



CITY OF MERCED

City Council Chamber
Merced Civic Center
2nd Floor
678 W. 18th Street
Merced, CA 95340

Minutes

City Council/Public Finance and Economic Development Authority/Parking Authority

Monday, December 3, 2018

3:00 PM

A. CALL TO ORDER

Mayor MURPHY called the Special Meeting to order at 3:05 PM.

A.1. Pledge of Allegiance to the Flag

Mayor MURPHY led the Pledge of Allegiance to the Flag.

B. ROLL CALL

Present: 7 - Council Member Michael Belluomini, Council Member Joshua Pedrozo, Council Member Anthony Martinez, Mayor Mike Murphy, Council Member Kevin Blake, Mayor Pro Tempore Jill McLeod, and Council Member Matthew Serratto

Absent: 0

C. PUBLIC HEARINGS

C.1. SUBJECT: Public Hearing and Appeal of Planning Commission Denial of Commercial Cannabis Business Permit #18-14R

REPORT IN BRIEF

Request by Harvest of Merced to appeal and reverse the Planning Commission's denial of Commercial Cannabis Business Permit #18-14R.

RECOMMENDATION

Option A - Adopt Resolution (Attachment 4) affirming the Planning Commission's denial of Commercial Cannabis Business Permit #18-14R.

Option B - Adopt Resolution (Attachment 5) reversing the Planning Commission's denial of Commercial Cannabis Business Permit #18-14R.

Option C - Adopt Resolution (Attachment 6) modifying the Planning Commission's denial of Commercial Cannabis Business Permit #18-14R.

City Council - Adopt a motion:

A. Adopt **Resolution 2018-__**, A Resolution of the City Council of the City of Merced, California, affirming the Planning Commission's Denial of Commercial Cannabis Business Permit #18-14R, denying an appeal by Harvest of Merced, LLC. and causing the next highest-scoring application for a Commercial Cannabis Business Permit using the city's merit-based scoring criteria, to be heard for one of the available four Commercial Cannabis Business Permits to operate a retail dispensary of cannabis and cannabis-based products at a future public hearing at a meeting of the Planning Commission; or,

B. Adopt **Resolution 2018-__**, A Resolution of the City Council of the City of Merced, California, reversing the Planning Commission's Denial of Commercial Cannabis Business Permit #18-14R, causing Commercial Cannabis Business Permit #18-14R to be issued allowing Harvest of Merced, LLC. to operate a retail dispensary for medicinal and adult use cannabis and cannabis-related products, including delivery services, at 863 W. 15th Street; or,

C. Adopt **Resolution 2018-__**, A Resolution of the City Council of the City of Merced, California, modifying the Planning Commission's Denial of Commercial Cannabis Business Permit #18-14R, denying an appeal by Harvest of Merced, LLC., and causing the next highest-scoring application for a Commercial Cannabis Business Permit using the city's merit-based scoring criteria, to be heard for one of the available four Commercial Cannabis Business Permits to operate a retail dispensary of cannabis and cannabis-based products at a future public hearing at a meeting of the Planning Commission.

Principal Planner Michael HREN gave a slide show presentation outlining the Harvest of Merced appeal of the Planning Commission decision to deny their application for a cannabis business permit.

City Attorney Pheadra NORTON explained the process for the appeal hearing and stated Council should not conduct a "de novo" review and take new information but to make its finding based on the Planning Commission record.

Mayor MURPHY explained the time limits and protocol for the hearing to the appellant and applicant.

Mayor MURPHY opened the Public Hearing at 3:15 PM.

Appellant Harvest of Merced was represented by Douglas SMURR and Steve GOMES.

Mr. SMURR and Mr. GOMES stated the definition of a school and the process to classify an entity to be a school. They made the assertion that the Wolfe Education Center offers programs and should not be considered a school because they do not meet the state requirements.

Council and Mr. GOMES discussed the process new schools need to go through in order to operate and the location of the Wolf Education Center.

Applicant Medallion Wellness was represented by Zach DRIVON and Mike WARDA.

Mr. DRIVON and Mr. WARDA stated that based on their findings, the Wolfe Education Center should be classified as a school based on the City ordinance and that the application of Harvest of Merced should be denied based on the proximity of their proposed business to the Wolfe Education Center not meeting the 1000 foot distance required.

Robert DYLYNA, Planning Commission Chair - stated he failed to address a conversation he had with the property owner of the location in discussion at the Planning Commission meeting.

Council Member SERRATTO and Mr. DYLYNA discussed his relationship to the property owner and his voting decision.

Susan COSTON, Merced - spoke about the Special Education Program and meeting all the guidelines that classify the program as a school.

Council and Ms. COSTON discussed the importance of the County-District-School (CDS) code, the address attached to the CDS Code, and other uses for the location site.

Holly NEWLON, Mariposa, - spoke on the additional programs offered at the Wolfe Education Center.

Council and both the appellant and applicant continued to discuss the definition of a school and the distance of the location from the Wolfe Education Center.

Mayor MURPHY closed the Public Hearing at 4:20 PM.

Council disclosed any conversations they had on this item outside a public meeting.

Mayor MURPHY suggested reversing and remanding to the Planning

Commission to be reheard on the same topic without the Planning Commission Chair present.

Council Member BLAKE and City Attorney NORTON discussed a path to address any issues to help move the item forward.

A motion was made by Council Member Belluomini, seconded by Council Member Blake, to reverse and remand to the Planning Commission for rehearing of the matter without the participation of the Planning Commission Chair to ensure a fair due process. The motion carried by the following vote:

Aye: 7 - Council Member Belluomini, Council Member Pedrozo, Council Member Martinez, Mayor Murphy, Council Member Blake, Mayor Pro Tempore McLeod, and Council Member Serratto

No: 0

Absent: 0

D. ADJOURNMENT

Mayor MURPHY adjourned the Special Meeting at 4:31 PM.