



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

C-8

333 West Ocean Boulevard 6th Floor • Long Beach, CA 90802 • (562) 570-5400 • Fax (562) 570-5414

October 10, 2017

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer to a Hearing Officer the business license application denial appeal by Seaside Medical Group Inc., to operate a medical marijuana business located at 1529 West Pacific Coast Highway. (District 1)

DISCUSSION

On August 16, 2017, the Department of Financial Management denied the business license application for Seaside Medical Group, Inc. (Seaside), to operate a medical cannabis dispensary at 1529 West Pacific Coast Highway (Attachment A), due to the proposed business location being within 1,000 feet of a public or private school, which is in violation of Long Beach Municipal Code (LBMC) Section 5.90.030 (Attachment B). On August 21, 2017, Seaside filed an appeal of the business license application denial (Attachment C). The appeal was filed for the following stated reasons:

1. A claim that the location does not violate the 1,000-foot school buffer requirement, based on a Google map distance calculation;
2. A claim that the location was approved by the City on June 1, 2017.

With regard to the buffer distance measurement, the property line of the proposed dispensary at 1529 West Pacific Coast Highway is 975 feet away from the closest property line of SIATech Charter School, which violates the 1,000-foot minimum school buffer requirement. This measurement is calculated using the methodology required by the LBMC, not the arbitrary set of points referenced in the appeal. With regard to the claimed approval, the City did provide preliminary confirmation of the proposed location in a letter dated June 1, 2017, but the letter stated that the proposed location was "currently" in compliance with buffer distances and that buffers would be revisited through a secondary review after July 24, 2017. The secondary review followed a public comment period of the buffer map, during which time SIATech Charter School, which was in existence at the time of Seaside's application submission, was identified and added to the buffer map. All applicants received notice of the public comment period through mail and email. In addition, a disclaimer is posted on each version of the buffer map, specifying that all information and data on the map is subject to change without notice. For these reasons, staff has sustained the denial of Seaside's business license application.

Pursuant to LBMC Section 3.80.421.6, an applicant for a business license whose application for such license has been denied by the Director of Financial Management may appeal such denial to the City Council.

Whenever it is provided that a hearing shall be heard by the City Council, the City Council may, in its discretion, conduct the hearing itself or refer it to a hearing officer, in accordance with LBMC 2.93.050(A). Staff recommends the appeal hearing be referred to a hearing office. If referred, upon selection of a hearing officer, the matter will be heard not less than 30 days thereafter.

This matter was reviewed by Deputy City Attorney Arturo D. Sanchez on September 26, 2017.

TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard not less than 30 days thereafter.

FISCAL IMPACT

There is no fiscal or local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

JG:STP:AK:EA

ATTACHMENTS

APPROVED:


PATRICK H. WEST
CITY MANAGER



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6200 • Fax (562) 499-1097

August 16, 2017

Seaside Medical Group, Inc.
700 N. Valley Street Suite B-14780
Anaheim, CA 92801

MJ217001203

RE: **Medical Marijuana Dispensary Business License Application Denied**

Dear Applicant:

Thank you for submitting a Medical Marijuana Dispensary Business License Application with the City of Long Beach. We have reviewed your application and supplemental documents pursuant to Long Beach Municipal Code ("LBMC") Chapter 5.90, and found the proposed location violates the following buffer zones:

- 1,000 feet from a public or private school
- 1,000 feet from a Priority medical marijuana dispensary
- 1,000 feet from a beach
- 600 feet from a public park
- 600 feet from a public library
- Area zoned exclusively for residential use

Due to this violation, your application has been **DENIED**. The Business License Department denied your application to operate a medical marijuana dispensary due to failure to comply with the location requirements pursuant to LBMC Section 5.90.030 and Section 5.90.060 (attached). Additional comments related to your denial can be found with Attachment A.


Should you wish to appeal the denial of your business license application to the Long Beach City Council you may do so by filing a notice of appeal with the Director of Financial Management within ten days from the date of mailing this letter per LBMC 3.80.421.6 (attached). The notice of appeal shall state the reason for the appeal and the grounds of such appeal. Please provide as much detailed information as possible with your appeal.

Please send the appeal to the address below along with a nonrefundable filing fee of \$1,270 payable to the City of Long Beach.

City of Long Beach
Business Services Bureau
Attn: Emily Armstrong
333 W. Ocean Blvd., 7th Floor
Long Beach, CA 90802

Should you have any questions please contact Emily Armstrong, Marijuana Program Specialist, at (562) 570-6649.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandy Tsang-Palmer". The signature is fluid and cursive, with the first name "Sandy" being the most prominent.

