

**PLANNING COMMISSION RESOLUTION NO. PC 2024-01
CONDITIONAL USE PERMIT CU-2023-0015 AND DESIGN REVIEW DR-2023-18**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HAWTHORNE, CALIFORNIA, ADOPTING A NOTICE OF EXEMPTION IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND APPROVING CONDITIONAL USE PERMIT APPLICATION CU-2023-0015 AND DESIGN REVIEW APPLICATION DR-2023-18 FOR A CANNABIS RETAIL BUSINESS WITH CONSUMPTION AREA AT 4756 W. IMPERIAL HIGHWAY, SUBJECT TO CONDITIONS AND MAKING FINDINGS IN SUPPORT THEREOF

WHEREAS, TAT Hawthorne, LLC, (Applicant) requested approval of a Conditional Use Permit (CUP) and Design Review to establish a cannabis retail store and consumption area at 4756 W. Imperial Highway (Property), which is zoned CR (Regional Commercial); and

WHEREAS, pursuant to the HMC Section 17.32.020, a conditional use permit is required for a cannabis business in this zone; and

WHEREAS, the Land Use Element of the General Plan designates the Property as Downtown Hawthorne Specific Plan, which is intended for residential and commercial uses. The zoning and the project are consistent with the General Plan; and

WHEREAS, based upon the information received and Staff's review and assessment, the project was determined not to have a significant impact on the environment and is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Class 1 Categorical Exemption pursuant to Section 15301, (Existing facilities) of CEQA; and

WHEREAS, a duly noted public hearing on the Conditional Use Permit application was held before the Planning Commission on November 15, 2023 and this item was continued to December 6, 2023; and

WHEREAS, the Planning Commission did not meet on December 6, 2023, December 20, 2023, January 3, 2024, or January 17, 2024, so all continued items were carried forward to the February 7, 2024 agenda; and

WHEREAS, a duly noted public hearing on the Conditional Use Permit application was held before the Planning Commission on February 7, 2024; and

WHEREAS, at the public hearing before the Planning Commission, evidence was heard and presented from all persons in favor of the application, from all persons opposed of the application, and from members of the City staff; and

WHEREAS, the Planning Commission determines that said Conditional Use Permit or Design Review will not have an adverse effect, either individually or cumulatively, on surrounding neighborhood, and that on the basis of this determination finds the proposal will not be potentially injurious to the public health, safety and welfare.

**THE PLANNING COMMISSION OF THE CITY OF HAWTHORNE DOES
HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:**

SECTION 1. The Planning Commission finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

SECTION 2. Based Upon independent review and consideration of the information contained in the Staff Report and the Notice of Exemption for the Project, Staff determined that the proposed project is exempt from the requirements of preparing an Environmental Impact Report (EIR) or Negative Declaration because the project meets the criteria for a Class 1 Categorical Exemption pursuant to Section 15301, (existing facilities) of CEQA. Staff will file the Notice of Exemption with the Los Angeles County Clerk's office in compliance with CEQA.

SECTION 3. Based upon substantial evidence presented to the Planning Commission during the February 7, 2024, public meeting, including public testimony and written and oral staff reports, the Planning Commission finds as follows:

- 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, which include the CR zone.
- 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 because it is consistent with existing adjoining land uses.
- 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 site will require only tenant improvements to an existing 6,191 square foot building located on a 20,185 square foot lot.
- 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 because the traffic generated by the use will be within the thresholds of similar businesses allowed in the zone.
- The granting of the conditional use permit under the conditions imposed will not be detrimental to the health and safety of the citizens of the City of Hawthorne because the project includes conditions for proper ventilation, security, and other operational practices to ensure the health and safety of residents or visitors.
- 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 design is suitable for its purpose, is harmonious with and relates properly to, the surrounding neighborhood, contiguous parcels, and the site itself.
- The overall design of the building and landscaping will be of a quality that will preserve the integrity of, and upgrade, the existing neighborhood.

