



**STAFF REPORT**  
**4/22/2020**

**TO:** Honorable Mayor and City Council Members

**FROM:** Luis Lopez, Development Services Director

**SUBJECT:** Review of Selection Criteria to be used during the review of Conditional Use Permits for Cannabis Retail and Retail Microbusinesses (Round #2) within Subzone #1 (Pueblo Viejo), #3 (Dillon Road), #4 (Wrecking Yard), or #5 (Industrial Park) of the City.

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**STAFF RECOMMENDATION:**

Staff recommends that the City Council review the information contained herein and provide staff with direction regarding suggested changes to the current Retail Cannabis Prioritization Criteria.

**BACKGROUND:**

On March 11, 2020 the City of Coachella City Council conducted a study session and gave staff the following policy directives.

- 1) Staff to procure the services of a cannabis consultant to assist with developing the Round #2 Retail Cannabis review and appeals guidelines to keep better communication with applicants (bilingual formatting), create clearer user-friendly procedures with updated application forms that are more transparent, incorporate web-based technology for application submittals/communications/ records management, and allocate social equity preferences for local stakeholders.
- 2) The City and consultant will organize a workshop - guidance session as a kick-off meeting prior to the Application Window Period for all the new retail cannabis applicants.
- 3) The cannabis consultant will prepare materials for the Cannabis Ad-Hoc Committee and Appeals Committee to create a more transparent merit-based review procedure.
- 4) The City Council will be reviewing and updating the Prioritization (Selection) Criteria contained in Resolution No. 2019-51 (Attached) and delay the Application Window Period for 60-90 days, until late July 2020.
- 5) The updated Prioritization Criteria may include stricter guidelines for local stakeholder preferences, and punitive measures for businesses that fail to open for business within a reasonable time.

- 6) The City will hire a part-time employee (Cannabis Liaison) to assist with licensing, social equity programs, and to staff a future Coachella Cannabis Commission.

Based on Directive #5 above, staff is bringing the Prioritization Criteria for City Council's recollection and to consider modifying the criteria.

#### **UPDATES:**

Regarding Item #1 above, staff has received proposals from three cannabis consultants and an internal staff team is in the final stages of evaluating consultant proposals. Staff will then finalize the Professional Services Agreement and bring it to City Council for authorization, on May 13, 2020. Staff will work with the consultant to develop the review and appeals guidelines as part of the selected consultant's scope of work.

Regarding Items #2 and #3 above, these tasks will be included in the selected consultant's scope of work.

Regarding Item #4 above, this staff report is intended to initiate the policy discussion to review and update the Prioritization Criteria. Staff alerted all known cannabis stakeholders, and put a notice on the City's website that the application window period has been postponed until late July 2020.

Regarding Item #5 above, this staff report is intended to initiate the policy discussion to review and update the Prioritization Criteria. Staff alerted all known cannabis stakeholders, and put a notice on the City's website that the "application window period has been postponed until late July 2020".

Regarding Item #6 above, the City Manager would like to further discuss the budget implications of hiring a part-time cannabis compliance officer at the City Council meeting.

The remainder of this staff report is a detailed discussion of the policies and selection criteria that is part of Resolution No. 2019-51, which is attached to this staff report.

#### **DISCUSSION/ANALYSIS:**

Listed below, staff has copied verbatim, all the policies and point-system criteria contained in Resolution No. 2019-51, with an "Issues" section, and "Suggested Changes" section in order to continue the dialogue at the City Council meeting.

#### **Subzone 1 Policy – Round #1 Applicants Prioritized:**

*The applicants which submitted a complete application for Change of Zone and Conditional Use Permit for Retail Cannabis Businesses as part of Round #1 and were prioritized by the Cannabis Ratings Committee in the Pueblo Viejo (Sub-Zone #1) will be allowed to proceed with Conditional Use Permit public hearings without competing with new applicants in Round #2. If a previously-ranked applicant chooses a new location, they will not have to compete in Round #2 but will forfeit their prior-approved location.*

Issues:

At this time, all the Round #1 applicants which were ranked in the top five scores have now obtained conditional use permits and building permits, per this policy, except for “Roots Café & Dispensary”. Roots decided not to pursue their location on Orchard Avenue and this policy allows them to find an alternative location in the City without having to compete in Round #2. Therefore, the policy is achieving its intended purpose. However, there is one Round #1 applicant that has inquired about competing for a new dispensary license in the Wrecking Yard zone, while still keeping their Pueblo Viejo location. This may result in one applicant from Round #1 having two dispensaries in the City. Additionally, if this applicant decides to abandon their Pueblo Viejo location and only open in the Wrecking Yard zone, it would leave the current landowner with an unrealized commercial gain, and this landlord would want to lease to a new dispensary.