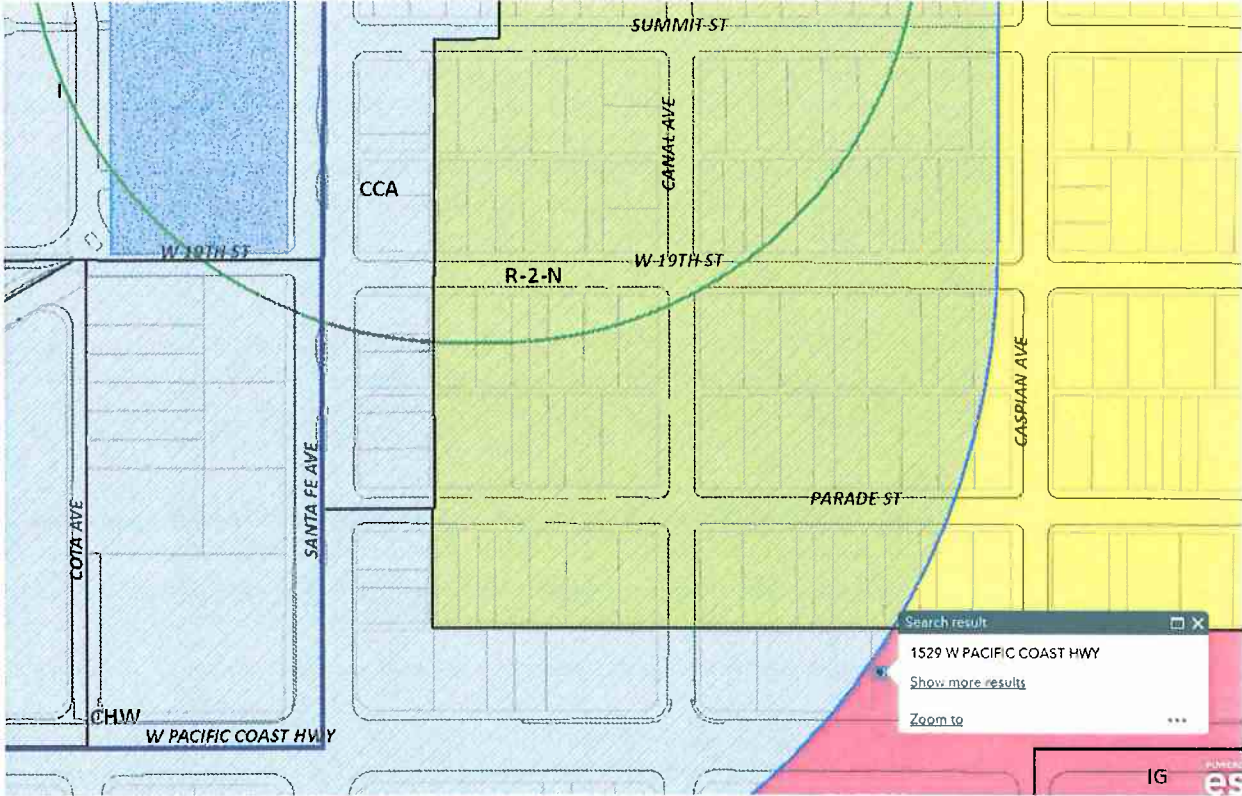
Sandy Tsang-Palmer
Purchasing and Business Services Manager

ATTACHMENTS

ATTACHMENT A

THE PROPOSED BUSINESS LOCATION IS WITHIN 1,000 FEET OF THE FOLLOWING PUBLIC OR PRIVATE SCHOOL:

SIATECH AT LONG BEACH
1903 SANTA FE AVENUE, LONG BEACH, CA 90810





3.80.421.6 - Appeals.

Any applicant for a business license whose application for such license has been denied by the Director of Financial Management may, within ten (10) days after such denial, appeal therefrom to the City Council by filing with the Director a notice of such appeal setting forth the decision and the grounds upon which he deems himself aggrieved thereby. The applicant shall pay to the Director at the time of filing the notice of appeal the fee set by resolution of the City Council for appeals hereunder. The Director shall thereupon make a written report to the City Council reflecting such determination denying the business license. The City Council at its next regular meeting following the filing of said appeal, or within ten (10) days following the filing thereof, shall set said appeal for hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such hearing may for good cause be continued by the order of the City Council. Upon the hearing of the appeal the City Council may overrule or modify the decision of the Director appealed from and enter any such order or orders as are in harmony with this Title and such disposition of the appeal shall be final.

