

RESOLUTION NO. 18-121, SERIES 2018

RESOLUTION DENYING ISSUANCE OF CANNABIS RETAILER CONDITIONAL USE PERMITS TO CERTAIN PROPOSED LOCATIONS AND MAKING CERTAIN FINDINGS OF FACT IN SUPPORT THEREOF

WHEREAS, the City Council adopted Ordinance No. 2514 to establish and impose reasonable zoning regulations on cannabis retailers desiring to locate in the City, as set forth in Davis Municipal Code section 40.26B.080; and

WHEREAS, proposed cannabis retailers are required to obtain a conditional use permit, subject to the recommendation of the Planning Commission and final approval of the City Council; and

WHEREAS, section 40.26B.080(c)(2) limits cannabis retailers to a total of no more than four (4) in the city for the first eighteen months following the effective date of Ordinance No. 2514, which was amended by the City Council on May 29, 2018 to authorize a total of five (5) cannabis retailers; and

WHEREAS, the City received numerous applications for proposed cannabis retailers during the initial application period, and the Planning Commission considered all eligible applications and provided recommendation to Council following duly noticed public hearings on February 28, 2018 and March 28, 2018; and

WHEREAS, the City Council, at duly noticed public hearings held on May 1, 2018 and May 29, 2018, considered all eligible applications, less those applications that were voluntarily withdrawn by the applicants, all oral and written evidence in support or opposition thereto, and the Planning Commission and staff recommendations regarding proposed cannabis retailers; and

WHEREAS, the City Council determined that more eligible applications were presented than could be approved at one time under Davis Municipal Code section 40.26B.080(c), and therefore a holistic consideration of all proposed cannabis locations, their proximity to each other and compatibility to the surrounding community, the proposed products and services to be provided in a particular area, and level of community awareness, support, and involvement demonstrated and proposed by applicants resulted in selection of five (5) proposed cannabis retailers deemed the best fit for the City at this time; and

WHEREAS, the remaining eligible cannabis retailer applications, for various reasons as further set forth in this Resolution, and pursuant to the discretionary authority vested in the City Council pursuant to Davis Municipal Code section 40.26B.080, shall not be issued a conditional use permit.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Davis does hereby resolve as follows:

SECTION 1. Recitals. The City Council hereby adopts the above recitals as true and correct findings of the City Council and incorporates them into this Resolution by this reference.

SECTION 2. Findings.

A. The City Council has considered all oral and written testimony in support and opposition of the applications for a conditional use permit for proposed cannabis retailer uses, including each applicant’s respective application materials and project proposals, the recommendations of Planning Commission and City staff, and public response, and determined that one or more of the findings enumerated in Davis Municipal Code section 40.26B.080 weighs against issuance of a conditional use permit to the following applicants:

<p>All Good Wellness Lorne Silverstein / Lawrence Allende</p>	<p>325 G Street Central Commercial (C-C)</p>	<p>Medical, Recreational, Delivery, Drive-through (potential drive-through)</p>	<p>PA#17-78 CUP#14-17</p>
<p>Davis Cannabis Company Sidney Dunmore</p>	<p>1221 3rd Street Commercial Service (C-S)</p>	<p>Medical, Recreational, Delivery</p>	<p>PA#17-80 CUP#15-17</p>
<p>The Good People Farms Mary Kay Hoal</p>	<p>514 3rd Street Central Commercial (C-C)</p>	<p>Medical, Recreational, Delivery (future delivery)</p>	<p>PA#17-75 CUP#11-17</p>
<p>Manna Roots Tracy DeWit</p>	<p>117 D Street Mixed Use (M-U)</p>	<p>Medical, Recreational, Delivery (potential delivery)</p>	<p>PA# 17-81 CUP#17-17</p>
<p>River City Phoenix Tom Sheridan</p>	<p>1100 W Chiles Road PD #6-76 (Industrial Research)</p>	<p>Medical, Recreational, Delivery</p>	<p>PA#17-77 CUP#13-17</p>

B. Taking into account the types of proposed retailer uses, the potential community benefits of a proposed use in a given location, extent of support or opposition from members of the community as compared to other proposed locations, potential for overconcentration as opposed to increased geographic availability in the City, and relevant background, history and expertise of applicants, the City Council finds that the balance of evidence and factors weighs against issuance of a conditional use permit to the above applicants at this time.

C. Furthermore, for those applicants proposed to be located in the Mixed-Use zoning district, the City Council finds pursuant to Davis Municipal Code section 40.26B.080(e)(11) that, notwithstanding the mixed-use character of the proposed location, there is insufficient knowledge at this time to affirmatively determine that the proposed site and use is compatible with the surrounding properties and uses, and therefore the potential for unreasonable or detrimental impacts to proximate residential uses outweighs potential proposed benefits.

D. As such, the City Council hereby finds pursuant to Davis Municipal Code section 40.30.080, that issuance of a conditional use permit to the above applicants is not in the best interest of the community at this time, and is further necessarily mandated by the restriction set forth in Davis Municipal Code section 40.26B.080(c)(2), limiting the total number of cannabis retailers for an initial period of 18 months.

SECTION 3. Denial. In accordance with the City Council's findings stated in Section 2 of this Resolution, the City Council hereby denies the applicants' applications for a conditional use permit for the proposed cannabis retailer uses at the premises identified in this Resolution. However, nothing in this Resolution shall be deemed to limit an applicant's ability to apply for a commercial cannabis use, including a cannabis retailer use in the same or different proposed location, at a future date. Nothing in this Resolution shall be construed as a predetermined effort to preclude future applications from a particular applicant, nor shall the findings in this Resolution be used to prejudice future applications from a particular applicant or for a particular property.


SECTION 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Davis on this 19th day of June, 2018, by the following vote:

AYES: Arnold, Frerichs, Lee, Davis

NOES: None

ABSENT: Swanson (recuse)



Robb Davis
Mayor

ATTEST:



Zoe S. Mirabile, CMC
City Clerk