November 3, 2020, City of Hawthorne residents voted in favor of ballot Measure CC allowing the city to tax cannabis businesses 5% of gross revenues.

In October 2021, the City passed Resolution No. 8305 that created the Cannabis Working Committee that endeavored to implement the City's cannabis program while holding several town-hall meetings and regular open meetings to discuss and inform the community residents regarding the cannabis program. Based on the series of Cannabis Working Committee meetings and City Council meetings, the City Council directed staff to draft a comprehensive Commercial Cannabis Business ordinance.

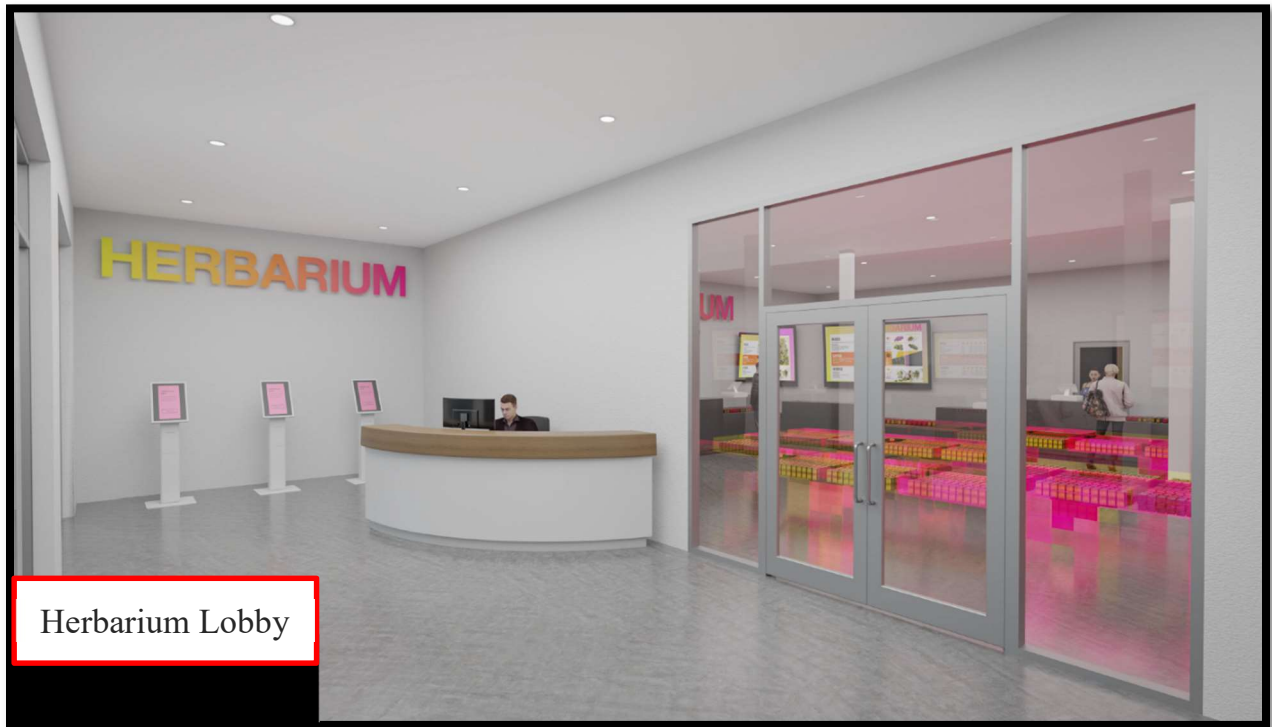
On November 8, 2022, the Hawthorne City Council, passed, approved, and adopted Ordinance No. 2235 (Cannabis Ordinance) which amended the Hawthorne Municipal Code, Title 5 (Business Regulation and Licenses), to include provisions and regulations for commercial cannabis businesses. Subsequently, on November 29, 2022, the City Council approved Resolution No. 8384, which set the cannabis licensing application, conditional use permit, and other fees related to the commercial cannabis businesses. As part of the Cannabis Ordinance, the City Council adopted a merit-based approach to selecting which applicants would receive the licenses.