(Ord. C-6325 § 8, 1986; Ord. C-6259 § 1 (part), 1986)

5.90.030 MEDICAL MARIJUANA BUSINESS LICENSE PERMIT

Except as otherwise set forth in this Chapter, it shall be unlawful for any person or entity to operate, in or upon any property, a Medical Marijuana Business without first obtaining all required State licenses and a business license or permits issued by the City. Each State license type available in the MMRSA is eligible to apply for a City Business License Permit. Medical Marijuana Business shall be considered a personal service type business in the City of Long Beach (as defined in section 21.15.2020) with respect to issuing a Business License Permit and setting application and license fees. Until the regulatory implementation of the MMRSA, the Medical Marijuana Business license permits shall be issued without regard to the fact the State license has not been issued. Failure to timely obtain required State licenses or permits shall be grounds for suspension or revocation of any permit or license issued by the City. Upon the regulatory implementation of the MMRSA, unless otherwise set forth in this Chapter, no person shall engage in commercial cannabis activity or in the activities of a Medical Marijuana Business without possessing all applicable State licenses and all applicable City permits and licenses. Revocation of a State license shall constitute grounds for the City to suspend or revoke any permit or license issued by the City.

A Medical Marijuana Business that is operating in compliance with this Chapter and other State and local laws on or before January 1, 2018, may continue its operations until its application for State licensure is approved or denied by the licensing authority.

A Medical Marijuana Business must at all times maintain liability insurance having aggregate policy limits in an amount not less than \$1,000,000.

The City may impose an annual business license fee no greater than one hundred fifty (150) percent of the average business license fee the city charges for non-cannabis related personal service business. Failure to timely pay the annual business license fee shall be grounds for suspension or revocation of the business license. Applicants that previously paid an application fee pursuant to former Chapter 5.87 may, at the applicant's discretion, have any un-refunded fee applied as credit against any fees applicable under this section. All Medical Marijuana Businesses shall be subject to an annual regulatory inspection by the

City to insure compliance with all of the applicable provisions of this Chapter and to confirm compliance with the business license permit issued by the City.

It shall be unlawful for the owner of a building to allow the use of any portion of a building by a Medical Marijuana Business unless the tenant has a valid business license permit, or has applied for and not been denied, a business license permit. Each owner of a building whose tenant is a Medical Marijuana Business License Permit applicant shall execute an acknowledgement that the Applicant has the owner's permission and consent to operate a Medical Marijuana Business at the subject property.

Each Medical Marijuana Business shall designate a Community Relations Liaison (hereinafter, the "Liaison"), who shall be at least twenty-one (21) years of age; and shall provide the Liaison's name to the City Manager. The Liaison shall receive all complaints received by the City Manager regarding the Medical Marijuana Dispensary, and make good faith attempts to promptly resolve all complaints. To address community complaints and concerns, the name and telephone number for the Liaison shall be made publicly available. Each Medical Marijuana Business Liaison is required to respond by phone or email within three (3) business days of contact by a city official concerning the Medical Marijuana Business. The name and contact information for Liaison of the medical marijuana business shall be conspicuously posted on the main entry doors to the business.

No pesticides or insecticides prohibited by federal, State, or local law for fertilization or production of edible produce may be used on any marijuana cultivated, produced or distributed by a Medical Marijuana Business. A Medical Marijuana Business shall comply with all applicable federal, State, and local laws regarding use and disposal of pesticides and fertilizers.

No Medical Marijuana Business may be operated in an area zoned exclusively for residential use, or be located within a one-thousand (1,000) foot radius of a public or private school (as defined in Health and Safety Code § 11362.768(h)) or public beach, or within a six hundred (600) foot radius of a public park or public library. The distances specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of the school, park or library to the closest property line of the lot on which the Medical Marijuana Business is located, without regard to intervening structures.

All Medical Marijuana and Medical Marijuana Product intended for disposal shall be made unusable and unrecognizable prior to removal from the business, in compliance with all applicable laws. No Medical Marijuana Business may have a drive through lane or drive up window and no Medical Marijuana may be dispensed from a drive through lane or drive up window. No marijuana may be smoked, eaten, or otherwise consumed or ingested within the Medical Marijuana Business. All cultivation, production, distribution, possession, storage, display, sales or other distribution of marijuana shall occur only within an enclosed area of a medical marijuana business and shall not be visible from the exterior of the business. Consultations by medical professionals shall not be permitted at a Medical Marijuana Business nor as a permitted accessory use at a medical marijuana business. Each Medical Marijuana Business shall have an odor-absorbing ventilation and exhaust system to ensure that odor generated inside the premises is not detected outside the premises. Windows and roof hatches at the Medical Marijuana Business shall be secured so as to prevent unauthorized entry.

