

LAST MINUTE AGENDA INFORMATION IV

08/19/09 Regular Meeting

(Agenda Related Writings/Documents provided to a majority of the City Council after distribution of the Agenda Packet for the August 19, 2009 Regular meeting.)

<u>ITEM NO.</u>	<u>DESCRIPTION</u>
6.6	<p>RESOLUTION NO. 2009-6797 – LAND USE DETERMINATION APPEAL (APPEAL 09-01) FOR A PROPOSED MEDICAL MARIJUANA COOPERATIVE TITLED SOUTH BAY ORGANIC CO-OP LOCATED AT 1233 PALM AVENUE, IN THE C-1 GENERAL COMMERCIAL ZONE. MF 1016. (0610-05)</p> <ul style="list-style-type: none">a. E-mail correspondence from Marcus Boyd of South Bay Organic Co-Op (includes revised business description) received by City Clerk’s Department August 18, 2009.b. Response from Associate Planner Foltz to Marcus Boyd of South Bay Organic Co-Op, received by City Clerk’s Department August 18, 2009.

Tyler Foltz

From: South Bay Organic Co-Op
Sent: Thursday, July 02, 2009 7:53 AM
To: Tyler Foltz
Subject: Re: Additional City Tax Revenues
Attachments: IB_RevisedCoOpDescription.pdf

Good morning Mr. Foltz,

Thank you for your reply.

Please replace the business description page with the attached description of the non-profit specifically outlining the "community and neighborhood" issues described in the Land Use Determination letter sent by you yesterday.

It is our intent to appeal this decision. Please provide the following information...

1. Will the attached revised description require another denial from you prior to our filing for the appeal?
2. Once our appeal is filed what procedures/guidelines are used? Can we read the procedures/guidelines somewhere or can you provide them to us?
3. Regarding the second cause of denial referenced in your denial letter dated 07/01/09:
 - 3a. What are the methods, guidelines and procedures used to add a 'use' to the General Plan for the C-1 General Commercial Zone (IBMC 19.26.020)?
 - 3b. Since this is a 'legal' business in this state and county, can the 'use' be allowed by a Conditional Use Permit while the appeal is being considered.

Please reply promptly to this inquiry.
Again, thank you.
Marcus Boyd

RECEIVED
2009 AUG 18 P 4: 16
CITY CLERK'S OFFICE
CITY CLERK'S OFFICE

a-1

INSTRUCTIONS AND NOTICES

Fill in all spaces and check boxes as appropriate; if not applicable, indicate N/A. You must sign and date application.

Application will be rejected and/or Business Tax Certificate revoked if applicable questions are not answered or false information is given.

Fees are due and payable upon submission of application and are NON-REFUNDABLE.

State law requires the reporting of all Business Tax Certificates issued.

USE BELOW AREA FOR ADDITIONAL COMMENTS OR DETAILS ABOUT YOUR BUSINESS

*******REVISED 06/01/2009 (FOR CLARIFICATION)*******

Non-profit 501(c)(3) Medical Marijuana Cooperative in compliance with Senate Bill 420 (Health & Safety

Code 11362.7-8) and California Attorney General's Guidelines, dated August 2008 to facilitate safe access to legal medical marijuana for the Imperial Beach community and surrounding south San Diego neighborhoods.

Additionally, the non-profit organization intends to provide financial local community support by way of donations and education.

The cooperative will maintain supply through lawfully cultivated medical marijuana member suppliers as outlined in the California Attorney General's Guidelines, dated August 2008.

REFERENCE: http://ag.ca.gov/cms_attachments/press/pdfs/n1601_medicalmarijuanaguidelines.pdf

Tyler Foltz

From: Tyler Foltz
Sent: Thursday, July 02, 2009 5:21 PM
To: 'South Bay Organic Co-Op'
Cc: Greg Wade; Jim Nakagawa; Jennifer Arizala
Subject: RE: Additional City Tax Revenues
Attachments: Land Use Determination Appeal.pdf; Conditional Use Permit Info.pdf

Hello Mr. Boyd,

Please review the below responses to your inquiries.

1. The revised description for the medical marijuana co-op is similar in nature to the description already reviewed by staff and the same land use determination would be found; a new land use determination is not necessary. Therefore, the prior determination applies to the revised description and the revised description will be included in the appeal documents, if you do decide to appeal the determination.
2. Staff would generate a report on the item explaining the reasoning behind the land use determination, and would provide a recommendation to the city council (acting as planning commission). The appellant, you in this matter if you chose to appeal the determination, would then provide reasoning as to why it should be approved. Council would then determine whether or not the use is consistent with the purposes of the zone/general plan designation.
- 3a. A General Plan Amendment/Zone Change would be required. This would likely involve technical studies, reports, community involvement, and more. The City is currently undergoing a commercial zoning review and public comment is welcome and encouraged.
- 3b. The proposed use is not consistent with the permitted uses of the C-1 zone, even those that require a Conditional Use Permit, and thus could not be approved with a Conditional Use Permit unless the city council, acting as the planning commission, determined the use to be consistent with the purposes of the zone/general plan designation.

For reference, a Conditional Use Permit application requires a \$2,000 deposit (Resolution 2002-5579), public notification packet, plans, and a statement of evidence for the following (Imperial Beach Municipal Code 19.82.030 and 19.82.040): (A) That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community; (B) That such use will not, under the circumstances of the particular use, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; (C) That the proposed use will comply with the regulations and conditions specified in this title for such use and for other permitted uses in the same zone; and (D) That the granting of such conditional use will be in harmony with the purpose and intent of this code, the adopted general plan and the adopted local coastal program. why the proposed use is necessary and desirable would require public notification.

Enclosed is the land use determination appeal form, per your request this morning. Note that City Hall is closed tomorrow, July 3, 2009.

Tyler Foltz
Associate Planner
City of Imperial Beach
Community Development Dept.
825 Imperial Beach Blvd.
Imperial Beach, CA 91932
Phone: (619) 628-2381 - Fax: (619) 424-4093
tfoltz@cityofib.org - www.cityofib.com

b-1