

RESOLUTION NO. 2019-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF MERCED, CALIFORNIA, DENYING
COMMERCIAL CANNABIS BUSINESS PERMIT
#18-14R TO ALLOW 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,
AND MAKING CERTAIN FINDINGS IN
CONNECTION THEREWITH**

WHEREAS, the Planning Commission of the City of Merced ("Planning Commission") at its meeting of June 5, 2019 held a public hearing and considered Commercial Cannabis Business Permit # 18-1 4R to allow 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 (as shown on the map at Exhibit A); also known as Assessor's Parcel Number 031-073-012; and

WHEREAS, on June 5, 2019, the Planning Commission, after hearing all evidence and testimony and after exercising its independent judgment, adopted Resolution #4021 approving Commercial Cannabis Business Permit # 1 8-14R subject to the findings and conditions attached thereto; and

WHEREAS, the Appellant (Jiva Life, LLC.) appealed the Planning Commission decision to approve Commercial Cannabis Business Permit #18-14R; and

WHEREAS, the Appellant (Jiva Life, LLC.) has not appealed the Planning Commission's decision to adopt a Categorical Exemption regarding Environmental Review # 18-27 (Categorical Exemption) in Resolution #4008, approved at a public hearing of the Planning Commission on September 19, 2019, which was later adopted by the City Council at a public hearing on October 5, 2018; and,

WHEREAS, the matter was scheduled for a de novo review pursuant to a public hearing before the City Council on August 5, 2019; however, the matter was continued, for good cause and pursuant to the agreement of the applicant and appellant, to September 3, 2019.

WHEREAS, the City Council held a de novo review pursuant to a duly noticed public hearing on September 3, 2019, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application and appeal.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council's adoption of Environmental Review #18-27 (Categorical Exemption), pursuant to the provisions of the California Environmental Quality Act remains in effect and is unaltered.

SECTION 2. CONSIDERATION. The City Council has considered all of the evidence submitted into the administrative record including, but not limited to:

- A. A location map of the proposed premises at 863 W. 15th Street
- B. An aerial map of the proposed premises
- C. A proposed floor plan
- D. Photographs of the existing site
- E. The City of Merced's official "List of Schools"
- F. City of Merced Ordinance #2498, amending Section 20.44.170, "Regulation of Commercial Cannabis Business Activities- Commercial Cannabis Business Permit Required," of the Merced Municipal Code
- G. A request to modify the pending permit application from Harvest of Merced and associated documentation
- H. Planning Commission Resolution #4021, approving Commercial Cannabis Business Permit #18-14R for Harvest of Merced

- I. Jiva Life, LLC's Appeal of Commercial Cannabis Business Permit #18-14R to Harvest of Merced, LLC, City of Merced Planning Commission Planning Commission Resolution #4021
- J. Harvest of Merced, LLC's Reply to Appeal by Jiva Life of Commercial Cannabis Business Permit #18-14R
- K. Environmental Review #18-27
- L. Merit Based Selection Criteria for Commercial Cannabis Business Permits: Scoring for CCBP #18-14R ("Harvest of Merced") at 863 W 15th
- M. Renderings of interior spaces for Harvest of Merced proposal
- N. Administrative Report and attachments thereto
- O. Staff presentation

SECTION 3. FINDINGS. In view of all of the record evidence including, but not limited to, the administrative reports and attachments thereto, presentations, comments, written and oral testimony, the actions and decision of the Planning Commission and other information and evidence presented during the Public Hearing, and the reasons set forth in the Environmental Impact Report, the City Council, having conducted a de novo review, exercising its independent judgment and making its own decision finds, in its discretion, that the proposed project does not meet all applicable provisions of the Merced Municipal Code

SECTION 4. DETERMINATION. The City Council determines that the evidence in the record constitutes substantial evidence to support the actions taken and the findings made in this Resolution. The City Council further determines that the facts stated in this Resolution are supported by substantial evidence in the record including, but not limited to, the administrative reports and attachments thereto, presentations, comments, written and oral testimony, the actions and decision of the Planning Commission and other information and evidence presented during the Public Hearing. There is no substantial evidence, nor other facts that detract from the findings made in this Resolution and the City Council expressly declares that it considered all evidence presented and reached these findings after due consideration of all evidence presented to it.

SECTION 5. COMMERCIAL CANNABIS BUSINESS PERMIT. The City Council hereby denies Commercial Cannabis Business Permit# 18-14R together with the findings set forth above, included in the administrative record and conditions of approval which are attached hereto as Exhibits "A".

SECTION 6. JUDICIAL REVIEW. The time in which to seek judicial review of this decision shall be governed by Code of Civil Procedure Section 1094.6. The City Clerk shall certify to the adoption of this Resolution, transmit copies of the same to the applicant, appellant and their respective counsel, if any, together with a proof of mailing in the form required by law and shall enter a certified copy of this Resolution in the book of resolutions of the City.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 2019, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:

Shirley A. Smith 8/14/19
City Attorney Date