- The design of the project is in accordance with the General Plan and all applicable provisions of the zoning ordinance.

SECTION 4. Based on the forgoing, the Planning Commission hereby grants Conditional Use Permit CU-2023-0015 and Design Review DR-2023-0018 subject to the conditions set forth in Exhibit A attached hereto.

SECTION 5. This resolution shall become effective ten days after its adoption, unless within that period of time it is appealed to the City Council. In the event of an appeal, this Resolution shall not become effective unless reinstated by the City Council after the hearing on the appeal. The City Council Resolution determining the appeal shall be controlling, and unless the matter is remanded to the Planning Commission, the Resolution of the City Council shall be final.

SECTION 6. A copy of this Resolution shall be mailed to the applicant and copies shall be filed with the City.

PASSED, APPROVED and ADOPTED this 7th day of February, 2024.



RYAN RICHARD, CHAIRPERSON

ATTEST:



GREGG MCCLAIN, SECRETARY

EXHIBIT A
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT CU-2023-0015 AND DESIGN REVIEW DR-2023-0018
TAT Hawthorne, LLC, dba The Artist Tree
4756 W. Imperial Highway

GENERAL REQUIREMENTS

1 Financial Responsibility for Compliance Monitoring and Enforcement

- a Cost Responsibilities: The Permittee shall bear the full costs of all City staff time, materials, and City-retained consultants associated with condition compliance review and monitoring, CEQA mitigation monitoring, other permit monitoring programs, and enforcement activities, actions, and processes conducted pursuant to the City Municipal Code (§ 5.20.060) related to this Conditional Use Permit. Such condition compliance review, monitoring and enforcement activities may include (but are not limited to): periodic site inspections; preparation, review, and approval of studies and reports; review of permit conditions and related records; enforcement hearings and processes; drafting and implementing compliance agreements; and attending to the modification, suspension, or revocation of permits. Costs will be billed at the rates set forth in the City Fee Schedule, and at the contract rates of City-retained consultants, in effect at the time the costs are incurred.

Establishment of Compliance Account: Within 10 calendar days of the effective date of the final decision approving this CUP, the Permittee shall submit a new, updated, and completed reimbursement agreement for Condition Compliance in a form provided by the City, obligating the Permittee to pay all condition compliance review, monitoring, and enforcement costs, and any civil administrative penalties, subject to the Permittee's right to challenge all such charges and penalties prior to payment.

- b Billing Process: The Permittee shall pay all City invoices within 30 days of receipt thereof. Failure to timely pay an invoice shall subject the Permittee to late fees and charges set forth in the City Fee Schedule, and shall be grounds for suspension, modification, or revocation of this CUP. The Permittee shall have the right to challenge any charge or penalty prior to payment.

2 Defense and Indemnification

- a The Permittee shall defend, at the Permittee's sole expense with legal counsel acceptable to the City, against any and all claims, actions, or proceedings against the City, any other public agency with a governing body consisting of the members of the City Council, or any of their respective staff, officials, employees and agents (collectively, "Indemnified Parties") arising out of or in any way related to the City's issuance, administration, or enforcement of this CUP. The City shall promptly notify the Permittee of any such claim, action or proceeding and shall cooperate fully in the defense.