Suggested Changes:

The policy could be re-written to only allow the relocation benefit to those retail cannabis businesses whose property was subject to removal of the RC (Retail Cannabis) overlay zone from their subject property, pursuant to Ordinance No. 1040. This was the Ordinance approving the Zoning Code Amendment that modified the Sub-Zone #1 boundaries removing those parcels which are adjacent to Veterans Park. Additionally, in the interest of spreading opportunities to more applicants, all Round #1 dispensary owners could be disqualified from owning a second dispensary in the City.

**Subzone 2 Policy – Reserved through a Development Agreement:**

*The City reserves the right to allocate two (2) retail cannabis businesses within the Glenroy Resort Sub-Area #2, subject to a negotiated Development Agreement, and these two businesses will not be required to compete in Round #2.*

Issues:

The City is in the process of revoking Conditional Use Permit #312 for The Lighthouse dispensary and this would leave the other parcels within the Glenroy Resort as qualifying to obtain a dispensary license. This is not a major concern because the City Council must authorize a Development Agreement for this purpose. Additionally, the AM/PM property owners have submitted construction drawings to “build out” the commercial center based on their current entitlements, and the new retail building proposed here will be converted into a dispensary. Again, the City Council must negotiate a Development Agreement as part of the conditional use permit for this added dispensary. This policy has no issues to address.

Suggested Changes:

None.

**Subzones 1, 3, 4, & 5 Selection Criteria–Round #2 Applicants:**

*With the adoption of Ordinance No. 1140 setting the zoning and regulatory framework for new retailers, the City anticipates that there may be more applications for cannabis business conditional use permits than allowed under the City regulations. Only four (4) new businesses will be moving forward, after the Round #1 awardees have been given an additional six (6) months to establish their businesses.*

Issues:

Due to the delay in opening the application window period to late July 2020, this policy should actually state that the Round #1 applicants will be given nine (9) months to establish their businesses.

Suggested Changes:

Policy could be updated to reflect new schedule for application window period.

**I. Completeness Review**

*All retailers are required to submit a Conditional Use Permit (CUP) application, with fee, to the City's Development Services Department. All retailers must meet with the Planning Department at which time their applications will be reviewed for "completeness" to ensure that applicants have submitted all the required information necessary for review of the application. Only applications received between April 6, 2020 and May 21, 2020 ("initial review and prioritization period") and deemed complete will move on for review under the City's selection criteria, unless exempted through a Development Agreement. Persons and/or entities that are currently involved or were involved in the 6 months prior to the initial review and prioritization period with an active court proceeding adverse to the City are ineligible to apply for a CUP.*

Issues:

City Council has directed staff to hire a consultant to assist with developing a clearer, more user-friendly and bilingual application process, with updated forms to include social equity guidance, and to host a workshop for all applicants. Additionally, the initial review and prioritization period has been changed to begin in late July 2020.

Suggested Changes:

Policy could be updated to reflect the City's new application procedures (i.e., electronic submittals, focus on social equity policies, on-line submittals and transparent procedure for all to follow, participation in the pre-submittal workshop, etc.) and to reflect the new schedule to begin in late July 2020.

**II. Selection Criteria**

*The following selection criteria will be used by the Development Services Department to evaluate and prioritize CUPs for retailers and retail microbusinesses. Selection criteria are each worth a maximum of 5-10 points, with a grand total of 85 points possible. To obtain the points, the applicant must demonstrate compliance with each criterion listed in the section below.*

Issues:

This preamble to the selection criteria is based on a maximum 85-point system. If City Council adds new criteria for social equity or stricter guidelines, the point system may need to be altered. Additionally, there is no range of points (5-10) because each question is to be awarded either "0" or "5" points, or "0" or "10" points.

Suggested Changes:

Policy could be updated to say “Selection criteria are each worth a maximum of either 5 or 10 points”. Additionally, the total point system should be changed accordingly with any added criteria/questions for social equity policies.

**1. Proof of Applicant’s Ability to Open in Short Period of Time (Up to 25 Points)**

- a. *Has the landowner provided written authorization for a retailer and provided the applicant with a lease agreement? (Worth 5 points)*
- b. *Is the proposed retailer property capable of opening the business within 180-360 days after approval? (Worth 5 points)*
- c. *Is the proposed retailer property not the subject of any outstanding code enforcement activity? (Worth 5 points)*
- d. *Has the applicant provided a detailed description of how the premises and exterior building areas will be managed so as to avoid nuisance, loitering, and other negative impacts on surrounding properties? (Worth 5 points)*
- e. *Does the applicant provide a detailed tenant improvement plan that identifies compliance with California Building and Fire Codes? (Worth 5 points)*

Issues:

As shown above, the questions have been written on a pass/fail format such that the score would be granted at either “0” or “5”. The discretion to the evaluator to award less than 5 points has been removed. Here, City Council directed staff to create stricter policies requiring the successful candidates to open the dispensary within a shorter period of time based on the experience with Round #1 applicants. The policy could include the requirement for applicant’s informed consent in writing regarding the city’s desire to open the business swiftly, and a construction schedule to be submitted, along with a signed affidavit acknowledging that owners understand they must open for business within a reasonable time or risk losing the entitlement through a revocation proceeding.

