



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

Thursday, October 25, 2018

6:00 PM

A. CALL TO ORDER

Mayor MURPHY called the Special Meeting to order at 6:03 PM.

A.1. Pledge of Allegiance to the Flag

Council Member SERRATTO led the Pledge of Allegiance .

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
Approval of Commercial Cannabis Business Permit #18-14R

REPORT IN BRIEF

Request by Medallion Wellness to appeal and reverse the Planning Commission's approval of Commercial Cannabis Business Permit #18-14R.

RECOMMENDATION

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

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

Option C - Adopt Resolution (Attachment 6) modifying the Planning Commission's approval 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 Approval of 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 denying an appeal by Medallion Wellness and its agents; or,

B. Adopt **Resolution 2018-__**, A Resolution of the City Council of the City of Merced, California, reversing the Planning Commission's Approval of Commercial Cannabis Business Permit #18-14R, denying issuance of Commercial Cannabis Permit #18-14R 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,

C. Adopt **Resolution 2018-__**, A Resolution of the City Council of the City of Merced, California, modifying the Planning Commission's Approval of 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.

Principal Planner Michael HREN gave a presentation outlining the Harvest of Merced application for a cannabis business permit and process used to approve and issue the permit. He explained the reason for the appeal filed by Medallion Wellness was based on the distance of the Harvest of Merced proposed site from the Merced County Office of Education's Wolfe Education Center being less than the required 1000 feet as required by the ordinance.

City Attorney Phaedra 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.

Council disclosed any contact with the appellant and applicant before the hearing.

Mayor MURPHY opened the Public Hearing at 6:24 PM.

Appellant 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.

Applicant Harvest of Merced was represented by Douglas SMURR and Ben KIMBRO.

Mr. SMURR and Mr. KIMBRO stated that based on gps measurements, their proposed business falls outside the buffer required by the ordinance. They asserted that the Wolfe Education Center is not a school based on the California Department of Education definition. They made the assertion that the Wolfe Education Center offers programs and should not be considered a school.

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 7:19 PM.

Council continued the discussion on the definition of schools and programs in regards to the appeal. Council also discussed the parcel and lot line distances and the use of the Wolfe Education Center site for classrooms and administrative offices.

Mayor MURPHY suggested remanding the item to the Planning Commission with a very narrow scope to determine whether the Wolfe Education Center should be considered a school as defined by the ordinance.

City Attorney NORTON drafted resolution language for Council's consideration as an alternate to the resolutions proposed on the agenda. The language read as follows:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, REVERSING THE PLANNING COMMISSION'S APPROVAL OF COMMERCIAL CANNABIS BUSINESS PERMIT #18-14R AND REMANDING THE MATTER BACK TO THE PLANNING COMMISSION FOR CONSIDERATION AND TAKING OF EVIDENCE RELATED TO THE USE OF THE WOLFE EDUCATION CENTER AND THE ADJOINING PARCEL TO DETERMINE IF EITHER PARCEL MEETS THE DEFINITION OF A SCHOOL AS SET FORTH IN THE ORDINANCE."

Assistant City Clerk John TRESIDDER stated the Resolution would be assigned #2018-71.

A motion was made by Council Member Belluomini, seconded by Council Member Pedrozo, adopting Resolution 2018-71 and remanding the matter back to the Planning Commission. 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

A motion was made by Council Member Blake, seconded by Council Member Serratto, that the meeting be adjourned.. 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