



## City of Grass Valley City Council Agenda Action Sheet

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**Title:** Cannabis Selection Appeals of Sierra Flower Co. LLC and NUG, Inc., d.b.a. NUG Grass Valley regarding storefront retail commercial cannabis permit selection.

**Recommendation:** That Council approve the Hearing Officer's final findings and recommendations and adopt the proposed resolution.

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**Prepared by:** Thomas Last, Community Development Director

**Council Meeting Date:** 6/28/2022

**Date Prepared:** 6/23/2022

**Agenda:** Public Hearing

**Background Information:** The Grass Valley Municipal Code sets limits on the type and number of cannabis businesses allowed in the City. Because of these limits, the City created a two-step application process to evaluate, rank, and select which applicants could apply for a regulatory permit and land use entitlements to operate in the City. For the first step, the City received seven applications for the ability to apply for the City's single retail storefront dispensary. Last winter, the Commercial Cannabis Selection Committee (Committee) completed its review and scored each cannabis screening application submitted for a commercial cannabis business. The Committee's scoring determined that Grass Valley Provisions was the top ranked applicant for this license type, and it was approved to apply for a Commercial Cannabis Permit.

Two of the six unsuccessful applicants, Sierra Flower Co. LLC (Sierra Flower) and NUG, Inc., d.b.a. NUG Grass Valley (NUG), filed timely appeals of the Committee's decision. These appeals were referred to a hearing officer for adjudication under the City's Commercial Cannabis Appeal Procedures. The City Council appointed the Honorable Al Dover (ret.) as the hearing officer. According to the parties' stipulated briefing schedule, Sierra Flower and NUG filed opening briefs, the City and Grass Valley Provisions filed responsive briefs, and Sierra Flower and NUG filed reply briefs. In addition, the City provided the hearing officer and the parties with a record of evidence related to the Selection Committee's decision, on which all parties relied, as well as some additional evidence certain parties provided. Based on this record, the hearing officer issued a tentative decision on April 22, 2022, in which he recommended both appeals be overruled in their entirety. Upon the appellants' request, the hearing officer held an oral hearing on May 19, 2022, at which all parties appeared and were represented by counsel.

On May 25, 2022, the hearing officer issued his final findings and recommendations, in which he recommends the Selection Committee's decision be affirmed in its entirety,

and the appeals thus denied. The hearing officer's final findings and recommendations are attached to this staff report.

**Discussion:** Under section 5(c) of the City's Commercial Cannabis Appeal Procedures, the City Council may adopt (in all or part) or modify the hearing officer's recommendation or remand it to the hearing officer for further consideration. To determine whether to adopt, modify, or remand the hearing officer's recommendation, the City Council has discretion to either: (1) make a final decision based on the administrative record before the hearing officer and the hearing officer's written recommendation without further input from the appellants, City staff, and Grass Valley Provisions; or (2) order an oral hearing on the hearing officer's recommendation. (Comm. Cannabis Appeal Proc., § 5(b).)

Staff recommends the City Council allow Appellants Sierra Flower and NUG, as well as Grass Valley Provisions, to provide comment, open the public hearing to take public comments, and allow Appellants an opportunity to respond. It may then decide whether to adopt (all or in part) or modify the hearing officer's final findings and recommendation or remand the decision for further consideration. If the City Council decides to adopt the hearing officer's recommendation, a proposed resolution to do so may approved for this purpose.

**Council Goals/Objectives:** This item pertains to work tasks towards achieving/maintaining High performance government & quality service

**Fiscal Impact:** N/A

**Funds Available:** N/A

**Account #:** N/A

**Reviewed by:** City Manager

**Attachments:**

- R2022-
- Hearing Officer Dover's Findings