- b The Permittee shall also indemnify and hold harmless the Indemnified Parties from and against any and all losses, damages, awards, fines, expenses, penalties, judgments, settlements, or liabilities of whatever nature, including but not limited to court costs and attorney fees (collectively, "Liabilities"), arising out of or in any way related to any claim, action or proceeding subject to subpart (a) above, regardless of how a court apportions any such Liabilities as between the Permittee, the City, or third parties.
- c Except with respect to claims, actions, proceedings, and Liabilities resulting from an Indemnified Party's sole active negligence or intentional misconduct, the Permittee shall also indemnify, defend (at Permittee's sole expense with legal counsel acceptable to City), and hold harmless the Indemnified Parties from and against any and all claims, actions, proceedings, and Liabilities arising out of, or in any way related to, the construction, maintenance, land use, or operations conducted pursuant to this CUP, regardless of how a court apportions any such Liabilities as between the Permittee, the City, and/or third parties. The City shall promptly notify the Permittee of any such claim, action, or proceeding and shall cooperate fully in the defense.
- d Neither the issuance of this CUP, nor compliance with the conditions hereof, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of this CUP serve to impose any liability upon the Indemnified Parties for injury or damage to persons or property.

3 Relationship of CUP Conditions, Laws, and Other Entitlements

The Permittee shall implement the project in compliance with all applicable requirements and enactments of federal, state, and local authorities, except those federal requirements and enactments which ban the sale or use of cannabis. In the event of conflict between various requirements, the more restrictive requirements shall apply. In the event the City Manager determines that any CUP condition contained herein is in conflict with any other CPP condition contained herein, when principles of law do not provide to the contrary, the CUP condition most protective of public health and safety and environmental resources shall prevail to the extent feasible.

No condition of this CUP for uses allowed by the City Municipal Code shall be interpreted as permitting or requiring any violation of law, lawful rules, or regulations, or orders of an authorized governmental agency. Neither the approval of this CPP, nor compliance with the conditions of this CPP, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property.

The Permittee shall obtain a business tax certificate and regulatory licenses for the operation of cannabis operations.

4 Contact Person

PURPOSE: To establish a contact person responsible for responding to City or community complaints.

The Permittee shall designate a contact person(s) to respond to complaints which are related to the permitted uses of this CUP.

The Permittee shall provide the City with the contact information (e.g., name and/or position title, address, business phone numbers, and email addresses) of the Permittee's Community Agent who receives all orders, notices, and communications regarding matters of condition and code compliance at the project site.

TIMING: Prior to the issuance of a Zoning Clearance for use inauguration, the Permittee shall provide the Planning Department the contact information of the Permittee's field agent(s) for the project file. If the address or phone number of the Permittee's field agent(s) should change, or the responsibility is assigned to another person, the Permittee shall provide Planning Department staff with the new information in writing within three calendar days of the change in the Permittee's field agent.

The Planning Department maintains the contact information provided by the Permittee in the project file. The Planning Department has the authority to periodically confirm the contact information consistent with the requirements of this permit.

5 Resolution of Complaints

PURPOSE: To establish a process to resolve complaints.

The following process shall be used to resolve complaints related to the project:

- a The Permittee shall post the telephone number for the designated Contact Person as identified pursuant to Condition No. 4 in a visible location on the site. The Contact Person shall be available via telephone on a 24-hour basis. Persons with concerns about an activity as it is occurring may directly contact the Contact Person;
- b If City staff receives a written complaint about the project, the City Manager, or his designee, may contact the Permittee's Contact Person or the Permittee to request information regarding the alleged violation; and
- c If, following a complaint investigation by City staff, a violation of the City Municipal Code or a condition of this CUP is confirmed, City staff may initiate enforcement actions, in accordance with City Municipal Code.

6 Reporting of Major Incidents

PURPOSE: To ensure that the Planning Director is notified of major incidents associated with, or resulting from, the project, the Permittee shall immediately notify the Planning Director by telephone, email, or voicemail of any incidents (e.g., fires, explosions, spills, landslides, or slope failures) that could pose a hazard to life or property inside or outside the project site.

Upon request of any City, County or State regulatory agency, the Permittee shall provide a written report of any incident that shall include, but not limited to: a

description of the facts of the incident; the corrective measures used, if any; and the steps taken to prevent a recurrence of the incident.

TIMING: The Permittee shall provide the written report to the requesting agency and Planning Department within seven days of receiving the request.

The Planning Department maintains any documentation provided by the Permittee related to major incidents in the project file.

