

December 16, 2019

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City Council
City of Pasadena
100 N. Garfield Avenue
Room S249
Pasadena, CA 91109

Re: City Council Agenda Item 14
Public Hearing on December 16, 2019
Appeal of Planning Commission Decision on Conditional Use Permit No. 6757
for Approval of a Commercial Cannabis Retailer at 169 W. Colorado Blvd.

Dear Mayor Tornek and Honorable Councilmembers:

As you know, this firm represents Harvest of Pasadena, LLC (“Harvest”) with respect to its application for Conditional Use Permit #6757 (“CUP”) in Council District 3. Harvest is honored to be considered for one of the City of Pasadena’s (“City”) few available CUPs for Cannabis Retailers. Harvest is committed to the Pasadena community and looks forward to working with the City throughout the permitting process and beyond so that Harvest can provide Pasadena residents with safe, top of the line medicinal and adult-use cannabis products and services.

We write now in support of Staff’s recommendation and the Planning Commission’s decision and detailed findings deeming Harvest’s application exempt from environmental review pursuant to the California Environmental Quality Act and approving the CUP with the Conditions of Approval referenced in the Staff Report.

The question before the City Council tonight is a simple one: did the Planning Commission err or violate the Pasadena Municipal Code (“PMC”) when it approved Harvest’s CUP? The substantial evidence before the City Council tonight makes it clear the Planning Commission did not err and that Harvest meets all of the findings required for CUP approval under the PMC. We urge you to find the proposed action exempt from environmental review pursuant to CEQA and to uphold the Planning Commission’s decision.

I. Harvest’s CUP Meets All of the Findings Required Under the PMC

Under the PMC, a CUP must meet six findings in order to be approved. As Staff has demonstrated at length, and as the Planning Commission correctly determined in its October 9, 2019 meeting, Harvest’ application meets all six findings for approval.

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1. *The Proposed Use is Allowed with a CUP and Complies with All Applicable Provisions of the Zoning Code*

City Staff properly concluded (and the Planning Commission confirmed) that Harvest meets all zoning requirements as laid out in PMC Section 17.50.066 D. See Attachment 1 to this letter and pages 4-6 of the Staff Report. Under the PMC, the proposed sale of cannabis is considered a “retail” use, which is allowed in CD-1, AD-1 with the approval of a CUP, a City Cannabis Permit, and a State license. Harvest’s location meets the specified distance requirements, is located in an allowable zone, and complies with all other applicable code provisions, including maximum size, hours of operation, and parking, among others.

2. *The Location of the Proposed Use Complies with the special purposes of the Zoning Code and the Applicable Zoning District*

As City Staff has indicated, “the proposed location was approved by the voters of Pasadena under Measures CC and DD in 2018.” See Staff Report Attachment A at page 1. With the passage of Measures CC and DD, the voters of Pasadena approved the retail sale of cannabis in the City and created specific location requirements. Those location requirements limit the number of locations in the City where cannabis dispensaries may locate, and as Staff confirmed at the City Council meeting on November 25, 2019, those requirements allow for a maximum of four cannabis dispensaries in the City.

This cannabis dispensary is a retail use being established in a commercial area of the City intended to attract a variety of retail businesses to diversify the mix of land uses. Harvest’s proposed location is a currently vacant tenant space previously occupied by other types of retail including seasonal sales and a skate/surf shop. The continued use of the space for retail is consistent with the zoning code.

3. *The Proposed Use is in Conformance with the Goals, Policies and Objectives of the General Plan*

The General Plan encourages new and diverse land uses. As Staff found, “the cannabis retailer is a new land use that was approved by the voters of the City of Pasadena offering this new product to Pasadena residents and visitors to a key commercial corridor in the City.” See Staff Report Attachment A at page 3. Harvest’s presence will diversify the land uses provided in the neighborhood and the City as a whole and will activate the commercial corridor by occupying a vacant tenant space.

