



## CITY COUNCIL STAFF REPORT

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**TO:** Honorable Mayor and City Council **DATE:** July 9, 2018

**FROM:** Matthew Bronson, City Manager

**PREPARED BY:** A. Rafael Castillo, AICP, Senior Planner

**SUBJECT:** Development Application 17-42- Request to amend Use Permit, Coastal Development Permit, and Commercial Cannabis Permit to allow Adult Cannabis Use (Recreational Use) Located at 239 South 3<sup>rd</sup> Street (Applicant: Banana, LLC)

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### **RECOMMENDATION**

- 1) Adopt a Resolution amending Development Application 17-42, to allow both commercial medical cannabis and adult use cannabis within a proposed retail, manufacturing, and distribution facility located at 239 South 3<sup>rd</sup> Street; and
  - 2) Adopt a Resolution amending a Commercial Cannabis Permit for Banana LLC.
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### **BACKGROUND**

In January 2018 the Council approved Development Application 17-42, allowing for commercial medical cannabis retail sales, non-volatile manufacturing, and distribution at 239 South 3<sup>rd</sup> Street. In May 2018, the City Council made several amendments to its commercial cannabis land use and regulatory ordinances, which included the following:

- Allow for the retail sales, cultivation, testing laboratories, manufacturing, and distribution of adult cannabis use (recreational cannabis);
- Eliminate the requirement for the Planning Commission to make a recommendation to the Council for retail uses;
- Changed the review authority for non-retailer uses to the Planning Commission; and
- Expanded manufacturing activities to include the use of volatile compounds.

This ordinance went into effect June 22, 2018 for areas in the City not located in the Coastal Zone. The City has proposed an amended Local Coastal Program (LCP) to allow these changes in areas located within the Coastal Zone and this LCP amendment will be considered by the Coastal Commission on July 12 with a Coastal staff recommendation of approval, therefore any approved amendment will go into effect following Coastal Commission's approval.

#### **Proposed Amendment to Development Application 17-42**

The applicant has not yet begun operating and submitted an application to amend its existing Use Permit, Coastal Development Permit, and Commercial Cannabis Permit to allow for both adult and medical commercial cannabis uses for its proposed retail, manufacturing, and distribution uses. Additionally, the applicant is requesting the ability to expand manufacturing activities to include the potential use of volatile compounds (e.g., butane, ethanol, etc.). Adult use commercial cannabis differs from medical use through the following:

- Adult use sales are open to anyone 21 years of age or older, with a valid government issued ID;
- Medical cannabis sales are limited to persons 18 years of age or older with a valid medical prescription; and
- State retail sales tax is collected for adult use cannabis, while no State retail sales tax is collected for medical cannabis.

All security measures and requirements that were originally approved with Resolution 18-18 would still be applicable. With approval of the proposed Use Permit amendment, the applicant would be able to apply for a type “A” license (Adult use), in addition to a type “M” license (Medicinal use).

The recent cannabis ordinance amendments expanded manufacturing uses to allow both non-volatile and volatile compound manufacturing. As a result, the Five Cities Five Authority has contracted with a certified industrial hygienist to update the Council adopted Fire and Life Safety Requirements, which currently address only non-volatile manufacturing uses. It is anticipated the revised Fire and Life Safety Requirements will be ready for Council consideration at the July 23, 2018 Council meeting. In the interim, there are no adopted regulations addressing fire and life safety requirements for volatile compounds. Therefore, staff has added a condition that the applicant could not submit for plan review of volatile manufacturing uses until the Council has adopted an amendment to the Fire and Life Safety Requirements to address operations using volatile compounds.

#### Local Coastal Program

The proposed project is within Visual Resource Area 7 of the Local Coastal Program. Area 7 is completely developed, with the exception of a few lots. The area is zoned entirely for industrial uses and is not identified as a visually sensitive area. The only applicable policy for Area 7 is that future developments meet precise landscaping and design requirements. The proposed project has been conditioned to enhance both the building and site design. This condition remains in place, therefore the project is consistent with the Local Coastal Program.

#### Commercial Cannabis Permit

The Council adopted Resolution 18-19 directing staff to issue a Commercial Cannabis Permit. Article III Chapter 18 of the Municipal Code requires all commercial cannabis uses to obtain a Commercial Cannabis Permit in addition to a Use Permit. For consistency with the proposed Use Permit amendment, staff is requesting that the Council amend the existing conditions to reflect the proposed changes. Staff still recommends issuance of a commercial cannabis permit upon completion of all conditions of approval.