7 Change of Permittee

To ensure that the Planning Department is properly and promptly notified of any change of Permittee, the Permittee shall file, as an initial notice with the Planning Director, the new name(s), address(es), telephone number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and the company officer(s). The Permittee shall provide the Planning Director with a final notice once the transfer of ownership or operational control occurs.

The initial notice must be submitted with the new Permittee's contact information. The final notice of transfer must include the effective date and time of the transfer and a letter signed by the new Property Owner(s), lessee(s), and/or operator(s) of the permitted uses acknowledging and agreeing to comply with all conditions of this CUP.

TIMING: The Permittee shall provide written notice to the Planning Director 10 calendar days prior to the change of ownership or change of Permittee. The Permittee shall provide the final notice to the Planning Director within 15 calendar days of the effective date of the transfer.

The Planning Department maintains notices submitted by the Permittee in the project file and has the authority to periodically confirm the information consistent with the requirements of this permit.

CANNABIS RETAIL BUSINESS REQUIREMENTS

PURPOSE: The purpose and intent of this Section is to regulate cannabis retail activities in order to promote the health, safety, and general welfare of the residents and businesses within the city. The City is authorized to regulate this activity pursuant to the State Law.

8 Insurance

Every cannabis business operating in Hawthorne that is required to have a Hawthorne business license shall obtain and maintain in full force and effect a worker's compensation insurance policy as required by law.

Timing: Prior to the issuance or renewal of a business license the licensee shall provide proof of worker's compensation insurance.

9 Security Guards

- a Cannabis retail businesses shall provide adequate security and on-site lighting to ensure the safety of person and to protect the premises from theft. All security

guards employed shall be licensed and possess a valid "Security Guard Card". Security guards shall be armed with firearms and tasers.

- b At least one security guard shall be present during hours of operation, including times in which the business is not open to the public but employees are on-site.
- c Consumption areas must have at least one security guard (in addition to the guard required in section b) to control access to the consumption area, monitor patrons for signs of intoxication, and ensure the peace in the vicinity of the premises for at least one hour aft the last patron leaves.
- d Permittee must provide the Hawthorne Police Department with the name and contact phone number of on-site mangers and/or security manager to notify if there are operational problems with the establishment.

TIMING: Prior to business license issuance, the Permittee shall provide the on-site contact information to the Hawthorne Police Department or their designee.

10 FUSUS Video Surveillance

Cannabis retail businesses shall purchase, install, and enroll in the Hawthorne Police Department's FUSUS video surveillance system.

TIMING: Prior to the issuance of a business license, the Permittee must demonstrate that the FUSUS system is properly installed and operational. A pre-operational inspection may be required to satisfy this condition.

11 Security Plan.

- a Permittee shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis and cannabis products and theft of cannabis and cannabis products from the property or employees conducting deliveries.
- b All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, or loss.
- c Permittee shall implement the Department of Cannabis Control (DCC)-approved security plan.

12 Compliance with Local Regulations

- a Hawthorne Code Enforcement Officers, Hawthorne Police Officers, Los Angeles County Fire Department staff, and other agents or employees of the City requesting admission for the purpose of determining compliance with these standards or conditional use permits shall be given unrestricted access, upon request.
- b Cannabis business operators must be available to meet with representatives of the Hawthorne Police Department, Los Angeles County Fire Department, the City Manager, the City Attorney, Building and Safety Department, Planning Department

and the Code Enforcement Division to review public safety issues that arise from the operations.

13 Twenty-four Hour Notifications.

Permittee shall notify the City Manager or the City Manager's designee within 24 hours of discovering any of the following:

- a Significant discrepancies identified during inventory, in accordance with state law.
- b Diversion, theft, loss, or any criminal activity involving the property or any agent or employee of the business.
- c The loss or unauthorized alteration of records related to cannabis, cannabis products, registered qualifying patients, primary caregivers, customers or business agents or employees.
- d Any other material breach of security.

