

**PLANNING COMMISSION
RESOLUTION # 2022-23**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH
RECOMMENDING THE CITY COUNCIL APPROVE A USE PERMIT FOR A NEW CANNABIS
NURSERY AT 2101 W. 10th ST. (APN: 074-051-005)
(UP-22-06)**

WHEREAS, the City of Antioch (“City”) received an application for a new cannabis nursery at 2101 W. 10th St. (UP-22-06) date received April 25, 2022; and

WHEREAS, the application was deemed complete on June 30, 2022; and

WHEREAS, the subject site is located in the CB 1 Cannabis Overlay District which allows for retail cannabis nurseries subject to approval issuance of a Use Permit pursuant to Section 9-5.3845 of the Antioch Municipal Code; and

WHEREAS, a Type 4 Cannabis Nursery license is required through the Department of Cannabis Control; and

WHEREAS, the project is Categorically Exempt from CEQA pursuant to Section 15332 “Infill Development Projects” of the CEQA Guidelines; and

WHEREAS, a public hearing notice was published in the East County Times and posted in three public places pursuant to California Government Code Section 65090 on August 5, 2022 for the public hearing held on August 17, 2022; and

WHEREAS, the Planning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED, that the Planning Commission hereby make the following findings for approval of the requested Use Permit pursuant to Section 9-5.2703 “Required Findings” (B) (1) of the Antioch Municipal Code:

- a. The granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

Finding: The proposed cannabis nursery includes operational Conditions of Approval to minimize on-site impacts. The business shall also maintain on-site odor control so that cannabis related odors are not readily detected outside the structure. Based upon the conditions imposed, the cannabis nursery use will not create adverse impacts to the surrounding businesses and residents.

- b. The use applied at the location indicated is properly one for which a use permit is authorized.

Finding: The property is zoned CB Cannabis Overlay District. This district allows cannabis nursery uses subject to review and approval of a use permit.

- c. The site for the proposed use is adequate in size and shape to accommodate such use, and all yards, fences, parking, loading, landscaping, and other features required.

Finding: The project has been designed to be located in an existing commercial building in the CB Cannabis Overlay District where existing cannabis businesses currently operate without issue. On-site parking is provided and the site has a secure area for cannabis deliveries.

- d. That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

Finding: The subject site is located on W 10th St. which is an arterial roadway. The roadway is adequate to support the trip generation and vehicle flow associated with the operation of a cannabis nursery. The project site is served by two two-way directional driveways at the northeast and northwest corners of the property. There is right turn/left turn access from the site and two-way directional on-site circulation.

- e. The granting of such use permit will not adversely affect the comprehensive General Plan because the proposed uses and design are consistent with the General Plan.

Finding: The use will not adversely affect the comprehensive General Plan because the project is consistent with the Regional Commercial General Plan Land Use designation.

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Commission hereby makes the following additional finding pursuant to Section 9-5.3845 (D) (1) "Cannabis Businesses" of the Antioch Municipal Code:

- (1) That the location and site characteristics of the proposed cannabis business are consistent with all applicable state laws and city standards or guidelines, that all provisions have been made to ensure that the operation of the cannabis business will not create excessive demands for police service or other public services, and that the cannabis business will benefit the city.

Finding: The conditions of approval on the project are consistent with the cannabis guidelines. The security plan has been reviewed by the Antioch Police Department and security conditions have been included per their direction. The revenue generated through the required operating agreement will provide a financial benefit to the City of Antioch.

NOW THEREFORE BE IT FURTHER RESOLVED that the Planning Commission hereby recommends the City Council **APPROVE** UP-22-06, a Use Permit for a new cannabis nursery at 2101 W. 10th St. (APN: 074-051-005) subject to the Conditions of Approval attached hereto in Exhibit A.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 17th day of August 2022, by the following vote:

AYES: Gutilla, Hills, Lutz, Motts, Schneiderman

NOES:

ABSENT: Martin, Riley

ABSTAIN:

FORREST EBBS
Secretary to the Planning Commission

**EXHIBIT A
CONDITIONS OF APPROVAL
(SEPARATE PAGE)**

EXHIBIT A: CONDITIONS OF APPROVAL

General Conditions	Regulation Source	Timing/ Implementation	Enforcement/ Monitoring	Verification (date and signature)
<p>1. Project Approval. This Use Permit approval is for 2101 W. 10th St., as substantially shown and described on the project plans, except as required to be modified by conditions herein. Plans date received June 8, 2022, as presented to the Planning Commission on August 17, 2022. For any condition herein that requires preparation of a Final Plan where the project applicant has submitted a conceptual plan, the project applicant shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the conditions herein for approval by the City.</p>	City of Antioch	On-Going	Planning Department	
<p>2. Project Approval Expiration. This Use Permit recommendation for approval expires on August 17, 2024, unless City Council takes action on the project and new expiration date is granted. An extension may be granted by the Zoning Administrator for a period up to one (1) year, provided that, at least ten (10) days before expiration of one (1) year from the date when the approval becomes effective, an application for renewal of the approval is filed with the Community Development Department.</p>	City of Antioch	On-Going	Planning Department	
<p>3. City Fees. The applicant shall pay any and all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project applicant shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and applicant.</p>	City of Antioch	On-Going	Community Development Department	