#### Environmental Review

The City prepared an Initial Study and Negative Declaration for the commercial medical cannabis land use and regulatory ordinances as part of initial ordinances considered by the Council in May 2017. The Initial Study concluded that there were no potentially significant environmental impacts and a Negative Declaration was adopted by the Council in May 2017. The proposed amendment does not substantially change the previously approved Negative Declaration because the amendment will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant impacts.

Additionally, the proposed project is Categorical Exempt (Class 1) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA Guidelines Section 15301 (Title 14 California Code of Regulations §§ 15000, et seq.) because the proposed project involves negligible expansion of an industrial type use. Based on the existing and proposed conditions, the project will not have significant cumulative

impacts and there is no reasonable possibility that a significant environmental effect would occur based on the project record.

### **FISCAL IMPACT**

Staff has estimated that the City's commercial cannabis tax will generate approximately \$700,000 in revenues in 2018-19 and increase up to approximately \$1.5 million in 2021-22 based upon projected sales from both medical and adult use businesses and products. These estimates do not account for additional cannabis businesses or sales tax revenue from adult use products where both state and local sales taxes are charged, unlike medical products.

### **ALTERNATIVES**

The City Council has the following alternatives to consider:

1. Adopt resolutions approving an amendment to Development Application 17-42, allowing both medical and adult use commercial cannabis facility with retail, manufacturing, and distribution uses to operate at 239 South 4<sup>th</sup> Street; and approving an amendment to a Commercial Cannabis Permit for Banana, LLC.; or
2. Provide alternative direction to staff.

### **PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act. A copy of this staff report and the meeting agenda was provided to the applicant. A legal ad was published in *The Tribune* on June 29, 2018. A public hearing notice was posted on the subject property and mailed to property owners within 300 feet of the subject property.

### **ATTACHMENTS**

1. Resolution – Amended Use Permit for Development Application 17-42
2. Resolution – Amended Commercial Cannabis Permit

**RESOLUTION NO. 18-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH  
 AMENDING DEVELOPMENT APPLICATION 17-42  
 FOR A USE PERMIT AND COASTAL DEVELOPMENT PERMIT LOCATED AT  
 239 SOUTH 3<sup>RD</sup> STREET  
 (Applicant: Banana, LLC)**

**WHEREAS**, an application has been received from Banana, LLC (applicant) and Grover Beach Dres, LLC (property owner) to amend Development Application 17-42, requesting an amendment to an existing Use Permit and Coastal Development Permit to allow adult use in addition to the medical commercial cannabis use at an existing facility with manufacturing, distribution and a retail uses at 239 South 3<sup>rd</sup> Street (APN 060-213-015); and

**WHEREAS**, the notice of Public Hearings for the City Council meetings was sent to adjoining property owners and advertised in the manner required by law; and

**WHEREAS**, the City Council of the City of Grover Beach has reviewed and considered the amendment to Development Application 17-42 at a Public Hearing on July 9, 2018; and

**WHEREAS**, the proposed project would allow volatile Type 2 manufacturing uses, which was considered in the Negative Declaration for Ordinance 17-06, certified by the City Council on May 1, 2017; and

**WHEREAS**, the proposed project qualifies for an Categorical Exemption consistent with CEQA Guidelines Section 15301: Existing Facilities; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Grover Beach **HEREBY** make the following findings, determinations with respect to an amendment to Development Application 17-42 for an existing Use Permit:

**SECTION 1. Findings of Environmental Exemption.** The City Council finds as follows:

1. A Negative Declaration for Ordinance 17-05, certified by the City Council on May 1, 2017, which adequately addressed the effects of the proposed project's amendment to include the use of Type 2 volatile compounds in the manufacturing process of cannabis. No substantial changes in the circumstances under which the project is being undertaken and no new information of substantial importance to the project which was not known or could not have been known when the Negative Declaration was certified has become known.
2. The proposed project is Categorically Exempt (Class 1) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines Section 15301 (Title 14 California Code of Regulations §§ 15000, et seq.) because the proposed project involves negligible expansion of an industrial type use. Existing facilities based on the proposed project consists of a commercial cannabis manufacturing, distribution, and retailer in two existing buildings totaling 2,282 square feet in the City's Industrial zone.
3. The proposed project is not located in an environmentally sensitive area, nor impact an environmental resource.

4. The proposed project will not have a cumulative impact of successive projects of the same type, in the same place, over a period of time. The proposed project is located within an industrial zone with similar type of uses.
5. The proposed project will not have a significant effect on the environment based on the project record, which is on file at the City of Grover Beach Community Development Department.
6. The proposed project is not located on a designated scenic highway nor scenic resource.
7. The proposed project is not located on any hazardous waste list pursuant to Section 65962.5 of the Government Code.
8. The proposed project is not a designated historical resource.