This Chapter shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with local, State, or federal law.

5.90.060 MEDICAL MARIJUANA DISPENSARY OPERATING CONDITIONS AND RESTRICTIONS

Every person and entity operating as a Medical Marijuana Dispensary in the City shall comply with the following operating conditions and restrictions. No Medical Marijuana Dispensary may operate within the City of Long Beach without meeting the following conditions:

A Medical Marijuana Dispensary shall not be located within a one thousand (1,000) foot radius of any other Medical Marijuana Dispensary.

A sign shall be posted in a conspicuous location inside each Property advising: (a) It is a violation of State Law to engage in the sale of marijuana or the diversion of marijuana for non- medical purposes; (b) The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery; (c) Loitering at the location of a Medical Marijuana Business for an illegal purpose is prohibited by Penal Code §647(h); (d) This Medical Marijuana Business is licensed in accordance with the laws of the City of Long Beach; (e) Your membership will be terminated if you engage in the illegal sale or diversion of Medical Marijuana.

Representative samples of Medical Marijuana distributed by the Business shall be analyzed by an independent laboratory to ensure that they are free of harmful pesticides and other contaminants regulated under local, state or federal law.

No person, other than a patient, caregiver, licensee, employee, or a contractor shall be in the medical marijuana dispensary room. No patient shall be allowed entry into the medical marijuana dispensary room without showing a valid State issued picture Driver's License or Identification. A Medical Marijuana Dispensary may distribute, dispense, deliver or transport medical marijuana only in accordance with this Chapter and State law.

The number of licensed and permitted Medical Marijuana Dispensaries shall be limited to not less than one (1) Medical Marijuana Dispensary business for every eighteen thousand (18,000) residents in the City of Long Beach or not more than one (1) Medical Marijuana Dispensary business for every fifteen thousand (15,000) residents in the City of Long Beach. The population of the city shall be based on the official census population estimate as periodically updated by the US Department of Commerce, United States Census Bureau. The City Council may increase the number of licensed and permitted medical marijuana dispensaries pursuant to this Chapter but may not reduce them below the thresholds set forth herein. The City Manager shall issue the maximum number of licenses permitted by this section unless otherwise directed by the City Council.

5.90.030 - Medical marijuana business license permit.

Except as otherwise set forth in this Chapter, it shall be unlawful for any person or entity to operate, in or upon any property, a Medical Marijuana Business without first obtaining all required State licenses and a business license or permits issued by the City. Each State license type available in the MMRSA is eligible to apply for a City Business License Permit. Medical Marijuana Business shall be considered a personal service type business in the City of Long Beach (as defined in section 21.15.2020) with respect to issuing a Business License Permit and setting application and license fees. Until the regulatory implementation of the MMRSA, the Medical Marijuana Business license permits shall be issued without regard to the fact the State license has not been issued. Failure to timely obtain required State licenses or permits shall be grounds for suspension or revocation of any permit or license issued by the City. Upon the regulatory implementation of the MMRSA, unless otherwise set forth in this Chapter, no person shall engage in commercial cannabis activity or in the activities of a Medical Marijuana Business without possessing all applicable State licenses and all applicable City permits and licenses. Revocation of a State license shall constitute grounds for the City to suspend or revoke any permit or license issued by the City.

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A Medical Marijuana Business must at all times maintain liability insurance having aggregate policy limits in an amount not less than one million dollars (\$1,000,000.00).

The City may impose an annual business license fee no greater than one hundred fifty percent (150%) of the average business license fee the city charges for non-cannabis related personal service business. Failure to timely pay the annual business license fee shall be grounds for suspension or revocation of the business license. Applicants that previously paid an application fee pursuant to former Chapter 5.87 may, at the applicant's discretion, have any un-refunded fee applied as credit against any fees applicable under this Section. All Medical Marijuana Businesses shall be subject to an annual regulatory inspection by the City to insure compliance with all of the applicable provisions of this Chapter and to confirm compliance with the business license permit issued by the City.