4. *The Establishment of the Use Will Not Be Detrimental to the Health, Safety, or General Welfare of the Neighborhood*

Measures CC and DD allow a limited number of cannabis retailers to operate within specific zoning areas in the City. The voters supported limitations and requirements to regulate these uses specifically to protect the health, safety and welfare of residents and community members and to insulate this use from a variety of sensitive receptors. Harvest is bound not only by the restrictions of Measures CC and DD, but by the Conditions of Approval imposed as part of its CUP, by PMC Sections 5.28, 5.78, 17.50.066, 8.10, and 8.11 and by California law. All of

these regulations are intended to ensure that commercial cannabis dispensaries—which accommodate the needs of ill patients as well as recreational cannabis customers—operate in a safe and healthy manner and are prohibited from creating public nuisances or otherwise disturbing the general welfare of the community. Harvest prides itself on running a quiet, clean, and friendly dispensary that is welcoming to customers and patients and unobtrusive to neighbors and the surrounding community. Harvest pledges to work closely with the City to ensure its location meets those standards and avoids any potential safety issues.

5. The Proposed Use Will Not be Detrimental or Injurious to Property and Improvements in the Neighborhood

Harvest will work closely with the Design Commission and community stakeholders to ensure the final dispensary is wholly compatible with existing and future uses within Old Pasadena. Harvest does not propose to alter the height, setbacks, envelope, or existing footprint of the building that currently exists at Harvest's proposed location. Harvest will fit seamlessly into the neighborhood as simply another retail storefront in a commercial district.

6. The Design, Location, Operating Characteristics of the Proposed Use are Compatible with the Aesthetic Values in the Vicinity

Harvest's affiliates have a proven track record of blending into the communities where they are located, and Harvest intends to put that experience to work in Old Town. Harvest will work closely with the Design Commission to ensure that any exterior modifications are consistent with applicable design guidelines for Old Pasadena. Only minor exterior changes are proposed to the existing building, and any changes will undergo further scrutiny and will be approved by the City before they are implemented.

II. Harvest Must Obtain Additional Approvals Before Beginning Operations

This evening's hearing is far from the end of the approval process for Harvest and the City will have ample opportunities to further review Harvest's proposed operation before a dispensary opens at the location.

1. Design Review

Harvest will work closely with the Design Commission to ensure the details and aesthetics of Harvest's building and location are consistent with Old Pasadena, so that the dispensary fits seamlessly into the neighborhood and fully complies with any conditions the Design Commission may impose.

2. Commercial Cannabis Permit

Harvest will apply for the required commercial cannabis permit (and all other necessary entitlements) and will provide the City with any and all documentation required.

3. Use Permit

Harvest has applied for the required use permit to operate a retail establishment and is working with Staff to process the use permit application. Harvest is confident a use permit will be issued in the near future.

At every step of the way, Harvest has been a cooperative and transparent partner. We respect the City's process and understand concerns about a new use in a historic district. Harvest has every confidence that its dispensary will prove to be an asset to Old Town, and that Harvest will be seen as both a committed partner and service provider to the City, its residents, and the community as a whole.

III. Harvest's CUP is Exempt from Environmental Review Under CEQA

As Staff indicates, Harvest's proposed project is categorically exempt from CEQA in accordance with State CEQA Guidelines § 15301, Class 1, Existing Facilities, and § 15303, Class 3, New Construction or Conversion of Small Structures.

Section 15301 of the CEQA Guidelines provides a categorical exemption for the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of the existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use." The proposed CUP would allow Harvest to operate out of an existing commercial building and Harvest will continue to use that building for commercial purposes.

Section 15303 of the CEQA Guidelines exempts the "...conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure." Harvest's proposed project consists of establishing a retail cannabis dispensary in an existing 5,386 square foot retail building, with the only physical changes limited to interior tenant improvement and minor exterior alterations.

There are no features distinguishing Harvest's proposed project from others in the exempt class, and therefore are no unusual circumstances.

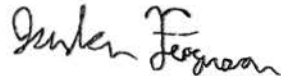
IV. Conclusion

Harvest has worked diligently over the course of nearly a year to reach this point in the entitlement process. Over that time, Harvest's proposal and qualifications have been scrutinized by third-party consultants, City Staff, the Planning Commission, and even previously by this City Council. Throughout this process, Harvest has maintained its commitment to honesty, integrity, and transparency, and has worked to present the best possible application for a CUP. Harvest accepts all of the proposed conditions of approval and pledges to serve as a partner to the City and a resource to its neighbors, Pasadena residents, and the City as a whole, not only through the rest of the entitlement process, but for as long as Harvest has the privilege of operating within the City.