14 Compliance with State Law.

- a Cannabis and cannabis products shall comply with all State and local Law, including packaging requirements, all laws requiring presentment of government-issued identification card, physician's recommendation, or commercial Cannabis identification card at the time of initial purchase.
- b Retailers shall post a sign in a conspicuous location readily visible and near the customer entrance that reads: **ENTRY INTO THE PREMISES BY PERSONS UNDER THE AGE OF 21 IS PROHIBITED, UNLESS OTHERWISE ALLOWED BY STATE LAW.**

15 Hours of Operation

Hours of operation are limited to Monday through Sunday, 6:00AM to 2:00AM, or as further limited by state law. Cannabis sales must be between the hours of 6:00AM and 10:00PM, as mandated by state law.

16 Sale of Non-cannabis Food, Beverages or Products

Retailers with on-site consumption (consumption area) may also sell prepackaged, non-cannabis-infused, non-alcoholic food and beverages. Retailers with on-site consumption may offer non-cannabis-infused, non-alcoholic food and beverages from a restaurant or food delivery service for consumption in the designated consumption area on the licensed premises.

17 Live Entertainment.

Live entertainment is permitted as an accessory to cannabis consumption area and is not subject to any additional permits from the City provided the following are adhered to:

- a The limitations established in HMC Section 17.32.030 with respect to noise levels shall apply.
- b At no time shall the maximum occupancy of the consumption area, including employees, as established by the Building Official or the Fire Department be exceeded.
- c Any revenue generated by cover charge, ticket sales, or similar means of limiting and granting access to the live entertainment are subject to the City tax on cannabis business gross receipts.

18 On-site Manager

A designated, responsible person must be always on the premises to act as manager and supervise employees during business hours or while employees are present.

19 Employee Training

The Permittee must train all employees on the various products for sale, including the product potency, absorption time, and responsible use. Employees must be trained to recognize the signs of inebriation from alcohol, illegal drugs and cannabis.

CANNABIS CONSUMPTION AREA REQUIREMENTS

20 Consumption Methods.

Cannabis consumption areas shall be limited to smoking, vaping, or ingestion. Snorting, sniffing or injection of cannabis products or any other substances is strictly prohibited.

21 Consumption Area Restrictions.

- a Consumption areas shall not be visible to the public or to persons under 21 years of age. Patients and customers under the age of 21 are not allowed in designated consumption areas.
- b There shall be no consumption of alcohol or tobacco products by patrons or employees on the premises.
- c Consumption area must have signage posted in a conspicuous location readily visible and near the customer entrance that reads: ENTRY INTO THE PREMISES BY PERSONS UNDER THE AGE OF 21 IS PROHIBITED.
- d An announcement must be made, daily, at the closing of the consumption area, requesting customers to respect the residents of the adjacent neighborhoods by leaving quietly. There shall be no after-hours loitering.

22 Ventilation System.

Consumption areas shall be well ventilated with an approved system that prevents smoke from entering other areas of the premises or from neighboring properties. The

ventilation system shall be inspected and approved by the Building and Safety Department.

DELIVERY REQUIREMENTS

23 Delivery Vehicles.

All delivery vehicles must meet the requirements of Department of Cannabis Control Medicinal and Adult-Use Commercial Cannabis Regulations and shall have no exterior signs that identify the vehicle as a cannabis delivery vehicle.

OPERATIONAL REQUIREMENTS

24 Site Maintenance.

PURPOSE: To ensure that the project site is maintained in a neat and orderly manner so as not to create any hazardous conditions or unsightly conditions which are visible from outside of the project site.

