



Legislation Details (With Text)

**File #:** 23-271      **Version:** 1      **Name:**  
**Type:** Public Hearing Item      **Status:** Passed  
**File created:** 3/10/2023      **In control:** City Council/Public Finance and Economic  
Development Authority/Parking Authority  
**On agenda:** 4/3/2023      **Final action:** 4/3/2023

**Title:** SUBJECT: Appeal of the Planning Commission’s Approval of Commercial Cannabis Business Permit (CCBP) #22-02R for Retail Cannabis at 1111 Motel Drive by Edwin Kainth

REPORT IN BRIEF

Edwin Kainth has appealed the Planning Commission’s approval of Commercial Cannabis Business Permit #22-02R (Culture Merced Dispensary) for a retail cannabis facility at 1111 Motel Drive.

RECOMMENDATION

City Council - Adopt a motion:

- A. Granting or denying the appeal of Edwin Kainth; and,
- B. Providing direction to staff regarding findings to grant or deny appeal, with or without prejudice.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Letter of Appeal from Edwin Kainth.pdf, 2. Planning Commission Meeting Minute Excerpt (November 9, 2022), 3. PC Res #5000 CCBP #22-02R.pdf, 4. Staff Report #22-840.pdf, 5. Presentation Given during PC.pdf, 6. Ordinance #2532, 7. Presentation.pdf

Date	Ver.	Action By	Action	Result
4/3/2023	1	City Council/Public Finance and Economic Development Authority/Parking Authority	approved	Pass

*Report Prepared by: Stephani Davis, Development Services Technician II, Development Services Department; Scott McBride, Director of Development Services.*

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## ALTERNATIVES

1. Deny appeal, affirming the approval of CCBP #22-02R and Environmental Review #22-04; or,
2. Deny appeal, modifying the approval of CCBP #22-02R and Environmental Review #22-04 (modifications to be specified in the motion); or,
3. Grant the appeal, reversing the approval of CCBP #22-02R and Environmental Review #22-04, and directing staff on how to proceed with the retail cannabis permit selection process; or,
4. Continue to a future City Council meeting (date and time to be specified in the motion).

## AUTHORITY

City of Merced Ordinance #2532, Merced Municipal Code Section 20.44.170 (Attachment 6).

## DISCUSSION

### Background

In January 2022, Staff began the application process for the fifth commercial cannabis retail permit. The City received eleven (11) applications; 9 of the submitted applications succeeded to Phase 2 Merit-based review with the City's Selection Panel consisting of the City Manager, the Police Chief, and the Director of Development Services. At the conclusion of the Selection Panel scoring, CCBP #22-02R (Culture Cannabis Merced), proposed at 1111 Motel Drive, received the highest rank with an average score of 95.33.

On November 9, 2022, a public hearing was held and CCBP #22-02R was presented to and approved by the Merced Planning Commission, which approved the permit with a 5-2 vote. The Planning Commission minutes, resolution, and staff report are included at Attachments 3, 4, and 5.

On November 16, 2022, Edwin Kainth submitted a request to appeal the Planning Commission decision for approval. This appeal complies with the submission deadline of 5-business days following approval; offices were closed Friday, November 11, 2022, for Veterans Day.

On February 6, 2023, the appeal was scheduled for a public hearing. At that meeting, the City Council provided direction to continue the appeal to April 3, 2023.

### Description

Commercial Cannabis Business Permit #22-02R proposes to use the location at 1111 Motel Drive to operate a cannabis retail business for both medicinal and adult use cannabis and cannabis-related products, including delivery services. This permit has been recommended for approval with conditions held in Resolution #5000 (contained in Staff Report #22-840 at Attachment #5), approved by the Planning Commission with modifications to the site plan to close access off Pine Street.

Edwin Kainth asserts that the operation of CCBP #22-02R would negatively impact the businesses in the surrounding areas and exacerbate existing traffic issues within the area for both the nearby residents and the businesses (Attachment 2).

The City Council will hold a public hearing on April 3, 2023, for this appeal and close the public hearing. City Council's review of this appeal shall be a de novo review pursuant to Merced Municipal Code 20.44.170L(4). As such, the Council will make its own determination based on what is

presented to them during the hearing, and this shall be the final decision.

The City Council will need to provide direction to staff regarding Findings for approval (granting) or the denial of the appeal. A resolution to adopt the final action and findings will be presented to the City Council for adoption at a subsequent City Council meeting, but no new public hearing will be required at that time.

### **IMPACT ON CITY RESOURCES**

No appropriation of funds is needed.

### **ATTACHMENTS**

1. Letter of Appeal from Edwin Kainth
2. Planning Commission Meeting Minute Excerpt (November 9, 2022)
3. Planning Commission Resolution #5000 (Conditions of Approval)
4. Planning Commission Staff Report #22-840 (CCBP #22-02R)
5. Presentation Given during PC
6. Ordinance #2532
7. Presentation