Suggested Changes:

This policy could be updated to require that owner/applicant has been informed that the proposed business will be required open within a reasonable time, and that the applicant has submitted a construction schedule and a signed affidavit. This could be an additional 5-point question.

**2. Proof of Local Ownership (Up to 30 Points)**

- a. *Is there evidence showing that: 1) the Local Stakeholder Owner of the retail cannabis business has a primary residence in the City of Coachella where he/she has been residing for the past 36 months; or, 2) the Local Stakeholder Owner is a Coachella business owner which has 5 or more City of Coachella residents employed which have been employed during the past 36 months? (Worth 10 points)*
- b. *Does the applicant commit to hiring City of Coachella residents for 85% of all hires of the retail cannabis and secondary businesses? (Worth 10 points)*
- c. *Does the applicant have proof (through financial documents and/or capital investments) that there is a 20% Local Stakeholder Ownership Interest by either the applicant, partner*

*or shareholder to apply for all aspects of retailer or retail microbusiness? (Worth 10 points)*

Issues:

City Council has repeatedly asked what defines a “local owner” or “local stakeholder” and how this criteria will benefit the local owner. Question 2a above defines local stakeholder as a person having “a residence in Coachella for at least 36 months”, or a “local employer having at least 5 employees from Coachella who have lived in the City for at least 36 months”. Local employers are non-residents that have business interests in the City. A local stakeholder is not the same thing as a “social equity applicant” who has been previously criminalized for cannabis-related offenses, or is a local owner that is in a less favorable economic position and wants to participate in the retail cannabis business. Additionally, in Round #1 there were minimal repercussions for changing ownership and removing a “local owner” from the application.

Suggested Changes:

This policy could be amended to include a new question for an extra 5 or 10 points for a qualifying “social equity” applicant.

**3. Proof of Ability to Open a Secondary Business (Up to 20 Points)**

- a. Does the applicant propose to operate a new secondary business (such as a restaurant, retail sales, hotel, bed & breakfast, bakery, art gallery, bar/tavern, coffee shop, bookstore or personal service business, etc.) on separate premises within 12 months of the application date in addition to the proposed retailer business? (Worth 5 points)*
- b. Does the applicant describe credible benefits to the overall community, local economy, and any community or non-profit contributions or affiliations? (Worth 5 points)*
- c. Does the applicant commit to hiring City of Coachella residents for 85% of all hires? (Worth 5 points)*
- d. Does the secondary business have a minimum of 1,000 square feet and is it located within on a separate commercial suite from the retail cannabis business? (Worth 5 points)*

Issues:

Question 3c is a repeat of 2b (local hiring commitment). A recurring discussion has come up about making it mandatory that the secondary business open at the same time as the dispensary, or within a reasonable time after the dispensary is open.

Suggested Changes:

This policy could be amended to delete Question 3c or clarify that it is regarding the secondary business. Additionally, a new 10-points question could be included to ask if the owner has shown “proof of a financial commitment to open the secondary business at the same time as the dispensary”.

**4. Proposed Retail Location/Community Benefits (Up to 10 Points)**

- a. Does the applicant provide a detailed architectural plan for building façade improvements (Worth 5 points)*
- b. Is the applicant committing to exterior façade improvements that will enhance the surrounding areas? (Worth 5 points)*

Issues:

No major issues have been discussed in this policy area.

Suggested Changes:

None.

**III. Ranking and Appeals**

*Applications will be ranked by a 3-Member Ad-Hoc Committee made up of one disinterested member of the Chamber of Commerce, one disinterested member of the City Parks Commission, one disinterested Community Resident, and one disinterested 3rd Party Consultant, with the Director of Development Services serving as the Committee coordinator. The final rankings of the Ad-Hoc Committee will be subject to an appeal hearing by a 3-Member Appellate Board made up of two City mid-management staff and one City executive staff member.*

Issues:

The cannabis consultant will be preparing procedural guidelines for the Ad-Hoc Committee and the Appeals Board, and publishing them for the public and participants. The need for transparency and public access to all files has been discussed as being an essential item here.

Suggested Changes:

None.

Attachments: Resolution No. 2019-51