The Permittee shall maintain the project site in a neat and orderly manner, and in compliance with the project description. Trash and debris should be immediately removed from the property and any suspicious activity should be reported to the Hawthorne Police Department. Sidewalks and parking areas adjacent to the business must also have litter removed daily. Restroom facilities must be accessible to customers and trash and recycling receptacles must be provided inside and outside of the building. Only equipment and materials which the City Manager, or his designee, determines to substantially comply with the project description shall be stored within the project site during the life of the project.

The Permittee shall maintain the project site in compliance with Condition No. 1 and the approved plans for the project.

Monitoring and Reporting: The City Building Inspector, City Cannabis Enforcement staff, or Planning Department staff have the authority to conduct periodic site inspections to ensure the Permittee's ongoing compliance with this condition. The property shall be always maintained in good condition.

25 Traffic Management.

Permittee is responsible for traffic flow on-site and must control customer traffic in a way that prevents the blockage or obstruction of points of egress and ingress.

MISCELLANEOUS REQUIREMENTS

26 Conditional Use Permit Modification

Prior to undertaking any operational or construction-related activity which is not expressly described in these conditions, the Permittee shall first contact the City Manager, or his designee, to determine if the proposed activity requires a modification of this CUP. The City Manager may, at the his sole discretion, require the Permittee to

file a written or mapped description of the proposed activity in order to determine if a permit modification is required.

27 Construction Activities

Prior to any construction, the Permittee shall obtain a Building Permit from the Building and Safety Department.

28 Acceptance of Conditions and Schedule of Enforcement Responses

The Permittee's acceptance of this CUP and/or commencement of construction and/or operations under this CUP shall constitute the Permittee's formal agreement to comply with all conditions of this CUP. Failure to abide by and comply with any condition of this CUP shall constitute grounds for enforcement action provided in the City Municipal Code which shall include, but is not limited to, the following:

- a Public reporting of violations to the Planning Commission or City Council;
- b Suspension of the permitted land uses;
- c Modification of the CUP conditions listed herein;
- d Recordation of a "Notice of Noncompliance" on the deed to the subject property;
- e The imposition of civil administrative penalties; or
- f Revocation of this CUP.

The Permittee is responsible for being aware of and complying with the CUP conditions and all applicable federal, state, and local laws and regulations, except those federal laws and regulations which ban the sale or use of cannabis. In the event of any actual and direct conflict between these Conditions of Approval and the terms of the approved Development Agreement, the terms of the Development Agreement shall control and take precedence.

29 Time Limits

Use inauguration: This CUP becomes effective upon the expiration of the 15 day appeal period following the approval decision, or when any appeals of the decision are finally resolved.

- a Within two years of the permit effective date, the Permittee must complete all tenant Improvements and construction as indicated on the approved plans and obtain a Certificate of Occupancy from the Building Department. The City Manager may grant an extension of time to the Permittee to obtain the final approvals for construction if the Permittee can demonstrate to the satisfaction of the City Manager that the Permittee made a diligent effort to implement the project.
- b Prior to the issuance of the final approval for construction or use inauguration, all fees and charges billed to that date by the City, as well as any fines, penalties, and sureties, must be paid in full.

PUBLIC WORKS REQUIREMENTS

- 30 Provide dimension for all driveway and all driveway approaches and width of adjacent parkway and sidewalk on all future plans.
- 31 All right-of-ways and easements affecting this project or within project limits shall be noted on plan.
- 32 The legal description of the property shall be shown on plan.
- 33 Repair cracked or deteriorated sidewalk, curbs, and gutters.
- 34 Locate all utilities within project on street, side street, and alleyways bordering this project.
- 35 Locate and indicate all traffic control devices (such as signal, stop, no parking signs, etc.) and driveways along streets adjacent to this project.
- 36 Locate and indicate all streets and street striping adjacent to the project.
- 37 Project will require a Construction and Demolition Materials Report detailing all disposal, recycling and reuse activities. Final permit approval requires submittal of this report. A deposit may also be required upon issuance of a demolition permit. Contact Engineering Department for more information at 310-349-2980.

[end of conditions]