**SECTION 2. Findings for approval of Coastal Development Permit Amendment.** Grover Beach Municipal Code (GBMC) Article IX, Section 6.20.040 (H):

1. The proposed development, as modified by any conditions of approval, is in conformity with the City's Local Coastal Program and will not adversely affect coastal resources.

**Fact.** The project is located in an industrial zone east of Highway 1 and the Union Pacific Railroad. There are no coastal resources in the project vicinity.

2. If the project is located between the first public road and the sea, that the project is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200 of the Public Resources Code).

**Fact.** The project is not located within this area.

3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

**Fact.** The proposed project amendment will not have any significant adverse effects on the environment

4. The proposed use is consistent with the purposes of the zone in which the site is located.

**Fact.** The proposed project amendment is consistent with the purpose of the Coastal Industrial Zone, as previously approved.

5. The proposed development is in conformance with the City's General Plan.

**Fact.** The project is consistent with the General Plan as in the previous project approval.

6. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

**Fact.** As documented in Resolution 18-06, the project will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

7. Public services are adequate to serve the proposed development.

**Fact.** The site is developed with existing public services. No additional changes are necessary.

**SECTION 3. Findings for approval of Use Permit Amendment.** The City Council finds as follows in accordance with Grover Beach Municipal Code (GBMC) Article IX, Section 6.20.060(F):

1. The proposed amendment is consistent with the General Plan, this Development Code, and other City goals, policies, and standards, as applicable.

**Fact.** The project is consistent with all applicable General Plan policies and Development Code requirements for both the Industrial Zone and commercial cannabis standards (Development Code Section 4.10.045), including minimum setbacks for a retailer use, except for the minimum area of 10% landscaping where a finding has been made that the reduced landscaping is impractical. This has been documented in the previous project approval. The project is also consistent with the Council's adopted 2018-19 Major City Goals for economic development and the Economic Development Strategy.

2. The subject site is physically suitable in terms of design, location, operating characteristics, shape, size, and topography for the proposed amendment.

**Fact.** The site is a 13,750 square foot rectangular flat lot fully improved with one 5,253 square foot building and a smaller 455 square foot building with 11 proposed parking spaces and has appropriate circulation for customers and deliveries. The project site is located in the Coastal Industrial Zone and the proposed uses are specifically included in the purpose of the Zone. The hours of operation and deliveries are prescribed by the Development Code but are typical of uses in an industrial area.

3. The type, density, and intensity of amended use being proposed will not constitute a hazard to the public interest, health, safety, or welfare.

**Fact.** The Industrial Zone allows a variety of industrial and non-industrial uses. Existing uses in the project vicinity include vacant industrial buildings, a light industrial business park, and existing urban agriculture. The proposed amendment meets all City adopted minimum setbacks and the manufacturing and distribution/storage uses are typical uses within industrial areas. A security and operations plan has been reviewed and approved by the Police Department to further assure the public safety and has been implemented.

The commercial cannabis uses, density, and intensity are consistent with the Industrial Land Use Element designation and the purpose of the Industrial Zone.

The existing building size, height, lot coverage and other development standards do not exceed the maximum Development Code requirements. The project has been conditioned to meet all applicable California Building Codes and the Council adopted Fire and Life Safety Requirements for cannabis manufacturing to ensure the project will not constitute a hazard to the public interest, health, safety, or welfare. There is no evidence in the public record that indicates the proposed commercial cannabis uses will constitute a hazard to the public interest, health, safety, or welfare.

**SECTION 3. Use Permit Approval.** The City Council of the City of Grover Beach, at a Special Meeting of the City Council on July 9, 2018 resolved to approve an amendment to Development Application 17-42 for a Use Permit and Coastal Development Permit subject to the following:

**CONDITIONS OF APPROVAL:**

**COMMUNITY DEVELOPMENT DEPARTMENT**

- CDD-1. This approval authorizes an amendment to Development Application 17-42 to allow the establishment of a commercial cannabis facility consisting of Type 1 (non-volatile) and Type 2 (volatile) manufacturing, distribution, and retail uses for both adult and medical uses. All conditions contained in Resolution 18-06, except as amended in this resolution, shall remain in full force and effect.
- CDD-2. The applicant shall not submit for building permit review for any Type 2 manufacturing uses until the City Council has adopted an amendment to the Fire and Life Safety Requirements to address operations using volatile compounds.
- CDD-3. This amendment does not go into effect until such time as the Coastal Commission of the State of California approves an amendment to the Local Coastal Plan, anticipated on or after July 13, 2018.

Upon motion by \_\_\_\_\_, second by \_\_\_\_\_, and on the following roll call vote:

AYES: Council Members –  
 NOES: Council Members –  
 ABSENT: Council Members –  
 ABSTAIN: Council Members –

The foregoing RESOLUTION NO. 18-\_\_ was **PASSED, APPROVED, and ADOPTED** at a Special Meeting of the City Council of the City of Grover Beach, California this 9th day of July, 2018.

