



## Legislation Details (With Text)

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

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**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