



Legislation Text

File #: 17-0934, **Version:** 1

Recommendation to receive supporting documentation into the record, conclude the hearing, and approve the hearing officer's recommendation to deny the business license MJ21701137 submitted by Long Beach Cannabis Club for a medical marijuana business located at 5752 East 2nd Street, but reject the hearing officer's finding that Naples Canals are not a "public park" as defined under Chapter 5.90 of the Long Beach Municipal Code. (District 3)

The Long Beach Municipal Code (LBMC) requires a hearing be held before the City Council whenever the denial of a business license is appealed.

On July 18, 2017, the City Council referred the appeal of the business license denial for Long Beach Cannabis Club to a hearing officer and the appeal hearing was held on August 14, 2017.

LBMC Section 2.93.050 requires the City Council set a time for a hearing to review and consider the hearing officer's report and recommendation. After review of the hearing officer's report, the City Council may adopt, reject or modify the recommended decision. In its discretion, the City Council may take additional evidence at the hearing or refer the case back to the hearing officer with instructions to consider additional evidence.

Attached for your review is Hearing Officer Larry Minsky's written report (Exhibit A), the Appeal Hearing Packet (Exhibit B), Appellant Long Beach Cannabis Club's Brief (Exhibit C), and the City's Brief (Exhibit D).

Hearing Officer Minsky recommends upholding the denial of the business license application MJ21701137 submitted by Long Beach Cannabis Club due to the proposed business location being within 1,000 feet of a public beach.

On February 22, 2017, Long Beach Cannabis Club submitted a business license application to operate a medical marijuana dispensary at 5752 E. 2nd Street (Exhibit A1). On May 31, 2017, the Department of Financial Management denied the business license application due to the proposed business location being within 1,000 feet of a public beach and within 600 feet of public parks (Exhibit A2).

On June 8, 2017, Long Beach Cannabis Club filed an appeal of the business license denial (Exhibit A3). On July 18, 2017, the City Council referred the appeal hearing to a hearing officer. On August 14, 2017, the appeal hearing for the denial of the business license application MJ21701137 was held. The presiding officer, assigned by the City Clerk's Office, was Larry Minsky.

On August 23, 2017, the hearing officer recommended that the denial of the business license application submitted by Long Beach Cannabis Club be upheld due to the proposed business location being within 1,000 feet of a public beach (Mother's Beach) (Exhibit A). In addition, the hearing officer concluded that the City did not meet the burden of proof to show that the proposed business location was also within 600 feet of a public park, finding that Naples Canals are not a "public park" within the meaning of LBMC Section 5.90.020. If the City Council affirms this finding, Naples Canals must be removed from the medical marijuana business buffer map. LBMC Section 5.90.020 defines "Park" or "Public Park" as "publicly owned natural or open areas set aside for active public use for recreational, cultural or community service activities." Staff contends that Naples Canals are publicly-owned open waterways that are set aside for active public use for recreational activities including, but not limited to, kayaking, paddle boarding, boating, and gondola tours. Staff, therefore, recommends that the City Council affirm the overall recommendation to uphold the denial of the business license application, and reject the hearing officer's finding that Naples Canals are not a "public park" under Chapter 5.90 of the LBMC.

This matter was reviewed by Deputy City Attorney Monica J. Kilaita on September 18, 2017.

The hearing date of October 17, 2017, has been posted on the business location, and the business owner has been notified by mail.

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

Approve recommendation.

JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

MARIE KNIGHT
DIRECTOR OF PARKS, RECREATION AND MARINE

APPROVED:

PATRICK H. WEST
CITY MANAGER