It shall be unlawful for the owner of a building to allow the use of any portion of a building by a Medical Marijuana Business unless the tenant has a valid business license permit, or has applied for and not been denied, a business license permit. Each owner of a building whose tenant is a Medical Marijuana Business License Permit applicant shall execute an acknowledgement that the Applicant has the owner's permission and consent to operate a Medical Marijuana Business at the subject property.

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This Chapter shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with local, State, or federal law.

(Measure MM § 4, 11-8-2016)

August 21, 2017

Seaside Medical Group, Inc.
700 N. Valley Street, Suite B-14780
Anaheim, CA 92801

City of Long Beach
Business Services Bureau
Attn: Emily Armstrong
333 W. Ocean Blvd., 7th Floor
Long Beach, CA 90802

Re: Appeal the Denial of Business License to Operate a Medical Marijuana Dispensary

Dear Ms. Armstrong,

The purpose of this letter is to appeal the denial of the business license Seaside Medical Group, Inc. ("Seaside") received via your letter dated August 16, 2017. The letter states that Seaside's application is denied because the proposed location at 1529 W. Pacific Coast Highway, Long Beach, CA ("the Location") violates the buffer zone of 1,000 feet from a public or private school.

Seaside is appealing this denial for the reasons stated below:

The Location does not Violate the Buffer Zone as it Lies Beyond the 1,000 Feet Requirement

Please refer to the map attached hereto. As delineated by the marking on the map, the building located at 1529 W. Pacific Coast Highway, Long Beach, is in fact 1,117 feet away from the nearest public or private school. This distance goes beyond the minimum required, and therefore does not violate the buffer zone. Thus, the Location meets the legal distance criteria. For this reason, the Location must be approved and the denial overturned.

The Location was Approved by the City of Long Beach June 1, 2017

On June 1, 2017, Seaside received a letter from your office stating that the planning department had reviewed the application and "the proposed business location at 1529 W. Pacific Coast Hwy is compliant with the buffers pursuant to Long Beach Municipal Code Section 5.90.030." Emphasis added. Attached hereto. Based upon this approval, Seaside took the necessary steps to secure the lease at this location and paid the building's landlord \$27,000. This amount was paid in direct reliance on the city's approval and is non-refundable.

Therefore, the city already approved the Location and Seaside relied on this approval to pay a non-refundable deposit and enter into a long term lease. For this reason, the Location must be approved and the denial overturned.

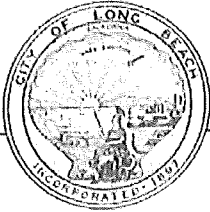
For the reasons stated above, the denial must be overturned and the Location approved. Thereafter, the application must be returned to its position in the application process.

Sincerely,

Seaside Medical Group, Inc.

A handwritten signature in black ink, appearing to read 'Mario Amalfitano', written in a cursive style. The signature is positioned above the printed name.

Mario Amalfitano



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-5150 • Fax (562) 499-1097

June 1, 2017

SEASIDE MEDICAL GROUP INC
700 N. VALLEY STREET SUITE B-14780
ANAHEIM, CA 92801

MJ21701203

RE: Non-Priority Medical Marijuana Dispensary Business License Application

Dear Applicant:

Thank you for submitting a Medical Marijuana Dispensary Business License Application with the City of Long Beach. The Planning Bureau has reviewed your application and supplemental documents and, currently, the proposed business location at 1529 W PACIFIC COAST HWY is compliant with the buffers pursuant to Long Beach Municipal Code ("LBMC") Section 5.90.030.

Due to your status as a Non-Priority applicant, you must wait until all priority applications have been accepted and processed before moving on in the application process. The period for priority applications to be submitted ends on July 24, 2017. After all priority applications have been evaluated, your application will be reviewed by the Planning Bureau another time to determine if the application meets the buffer zones between dispensaries as outlined in LBMC Section 5.90.060. If your location is within 1,000 feet of a Priority applicant dispensary location, your application will be denied. If your location is within 1,000 feet of another Non-Priority applicant dispensary location **and** both applications are assessed with the same number of points under the Priority Point System, you must participate in a public lottery to determine license eligibility.

If the application meets all required buffer zones, the application will be assessed using the Priority Point System. Based upon your total point score and ranking, you may have to attend the public lottery to determine license eligibility. Applicants will be notified via mail, email, and on the City website of their point ranking and the public lottery details at least fourteen (14) days prior to the public lottery.

If you have any questions, please call (562) 570-5150 or email us at marijuanalicense@longbeach.gov.

Sincerely,

