



Legislation Details (With Text)

File #:	18-604	Version:	1	Name:	
Type:	Public Hearing Item	Status:		Passed	
File created:	11/9/2018	In control:	City Council/Public Finance and Economic Development Authority/Parking Authority		
On agenda:	12/3/2018	Final action:	12/3/2018		
Title:	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.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance 2480 - Cannabis.pdf, 2. Planning Commission Record from 11-14.pdf, 3. Harvest of

Merced LLC Notice of Appeal.pdf, 4. Draft Resolution Affirming CCBP #18-14R.pdf, 5. Draft Resolution Reversing CCBP #18-14R.pdf, 6. Draft Resolution Modifying PC Decision.pdf, 7. Full Agenda Packet - 10-25-2018 (Cannabis Appeal Hearing).pdf, 8. Items provided at 10-25-2018 Meeting.pdf, 9. Staff PowerPoint for CC 12-3-2018 CCBP #18-14R Harvest Appeal 2.pdf

Date	Ver.	Action By	Action	Result
12/3/2018	1	City Council/Public Finance and Economic Development Authority/Parking Authority	approved	Pass

Report Prepared by: Michael Hren, Principal Planner, Planning Division

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.

ALTERNATIVES

1. Affirm the decision of the Planning Commission; or,
2. Reverse the decision of the Planning Commission; or,
3. Modify the decision of the Planning Commission; or,
4. Continue to a future City Council meeting (date and time to be specified in the motion).

AUTHORITY

City of Merced Ordinance #2480/Merced Municipal Code Section 20.44.170.

DISCUSSION

Commercial Cannabis Business Permit (CCBP) #18-14R is an application for a permit to utilize the property at 863 W. 15th Street for cannabis-related business activities. The permit seeks to allow Harvest of Merced, LLC. to operate a Retail Dispensary for medicinal and adult use cannabis and cannabis-related products, including delivery services. Staff recommended approval with conditions at the Planning Commission meetings of September 18 and September 19, 2018. The Planning Commission approved CCBP #18-14R after a public hearing on September 19, 2018. Medallion Wellness appealed this approval and that appeal was heard by the City Council on October 25, 2018 at a public hearing. At that meeting, the City Council reversed the Planning Commission's decision and remanded the application back to the Planning Commission, along with instructions to make a determination whether either or both of the properties at 732 W. 13th St. and 760 W. 13th St. meet the definition of a 'school' per City of Merced Ordinance #2480, as well as whether the property at 863 W. 15th St. is within 1,000 feet of a school.

The Planning Commission, at a duly noticed public hearing on November 14, 2018, based upon the information in the record, made a determination that both of the properties at 760 W. 13th St. and 732 W. 13th St., more commonly known as the Wolfe Education Center, meet the definition of a 'school' per Merced Ordinance #2480. Based on that determination, the Planning Commission determined that the property at 863 W. 15th St. is within 1,000 feet of a school.

Based on the determinations above, the Planning Commission voted 6-0, with one abstention, to deny Commercial Cannabis Business Permit #18-14R for Harvest of Merced.

Harvest of Merced has appealed this denial, the letter of appeal is attached (Attachment 3).

IMPACT ON CITY RESOURCES

No appropriation of funds is needed.

ATTACHMENTS

1. Ordinance #2480
2. Planning Commission Record
3. Letter of Appeal from Harvest of Merced
4. Resolution 2018-__ Affirming Planning Commission's Denial
5. Resolution 2018-__ Reversing Planning Commission's Denial
6. Resolution 2018-__ Modifying Planning Commission's Denial

7. City Council Packet from October 25, 2018 City Council meeting
8. Additional Items Presented at October 25, 2018 City Council Meeting
9. Staff Presentation