The selection process started with all interested applicants submitting a cannabis business license screening application to the City between December 19, 2022, and January 19, 2023. The cannabis business license screening application included information about the applicant's ownership and management team, proposed business plan, design concept, security plan, and experience, among many other things. Applicants were not required to have a physical location secured to apply for screening, as selected and eligible applicants we allowed up to six months to file for a conditional use permit. To screen the applications, the City created a cannabis evaluation panel composed of seven staff, including two sworn police officers, an Assistant City Attorney, and four department heads from Finance, Licensing, Planning, and Public Works. All panelists were required to have no business interests in the City of Hawthorne or cannabis businesses anywhere. After the Cannabis Evaluation Panel reviewed and scored all retail applications, the top scoring applicants from the screening process were announced on March 22, 2023, via the City's cannabis webpage. Six storefront retail applicants were selected by the evaluation panel to continue on to the conditional use permit process.

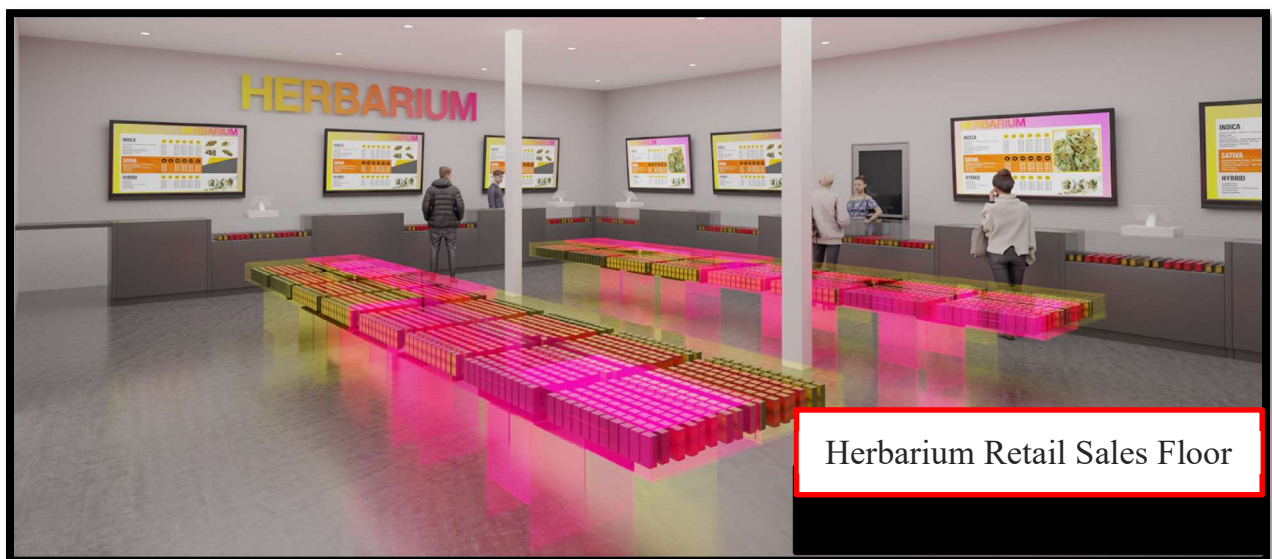
PROJECT DESCRIPTION

The proposed project includes a conditional use permit to allow for a commercial cannabis storefront retail business with delivery within an existing 3,501 square foot commercial space. The business plan also includes an ancillary off-site distribution operation. While cannabis distribution does not require a conditional use permit, cannabis screening applications received higher scores when non-retail cannabis uses were also proposed. Therefore, selected retail applicants with off-site non-retail activities are required to operate both retail and non-retail businesses as a condition of their conditional use permit. More specifically, the project will include:

Lobby (519 square feet) – The lobby is at the entrance of the building. As customers and visitors enter the building, they are age-verified by front desk personnel before being permitted to enter the main sales area. The reception area will also include an education space where customers can use information kiosks to obtain information on the store's cannabis and cannabis products.



Retail Area (1,587 square feet) - The retail area is the sales floor where cannabis (flower) and cannabis products (manufactured cannabis) will be stored, displayed, and



sold. The retail area will be separated from the employee-only limited access areas and is closely monitored and supervised (e.g., by security personnel, dispensary employees, and the 24-hour video surveillance system).

Herbarium will conduct sales of cannabis and cannabis products only within its retail storefront. Conducting sales in accordance with state law not only prevents nuisance to Herbarium's neighbors, but it provides security for employees and customers. Direct customer interface also allows Herbarium to ensure that its customers have a personalized, private experience. Herbarium employees will be trained and available to provide one-on-one customer service and education on cannabis products.