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We respectfully request that the City Council deny the appeals, approve Harvest's CUP and determine this project exempt from the California Environmental Quality Act. Ben Kimbro, the Director of Public Affairs for Harvest, will be present this evening and we will be happy to answer any questions you may have about Harvest's application and its proposed operation. Thank you in advance for your time and careful consideration of this matter.

Sincerely,



Jordan E. A. Ferguson

Cc (via email):

Steven Mermell, City Manager
Michele Beal Bagneris, City Attorney
Theresa E. Fuentes, Assistant City Attorney
Ted Reynolds, Assistant City Attorney
Mark Jomsky, City Clerk
David Reyes, Director of Planning and Community Development
Jennifer Paige, Deputy Planning Director
Guille Nunez, Management Analyst
Ben Kimbro, Harvest of Pasadena

ATTACHMENT 1

Harvest's Proposal Fully Complies with the Pasadena Municipal Code

1. Commercial cannabis permit required
 - a. Harvest will apply for the commercial cannabis permits (and all other necessary entitlements) at the appropriate time and will provide the City all documentation required.
2. Use permit required
 - a. Harvest has applied for a use permit to operate a retail establishment. Harvest is working with Staff to process the use permit application and is confident a use permit will be issued in the near future.
3. Limitation on the number of retailers
 - a. Pursuant to the PMC, no more than six retailers may operate within the City at one time, and no more than one retailer may operate within a City Council district at any one time. Harvest seeks approval to operate within Council District 3 and, if approved, would be the only commercial cannabis retailer within that District.
4. Maximum Square Footage
 - a. Harvest's proposed location is a 5,401 square foot parcel with an existing 5,386 square foot building, well within the City's maximum of 15,000 square feet of retail space. Harvest anticipates that changes may be required to the interior space, but has no plans for demolition or expansion of the existing building.
5. Location Requirements
 - a. Strict location requirements leave very few compliant options in the City.
 - b. Harvest's proposed location is within CD-1, AD-1 (Central District Specific Plan – Old Pasadena, Alcohol Density Overlay District 1), where a cannabis retailer use is permitted subject to approval of the requested CUP, provided the site is not within the PMC's minimum distances from any identified sensitive receptors.
 - c. Harvest submitted a location map identifying the required 600 foot and 1,000 foot radii measured from the boundaries of its proposed location. Harvest's map includes the identification of all uses and zones for properties falling within a 600-foot radius. The location map Harvest submitted was prepared with input from a licensed surveyor and has been peer-reviewed by a third-party land surveyor hired by the City to ensure its accuracy. The City has additionally utilized planning professionals to field verify the accuracy of Harvest's location map.
6. Operating Requirements

- a. Hours of 8:00 a.m. to 9:00 p.m. comply with the 7:00 a.m. – 10:00 p.m. restriction
- b. Sales floor to be separated from lobby area.
- c. Uniformed security guards.
- d. Limits on inventory in the retail sales area to the amount of cannabis reasonably anticipated to meet daily needs.

7. Delivery Services

- a. Harvest proposes to offer its delivery service during the same hours of operation as its retail sales, 8:00 a.m. to 9:00 p.m.

8. Conditions of Approval

- a. Harvest commits to compliance with each and every proposed condition of approval. Beyond that, Harvest pledges to work cooperatively with every City department to ensure that Harvest is always viewed as a good-faith operator and a committed member of the Pasadena business community.

9. Parking

- a. Harvest's proposed location requires 12 parking spaces (reflecting the 25% reduction allowed by PMC Section 17.46.250 for the proposed location within Old Pasadena). Harvest's proposed location does not include any on-site parking, but properties within the CD-1 Old Pasadena District can apply for parking credits via the City's Parking Credit Program. A parking credit contract is already in place for the property for 10 parking credits. However, as a condition of approval, Harvest commits to entering a new contract for the full 12 credits required. Execution of this contract is required before building permit issuance, and Harvest anticipates the successful execution of such a contract in the near future.