



Legislation Text

File #: 23-377, **Version:** 1

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SUBJECT: Adoption of Resolutions Denying the Appeals Filed by Edwin Kainth, on Behalf of the Hotel Association, and Rajiv “Raj” Pottabathni, on Behalf of JIVA MCE, LLC, of the Planning Commission’s Decision to Approve Commercial Cannabis Business Permit #22-02R to Allow the Operation of a Retail Cannabis Facility at 1111 Motel Drive

REPORT IN BRIEF

Provides Resolutions for adoption confirming the denial of the appeals filed by Edwin Kainth, on behalf of the Hotel Association and Raj Pottabathni, on behalf of JIVA MCE, LLC, of the Planning Commission’s approval of Commercial Cannabis Business Permit (CCBP) #22-02R per City Council action on April 3, and 17, 2023.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2023-32**, a Resolution of the City Council of the City of Merced, California, denying an appeal by Edwin Kainth, on behalf of the Motel Association concerning the action of the Planning Commission resulting in the approval of Commercial Cannabis Business Permit #22-02R, and making certain findings in connection therewith; and,
- B. Adopting **Resolution 2023-33**, a Resolution of the City Council of the City of Merced, California, denying an appeal by Rajiv “Raj” J. Pottabathni, on behalf of JIVA MCE, LLC, concerning the action of the Planning Commission resulting in the approval of Commercial Cannabis Business Permit #22-02R, and making certain findings in connection therewith.

ALTERNATIVES

1. Approve the resolutions; or,
2. Request modification or amendment to the documents and provide direction to City staff regarding the same; or,
3. Refer back to staff for reconsideration of specific items as requested by Council; or,
4. Continue item to a future Council meeting (date and time to be specified in City Council motion).

AUTHORITY

City of Merced Ordinance #2532 / Merced Municipal Code Section 20.44.170 - Commercial Cannabis Businesses.

DISCUSSION

Summary

On February 6, 2023, the City Council held a duly noticed public hearing concerning two appeals of CCBP #22-02R (Culture Cannabis) for a commercial cannabis retail facility located at 1111 Motel Drive (Attachments 1 and 2). At the public hearing, the City Council voted to continue both appeals and consider them separately.

On April 3, 2023, the City Council heard testimony from Edwin Kainth, appellant with the Hotel Association, in support of granting the appeal and denying CCBP #22-02R and Environmental Review #22-04. Additional testimony was provided from property owners neighboring the site and community members in opposition to the project, additionally the applicant of Culture Cannabis was present along with community members in favor of the project.

On April 17, 2023, the City Council heard testimony from Raj Pottabathni, appellant with the JIVA MCE, LLC, in support of granting the appeal and denying CCBP #22-02R and Environmental Review #22-04. Additional testimony was provided from Mr. Pottabathni's associates speaking in opposition to the scoring of the Selection Committee.

After the public hearings on April 3, and April 17, 2023, the City Council made the determination to deny both appeals and uphold the Planning Commission decision to approve CCBP #22-02R. The attached Resolutions set forth Findings based on the discussion and determination by the City Council on April 3, and 17, 2023 to deny both appeals (refer to Exhibit B of the Draft Resolutions at Attachments 3 and 4.) Adoption of the resolutions would confirm the direction provided by the City Council on April 3 and 17, 2023.

ATTACHMENTS

1. Location Map
2. Site Plan
3. Resolution 2023-32 (Edwin Kainth)
4. Resolution 2023-33 (JIVA MCE, LLC.)