Delivery Room (215 square feet) – Herbarium will employ three full-time employees to operate the delivery service, including a dispatcher and up to two delivery drivers. Initially, Herbarium will have one delivery vehicle, but will increase the number of delivery vehicles as delivery orders increase. Herbarium intends for its customers to be able to place delivery orders through Herbarium's website via Dutchie online dispensary sales software. Dutchie is a third-party delivery software integration that's compatible with Herbarium's POS system, Leaflogix. All customers are required to be pre-registered with Herbarium and verified prior to receiving any cannabis delivery.

Hours of Operation

The business will be open daily from 10:00am to 10:00pm with delivery services ending at 9:00pm.

Business Operation

As previously mentioned, the business plan includes operation of an off-site cannabis distribution facility. The distribution facility will be located at 13623 Crenshaw Blvd, Hawthorne, CA 90250. The facility will be 2,550 square feet with a designated packing area and separate office spaces for staff and storage. The distribution facility will accept shipments of cannabis and cannabis goods from other licensed distributors to be distributed at Herbarium retail locations. Shipments will be received Monday through Friday between 10:00am and 4:00pm. Herbarium anticipates hiring eight full-time employees to manage initial operations and scale up employees as the business needs.

The number of employees for retail and distribution activities will increase as the business scales over time. Herbarium has set internal minimum wage standards (starting pay) of \$22 to \$24 per hour for entry level positions which is \$6 to \$8 more than, or 137% of the 2024 state minimum wage.

SITE LOCATION AND LAND USE

The project site is at 11425 Hawthorne Boulevard, near the intersection of Imperial Highway and Hawthorne Boulevard. The Assessor's Parcel Numbers are 4044-013-003 and 4044-013-024. The lot area is 15,660 square feet and will include 22 parking stalls, including three ADA stalls and four bike rack spaces.

The surrounding uses are primarily commercial with the parcels to the north, west and south also being within the Mixed-use Overlay zone. Immediately to the north is a Starbucks and to the south is Moshi Moshi restaurant. The project site was previously Mi Casita Mexican Restaurant, but the business suffered a major fire several years ago and never reopened.

VICINITY MAP



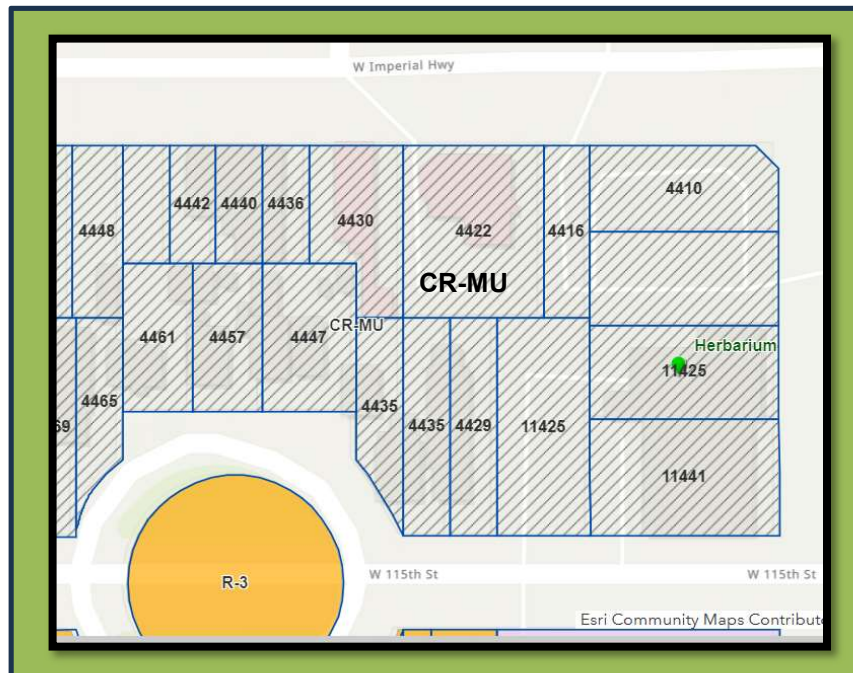
GENERAL PLAN, ZONING, AND OTHER POLICY PLANS

The property is zoned CR-MU (General Commercial-Mixed Use overlay). The surrounding zoning to the north, west and south is also CR-MU and the properties to the east are CR. The property has a General Plan Land Use Designation of Commercial and the surrounding General Plan Land Use Designations are Commercial.

The Mixed-Use Overlay is designed to encourage mixed use projects within specific commercial zones. Mixed use projects are characterized by the integration of compatible residential and commercial uses, whereby such uses share the same building or lot. Such mixed-use projects are intended to allow greater flexibility of development alternatives, especially attractive, mixed income higher density residential development, in appropriate areas of the city.