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	<i>Discretionary or ministerial permits/approvals will not be considered if the developer is not current on fees, balances, and reimbursement that are outstanding and owed to the City.</i>			
4.	<p>Pass-Through Fees. The developer shall pay all pass-through fees. Fees include but are not limited to:</p> <ul style="list-style-type: none"> a. East Contra Costa Regional Fee and Financing Authority (ECCRFFA) Fee in effect at the time of building permit issuance. b. Contra Costa County Fire Protection District Fire Development Fee in place at the time of building permit issuance. c. Contra Costa County Map Maintenance Fee in affect at the time of recordation of the final map(s). d. Contra Costa County Flood Control District Drainage Area fee. e. School Impact Fees. f. Delta Diablo Sanitation Sewer Fees. g. Contra Costa Water District (CCWD) Fees. 	City of Antioch	On-Going	Community Development Department
5.	<p>Appeals. Pursuant to Section 9-5.2509 of the Antioch Municipal Code, any decision made by the Planning Commission which would otherwise constitute final approval or denial may be appealed to the City Council. Such appeal shall be in writing and shall be filed with the City Clerk within five (5) working days after the decision. All appeals to the City Council from the Planning Commission shall be accompanied by a filing fee established by a resolution of the City Clerk.</p>	City of Antioch	Within 5 Days of Planning Commission Action	Planning Department
6.	<p>Requirement for Building Permit. Approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained before constructing, enlarging, moving, converting, or demolishing any building or structure within the City.</p>	City of Antioch	On-Going	Building Department

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7.	Modifications to Approved Plans. The project shall be constructed as approved and with any additional changes required pursuant to the Zoning Administrator or Planning Commission Conditions of Approval. Planning staff may approve minor modifications in the project design, but not the permitted land uses. A change requiring discretionary approval and any other changes deemed appropriate by the Planning staff shall require further Planning Commission approval through the discretionary review process.	City of Antioch	On-Going	Planning Department	
8.	Hold Harmless Agreement/Indemnification. The applicant (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Antioch and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.	City of Antioch	On-Going	Planning Department	

Fire Standards		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring	Verification (date and signature)
9.	All requirements of the Contra Costa County Fire Protection District shall be met.	Contra Costa County Fire Protection District (CCCYPD)	Timing Required	Contra Costa County Fire Protection District (CCCYPD)	

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At the Time of Building Permit Issuance		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring	Verification (date and signature)
10.	Encroachment Permit. The applicant shall obtain an encroachment permit from the Engineering Division before commencing any construction activities within any public right- of-way or easement.	City of Antioch	At the Time of Building Permit Issuance	Public Works Department	

At the Time of Construction		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring	Verification (date and signature)
11.	Collection of Construction Debris. Gather all construction debris on a regular basis and place them in a Waste Management dumpster or other container that is emptied or removed on a weekly basis consistent with the Construction and Demolition Debris Ordinance. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.	City of Antioch	On-Going	Building Department	
12.	Construction Hours. Construction activity shall be as outlined in in the Antioch Municipal Code. Construction activity is limited to 8:00 AM to 5:00 PM Monday-Friday or as approved in writing by the City Manager. Requests for alternative construction hours shall be submitted in writing to the City Engineer. days/times restricted to the hours of 8:00 a.m. to 6:00 p.m.	City of Antioch	On-Going	Building Department / Public Works	
13.	Demolition, Debris, Recycling. The project shall be in compliance with and supply all the necessary documentation for Antioch Municipal Code § 6-3.2: Construction and Demolition Debris Recycling.	City of Antioch	On-Going	Building Department / Public Works	

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Prior to Issuance of Occupancy Permit		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring	Verification (date and signature)
14.	Planning Inspection. Planning staff shall conduct a site visit to review exterior building elevations for architectural consistency with the approved plans and landscape installation (if required). All exterior finishing details including window trim, paint, gutters, downspouts, decking, guardrails, and driveway installation shall be in place prior to scheduling the final inspection.	City of Antioch	Prior to Occupancy Permit	Planning Department	
15.	Debris Removal. All mud, dirt or construction debris carried off the construction site and shall be removed prior to scheduling the final Planning inspection. No materials shall be discharged onto a sidewalk, street, gutter, storm drain or creek.	City of Antioch	Prior to Occupancy Permit	Building Department	
16.	Fire Prevention. A final Fire inspection shall occur to inspect all fire prevention systems constructed as part of the project. Inspections shall occur prior to final occupancy permit issuance.	City of Antioch	Prior to Occupancy Permit	Fire Dept (CCCFPD)	

Project Specific Conditions		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring	Verification (date and signature)
17.	Type 4 Cultivation Nursery Cannabis Permit. This use permit approval applies to the operation of a Type-4 cultivation nursery cannabis permit as shown on the project plans and application materials submitted to the Community Development Department date stamped received June 8, 2022. Any forthcoming plans submitted for any purpose shall be	City of Antioch	On-Going	Community Development Department	

