



Agenda Report

MEETING DATE: Tuesday, August 24, 2021

TO: City Council

FROM: COMMUNITY DEVELOPMENT DIRECTOR MERRIAM
IVAN CARMONA, ASSOCIATE PLANNER

SUBJECT: GREATER GOODS CANNABIS APPEAL

STATEMENT OF ISSUES:

The applicant is appealing the Planning Commission's June, 1, 2021 denial of a Pre-Application to establish a retail cannabis facility in the City.

RECOMMENDED ACTION:

The Planning Commission recommends that the City Council uphold the denial of Pre-Application #1284 for the establishment of a cannabis retail facility in the City of Watsonville, filed by appellant Colin Disheroon on behalf of Greater Goods Marketplace.

DISCUSSION:

History:

On June 9, 2020, Watsonville City Council adopted amendments to WMC Chapters 14-16 (District regulations) and 14-53 (Cannabis Facilities) regarding the cultivation, manufacture, distribution, testing, delivery and retail sales of cannabis products.

On September 15, 2020, the City of Watsonville Community Development Department opened its cannabis pre-application process for 30-days, closing on October 15, 2020.

On October 15, 2020, Greater Goods Marketplace submitted Pre-Applications for cannabis retail, manufacturing, and distribution permits in the City of Watsonville.

On December 21, 2020, the applicant for Greater Goods Marketplace, Colin Disheroon, was notified by mail that Greater Goods Marketplace retail application had received a score of 99.3% for Phase 2, and was invited to interview on January 25, 2021, as part of Phase 3 of the Pre-Application process.

On January 15, 2021, all cannabis Pre-Applicants were notified that the interview process would be in-person, following Covid-19 protocols for safety. The number of staff allowed for the interview was reduced from 6 to 3 in order to reduce the number of people in the interview room. The interview date for Greater Goods was moved from January 25 to January 26, 2021.

Between January 25 and January 29, 2021, all cannabis interviews were conducted at 250 Main Street, with safety protocols in place and the option for applicants to sit together or sit separately behind Plexiglas screens, with a proctor in the room. All interviewers were virtual through zoom to reduce the number of people in the room.

On February 17, 2021, a letter of denial was sent to Greater Good Marketplace for the cannabis retail Pre-Application, with a final score of 92.8%.

On March 2, 2021, Colin Disheroon, on behalf of Greater Goods Marketplace, submitted a letter of appeal to the Planning Commission regarding the City's denial of the cannabis retail Pre-Application.

On June 1, 2021, the Planning Commission adopted Resolution No. 05-21 denying the appeal of the City's denial of the cannabis retail Pre-Application for Greater Goods Marketplace.

On June 15, 2021, James Anthony of Anthony Law Group, PC, submitted an appeal of the Planning Commission's denial of the cannabis retail Pre-Application for Greater Goods Marketplace.

Discussion:

In his appeal letter, Mr. Anthony gives two reasons in which the Planning Commission's denial of the appeal was flawed. These are outlined below:

1. The City changed the interview process to in-person during the Covid-19 stay-at-home order and limited the number of interviewees to 3.

Staff provided a detailed description of the interview process and protocols put in place for applicants in order to maintain safety in the Planning Commission staff report. An important point to remember is that during the Covid-19 pandemic and stay-at-home order, both City employees and the cannabis industry were exempted, as they were all considered essential employees.¹ Given that cannabis cultivation, manufacturing, processing, delivery and dispensaries were allowed to continue operation during the stay-at-home order, it was assumed that the applicants, most of which had existing cannabis businesses, were able to leave their homes to conduct business, and therefore were able to attend an in-person meeting with Covid protocols in place.

However, the attendance of an in-person interview and modification of the interview process was applied to every applicant, and the Planning Commission found that the interview committee's decision to deny the appeal was not erroneously made due to the process.

2. The interview committee did not keep any notes, and did not provide a basis for their decision.

As stated in the Planning Commission staff report and described during the Planning Commission hearing on June 1, 2021, staff did not keep notes of the interviews, because each

¹ <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>

group was force-ranked after each interview. The scores were individually entered into an online score sheet that was then sent to an HDL employee for tabulation. After all interviews were completed, staff considered the scores, and given the gravity of the decision, chose to reconvene a week later to give further consideration to the applications. At the second meeting, no changes were made to the scores, however it was an opportunity for the committee to affirm the scores and make a final decision. Keep in mind that the first review and scoring of applications was quantitative, whereas the interview panel took a qualitative approach. In other words, the first scoring was on completeness of the application based on the scoring criteria, whereas the interviews focused on qualitative points such as employee compensation, community benefits, performance in other jurisdictions, experience, and fit for the City.

While the appellant may have wanted additional information in how their interview was scored in order to better understand why they moved from first place to fourth, there is no nexus that the lack of notes of further information means that the interview panel made their decision in error.

Finally, Mr. Anthony and the appellant continue to suggest that the City could simply create another retail permit or give them a different type of cannabis permit so that they can obtain a microbusiness license from the State. Staff and the Council do not have the ability to make these arrangements outside of an amendment to the Cannabis Ordinance. Further, the appellant could have applied for a cultivation license in addition to their applications for retail, manufacturing, and distribution, however they chose not to.

FINANCIAL IMPACT:

If Council upholds the Planning Commission's denial of the appeal of the City's denial of cannabis retail Pre-Application #1284, there will be no financial impacts to the City, unless the appellant litigates the matter in court, at which time the City would be subject to attorney's fees to defend the case. If Council supports the appeal and rescinds the City's denial of the Pre-Application, this would affect all approved retail permittees and cause additional staff time to re-score the applications, with likely the same result.

ALTERNATIVE ACTION:

The City Council could uphold the appeal, which would require City staff to halt approval of the retail cannabis facilities who were awarded permits, while staff reviews all scores, however this appellant scored 4th, not 3rd, and rescoring is unlikely to result in the award of a retail license to the appellant.

ATTACHMENTS AND/OR REFERENCES:

1. Appeal letter from Anthony Law Group, PC
2. June 1, 2021 Planning Commission Packet
3. Link to video of June 1, 2021 Planning Commission meeting <https://pub-cityofwatsonville.escribemeetings.com/Players/ISIStandAlonePlayer.aspx?Id=ca129c2a-402b-48b9-a41f-159698ea0a9e>