The Mixed-use overlay permits development in accordance with the underlying zone only, in this case the CR zone. This application will follow that path.

ZONING MAP



Cannabis retail businesses are permitted in the CR zone, subject to the provisions of Chapter 17.90—Commercial Cannabis Businesses. The proposed retail and delivery business activity is comparable to existing and otherwise permitted general commercial activities allowed by the Hawthorne Municipal Code and General Plan.

No public park or K-12 school (private or public) is within 600 feet of the proposed site. Additionally, there are no commercial daycare centers, treatment or recovery facilities, and other licensed cannabis retailers or consumption businesses within 150 feet, as required by HMC 17.90.020.

The project is designed to comply with HMC 17.28.030 (Limitations on Permitted Uses). More specifically, all allowed cannabis activities are contained within the building and all storage of cannabis and cannabis goods will remain within the specified storage areas as specified on the floor plans (Attachment 5).

The Hawthorne General Plan Economic Development Element acknowledges that land use policies have immediate and direct impacts on economic activity within the City. Many of the City's past land use decisions were made without consideration of these economic impacts, and the cumulative effect contributed to economic decline. As such, the Economic Development Element includes goals that promote economic growth and vitality as well as policies that help meet those goals. The proposed project meets the goals and policies of the Economic Development Element through job creation, promoting tourism, and generating extensive business tax revenue. Commercial cannabis businesses are required to pay a 5% business tax on gross receipts. In contrast, a city permit to sell tobacco is a flat \$379, annually.

DISCUSSION

A conditional use approval is a requirement for a cannabis retail store, with or without a consumption area. This application does not include a consumption area. Generally, retail uses are not a significant source of impacts that need to be addressed through conditions of approval, but a conditional use permit is still required to address any potential impacts related to the specific location. There is also some potential for issues to arise if live entertainment is involved (although the applicant did not indicate this was part of their business plan). The City takes the position that live entertainment in a cannabis retail area has two potential problems that should be mitigated through conditions of approval. These are noise, and overcrowding. The City is committed to ensuring our cannabis businesses have the best opportunity to thrive, and staff believes that if these potential problems are addressed properly, the cannabis business will be a good fit in the neighborhood.

The HMC has guidelines for noise in each zone. After careful review of the noise standards currently applicable to this location, staff believes that adherence to these standards will not hinder live entertainment that may be offered at the cannabis business and will protect the neighborhood from nuisance noises. The recommended condition is, therefore, that the noise levels of the zone shall be adhered to at all times.

Overcrowding is a potential issue that staff believes there are adequate regulations in place to manage. Each commercial building and gathering space has a maximum occupancy determined by the Building and Fire Codes. Staff recommends a condition that reiterates the applicant's duty to enforce the maximum occupancy to ensure the health and safety of customers and employees. Violation of the maximum occupancy limit is grounds for modifying the CUP, or even revocation.

The HMC Section 17.25.100 mandates that the applicant submits a detailed landscaping plan in compliance with Chapter 17.89, Water Efficient Landscaping, and Section 17.20.090 for approval to the planning director at the time plans are submitted for plan check. Planting areas, excluding curbs, mow strips, and other encroachments, shall be permanently maintained with landscaping materials per the approved landscaping plan.

DESIGN REVIEW

The existing building exterior will be completely remodeled and updated. The building will feature a modern design with a textured stucco finish. The architectural details will include a pop out around the front doors with metal awnings over the entire storefront area. LED lighting on the side wall will allow for color changing of each light. The parking lot will be lit with new pole lighting and the building will be adorned with security lighting on all 3 exposed sides. The parking lot will include 22 parking spaces, including three ADA stalls, as well as a bike rack for up to four bikes, which under the HMC, is credit for one vehicle parking stall. Due to recent state law changes, no parking can be required at this location, so the proposed parking stalls exceed the required parking.

EXISTING BUILDING EXTERIOR



PROPOSED NEW BUILDING EXTERIOR



PUBLIC HEARING NOTICE

Notice of the public hearing for this item was provided in accordance with Chapter 17.06 of the HMC. The Planning Department published a public hearing notice in the local paper on November 2, 2023, and mailed notification to property owners within a 300-foot radius of the site. At that meeting and subsequent meetings, the application was either continued to specific dates or continued by reason of the meeting being cancelled for lack of quorum. As a result, additional hearing notices were not required.