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	entirely consistent with these received plans and application materials and conditions of approval herein.				
19.	Hours of Operation. The hours of operation shall be from 8:00 AM – 8:00 PM. Any changes to the hours of operation shall be subject to the review and approval of the Zoning Administrator.	City of Antioch	On-Going	Community Development Department	
20.	State Licensing. All necessary licenses from the State of California shall be obtained prior to opening.	City of Antioch	Prior to Occupancy Permit	Community Development Department	
21.	Waste Disposal. Cannabis related waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance.	City of Antioch	On-Going	Community Development Department	
22.	Delivery to the Site. All delivery of cannabis to the site shall take place in a caged/gated delivery area with a dedicated armed security guard to be present during all deliveries. Any changes to this requirement shall be subject to the review and approval of Chief of Police or their designee.	City of Antioch	On-Going	Community Development Department	
23.	Operating Inspections. During regular business hours all cannabis business premises shall be accessible, upon request, to an authorized City of Antioch employee or representative for random and/or unannounced inspections. An inspection fee maybe charged to the business for cost recovery of staff time.	City of Antioch	On-Going	Community Development Department	
24.	Annual Audit. An annual audit of the site's security plan shall be submitted to the Antioch Police Department. The audit shall be conducted by City staff or a third-party company subject to the approval of the Antioch Police Department.	City of Antioch	On-Going	Community Development Department	

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25.	Building Security. All points of ingress and egress to the business shall be secured with Building Code compliant commercial-grade, non-residential door locks and/or window locks. Entry and exit doors to restricted cannabis areas shall be made of reinforced metal with metal frames and have a security lock system.	City of Antioch	On-Going	Community Development Department	
26.	Security Contact. A local contact responsible for addressing security and safety issues shall be provided to, and kept current with, the Antioch Police Department.	City of Antioch	On-Going	Police Department	
27.	Security Plan Modifications. Any changes to the site security plan shall be subject to the review and approval of the Chief of Police or their designee.	City of Antioch	On-Going	Police Department	
28.	Police Inspection. Prior to a certificate of occupancy being issued for the site, the Antioch Police Department shall conduct a site inspection to assess the security of the site. Any changes the Antioch Police Department deems necessary upon site inspection shall be incorporated into a revised site security plan that is then submitted for their review and approval. No certificate of occupancy will be issued without final approval of a site security plan by the Antioch Police Department.	City of Antioch	Prior to Occupancy Permit	Police Department	
29.	Surveillance Cameras. Security surveillance cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour real-time basis of all internal and external areas of the site where cannabis is stored, transferred and dispensed, where any money is handled, and all parking areas. The cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. Cameras shall remain active at all times	City of Antioch	On-Going	Police Department	

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	and be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for a minimum of sixty (60) days.				
30.	Alarm System. A professionally monitored security alarm system shall be installed and maintained in good working condition. The alarm system shall include sensors to detect entry exit from all secure areas and all windows. The name and contact information of the alarm system installation and monitoring company shall be kept as part of the onsite books and records.	City of Antioch	On-Going	Police Department	
31.	Surveillance Signage. Visible signage shall be placed at the entrance of the facility notifying the public of surveillance on site.	City of Antioch	Prior to Occupancy Permit	Community Development Department	
32.	Exterior Modifications. Any proposed exterior changes to the site shall be shown on the building permit plan submittal. Exterior changes may be subject to administrative design review approval.	City of Antioch	On-Going	Community Development Department	
33.	Odor Control Measures. The business shall incorporate and maintain adequate on-site odor control measures in such a manner that the odors of cannabis and cannabis-related products shall not be readily detected from outside of the structure in which the business operates or from other non-Cannabis businesses adjacent to the site.	City of Antioch	On-Going	Community Development Department	
34.	Revocation. The City Council may require modification, discontinuance or revocation of this use permit if it finds that the use is operated or maintained in a manner that it: <ul style="list-style-type: none"> Adversely affects the health, peace or safety of persons living or working in the surrounding area; or 	City of Antioch	On-Going	Community Development Department	

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	<ul style="list-style-type: none"> • Contributes to a public nuisance; or • Has resulted in excessive nuisance activities including disturbances of the peace, illegal drug activity, diversion of Cannabis or Cannabis Products, public intoxication, smoking in public, harassment of passersby, littering, or obstruction of any street, sidewalk or public way; or • Has resulted in or has been the target of criminal activity requiring undue attention and dedication of the Antioch Police Department resources; or • Violates any provision of Antioch Municipal Code or condition imposed by a City issued permit, or violates any provision of any other local, state, regulation, or order including those of state law or violates any condition imposed by permits or licenses issued in compliance with those laws. • Results in more than three distinct unresolved odor complaints in a twelve (12) month period. 				
<p>35.</p>	<p>Operating Agreement. The applicant shall enter into a revised or new operating agreement with the City of Antioch reflecting the new distribution use prior to a certificate of occupancy being issued for the site. No business license shall be issued without an approved operating agreement.</p>	<p>City of Antioch</p>	<p>Prior to Occupancy Permit</p>	<p>City Attorney</p>	