**\*\* D R A F T \*\***

\_\_\_\_\_  
 JOHN P. SHOALS, MAYOR

Attest:

\_\_\_\_\_  
 DONNA L. McMAHON, CITY CLERK

**RESOLUTION NO. 18-\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH  
AMENDING A COMMERCIAL CANNABIS PERMIT FOR BANANA, LLC.  
(239 South 3<sup>rd</sup> Street)**

**WHEREAS**, the City Council amended previously approved Development Application 17-42 for a Use Permit and Coastal Development Permit to establish an adult use and medical commercial cannabis facility with manufacturing, distribution and retail uses at 239 South 3<sup>rd</sup> Street; and

**WHEREAS**, the applicant, Banana, LLC., has yet to be issued a Commercial Cannabis Permit to operate a retail, distribution, and manufacturing business located at 239 South 3<sup>rd</sup> Street (APN: 060-213-015); and

**WHEREAS**, staff received and reviewed an amendment to its current Commercial Cannabis Permit application from the applicant Banana, LLC, to allow for the retail sale, distribution, and manufacturing of adult use cannabis consistent with Grover Beach Municipal Code Article 3, Chapter 18; Commercial Cannabis Activities; and

**WHEREAS**, the proposed amendment would allow volatile Type 2 manufacturing, which was considered in the Negative Declaration for Ordinance 17-06, certified by the City Council on May 1, 2017; and

**WHEREAS**, the proposed project qualifies for an Categorical Exemption consistent with CEQA Guidelines Section 15301: Existing Facilities; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Grover Beach **HEREBY** make the following findings, determinations with respect to a Commercial Cannabis Permit:

**SECTION 1. Findings of Environmental Exemption.** The City Council finds as follows:

1. A Negative Declaration for Ordinance 17-05, certified by the City Council on May 1, 2017, which adequately addressed the effects of the proposed project's amendment to include the use of Type 2 volatile compounds in the manufacturing process of cannabis. No substantial changes in the circumstances under which the project is being undertaken and no new information of substantial importance to the project which was not known or could not have been known when the Negative Declaration was certified has become known.
1. The proposed project is Categorically Exempt (Class 1) from the provisions of the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines Section 15301 (Title 14 California Code of Regulations §§ 15000, et seq.) because the proposed project involves negligible expansion of an industrial type use. Existing facilities based on the proposed project consists of a commercial cannabis manufacturing, distribution, and retailer in two existing buildings totaling 2,282 square feet in the City's Industrial zone.
2. The proposed project is not located in an environmentally sensitive area, nor impact an environmental resource.



- 3. The proposed project will not have a cumulative impact of successive projects of the same type, in the same place, over a period of time. The proposed project is located within an industrial zone with similar type of uses.
- 4. The proposed project will not have a significant effect on the environment based on the project record, which is on file at the City of Grover Beach Community Development Department.
- 5. The proposed project is not located on a designated scenic highway nor scenic resource.
- 6. The proposed project is not located on any hazardous waste list pursuant to Section 65962.5 of the Government Code.
- 7. The proposed project is not a designated historical resource.

**SECTION 2. Commercial Cannabis Permit Approval.** The City Council of the City of Grover Beach, at a Special Meeting of the City Council on July 9, 2018 resolved to amend an existing Commercial Cannabis Permit, consistent with GBMC Article III, Chapter 18, Section 4000.160.E, subject to the following conditions:

**CONDITIONS OF APPROVAL:**

COMMUNITY DEVELOPMENT DEPARTMENT

CDD-1. This approval authorizes an amendment to the Commercial Cannabis Permit for Banana, LLC, associated with Development Application 17-42, to operate a commercial cannabis facility consisting of Type 1 (non-volatile) and Type 2 (volatile) manufacturing, distribution, and retail uses for both adult and medical uses. All conditions contained in Resolution 18-07, except as amended in this resolution, shall remain in full force and effect.

Upon motion by \_\_\_\_\_, second by \_\_\_\_\_, and on the following roll call vote:

AYES: Council Members –  
 NOES: Council Members –  
 ABSENT: Council Members –  
 ABSTAIN: Council Members –

The foregoing RESOLUTION NO. 18-\_\_ was **PASSED, APPROVED**, and **ADOPTED** at a Special Meeting of the City Council of the City of Grover Beach, California this 9th day of July, 2018.

**\*\* D R A F T \*\***

\_\_\_\_\_  
 JOHN P. SHOALS, MAYOR

Attest:

\_\_\_\_\_  
 DONNA L. McMAHON, CITY CLERK