ENVIRONMENTAL ANALYSIS

Pursuant to CEQA (Public Resources Code §21000 et seq.) and the State CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, §15000 et seq.), the subject application is a “project” that is subject to environmental review. Staff determined the Conditional Use Permit qualifies for a CEQA Categorical Exemption. The project is categorically exempt pursuant to the CEQA Guidelines, Section 15301. The project does not include any new construction beyond interior improvements and exterior alterations involving such activities as removing and building partitions, plumbing, and electrical conveyances, in accordance with CEQA Section 15301(a).

FINDINGS

The Planning Commission must make certain findings to grant a Conditional Use Permit pursuant to HMC 17.40.050 (Conditional Use Permit—Granting) and HMC 17.99.050 (Design Review—Findings). The ability to make the required findings is evaluated below.

- *That the proposed use is properly one for which a conditional use permit is authorized by this code.*

Pursuant to HMC 17.90.030, a conditional use permit is required for cannabis retail uses in all zones which allow cannabis uses. The proposed property is CR-MU and all C-zones allow cannabis retail with an approved conditional use permit.

- *That the proposed use will not adversely affect the adjoining land uses, or the growth and development of the area in which it is proposed to be located.*

The proposed cannabis retail use is consistent with existing adjoining land uses as discussed in the zoning analysis above.

- *That the size and shape of the site proposed for the use is adequate to allow the full development of the proposed use, in a manner not detrimental to either the particular area or health and safety.*

The project will include remodel of a 3,5501 square foot building. The lot is approximately 15,660 square feet, which will allow for a retail use. There will be no development which would be detrimental to either the area or public health and safety.

- *That the traffic generated by the proposed use will not impose an undue burden upon the streets and highways designed and improved to carry the traffic in the area.*

The traffic generated by the proposed use will be within the thresholds of similar businesses allowed in the zone, as analyzed by the General Plan. All traffic to and from the site will be personal vehicle trips, therefore the traffic generated by the retail storefront will not impose an undue burden upon the streets and highways.

- *That the granting of the conditional use permit under the conditions imposed, if any, will not be detrimental to the health and safety of the citizens of the city of Hawthorne.*

The project includes standard conditions for proper ventilation, security, and other operational practices to ensure the business will not be detrimental to the health and safety of residents or visitors. The business is also required to comply with all applicable state and local laws and regulations.

- *The location, size, design, and characteristics of the proposed project will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing in or working in or adjacent to the proposed project.*

The project will include remodel of a 3,550 square foot building. The lot is approximately 15,660 square feet, which will allow for the retail use and site improvements. The proposed building design is consistent with surrounding building architecture. The location, size, design, and characteristics are compatible with the surrounding and adjacent uses. The project includes facade and interior building improvements, including upgraded landscaping, lighting, and signage. The project will not be detrimental to the public health, safety, or welfare for those working or residing adjacent to the project.

- *The proposed design is suitable for its purpose, is harmonious with and relates properly to, the surrounding neighborhood, contiguous parcels, and the site itself.*

The proposed new building and parking lot will include enhanced lighting, visible signage, exterior paint, and upgraded landscaping. The project is outside of a 600-foot radius of any public park or K-12 school; and outside of a 150-foot radius of a commercial daycare center, treatment or recovery facility, and other licensed retailers or consumption businesses. As such, the proposed improvements are harmonious with the surrounding neighborhood, adjacent properties and the existing site.

- *The overall design will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood.*

As previously mentioned, the project includes facade and interior building improvements, upgraded landscaping, lighting, and building signage. These improvements will increase safety, visibility and meet the beautification goals of the City. The location is currently vacant and has been vacant for several years and much of the building's interior is unsafe due to a previous fire. The project will revitalize the building and overall property. The improvements will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood.

- *The design of the proposed project is in accordance with the general plan and all applicable provisions of the zoning ordinance.*

The project is consistent with the General Plan and zoning ordinance provisions as demonstrated in the Zoning and General Plan Analysis above.

RECOMMENDATION

Staff recommends that the Planning Commission:

Approve Conditional Use Permit CU-23-0014 and Design Review DR-2024-0001 to allow cannabis retail and delivery on an existing 16, 660 square foot lot, located at 11425 Hawthorne Boulevard, pursuant to the findings presented in this staff report.

Attachments:

- 1 Conditional Use Permit Application
- 2 General Plan Land Use Map
- 3 Zoning Map
- 4 Site Plan
- 5 Floor Plans
- 6 Elevations
- 7 Renderings of exterior and Interior Design Plan
- 8 Resolution PC-2023-11 with Conditions of Approval