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## Request for Board Action

Meeting Date: 8/12/2024

Agenda Item No: 9B	Department: Administration	Presenter: Carrell
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### **ITEM:**

**Approve/Deny Resolution 48-2024, a Marijuana License Application from Verts Grand Lake LLC. d/b/a Verts Neighborhood Dispensary at 525 Grand Avenue.**

**The Board has before it an application for a Regulated Marijuana Business Store License under Article 5 of Chapter 6 of the Town Code, and after the Board conducts a public hearing on the application, the Board can vote to approve or deny the license application, or vote to continue/adjourn the hearing until their next regular meeting on 8/26 (which would keep the hearing open until 8/24, therefore not requiring any other noticing).**

### **BACKGROUND:**

- On November 8, 2022, the voters of the Town of Grand Lake (the "Town") approved Town of Grand Lake Ballot Question 2C, "allow[ing] the operation of marijuana businesses in the town and amending the municipal code by the addition of new sections permitting, subject to regulations to be adopted by ordinances of the town, certain activities relating to marijuana, and by so doing repeal[ing] Article 5 of Chapter 7 and Article 11 of Chapter 7, or other sections of the Grand Lake Municipal Code (the "Town Code"), to the extent they are inconsistent with such authorization."
  - **June 12, 2023, Board of Trustees Meeting:**
    - Town of Grand Lake passed Ordinance 06-2023
    - *Per the Grand Lake Municipal Code, Article 5, Chapter 6, Section 6-5-7(b) within forty-five (45) days of the effective date of this Article, the Town shall post notice on its website indicating that Lottery Phase Applications shall be accepted for a sixty (60) day period.*
      - Notice was posted to the Town of Grand Lake's website on September 5, 2023, announcing that the Lottery Phase was open, along with the application, documentation submittal checklist, and other supporting Town of Grand Lake marijuana documents. The Town began accepting applications on September 6, 2023, with a deadline of November 6, 2023, at 4:00 pm.
  - **December 13, 2023**
    - Town of Grand Lake Marijuana Lottery applications were received and reviewed by the Town Clerk, Alayna Carrell, and Town Marijuana Attorney, Brian Blumenfeld.
  - **January 8, 2024, Board of Trustees Meeting:**
    - *Per Ordinance 06-2023, Section 6-5-7(i) Lottery Selection. Upon final determination by the Board of all Lottery Phase Applications that qualify for entry into the Lottery ("Lottery Applicant(s)"), the Town shall conduct a random Lottery at its next regular public meeting, subject to Subsection (d) of this Section, to select which Lottery Applicant shall proceed with the License Phase Application process under Section 6-5-8. Following such selection, and at the same public meeting, the Town shall also conduct a random Lottery to select alternate Lottery Applicants ("Alternate Applicant(s)"), for the purpose set for in Section 6-5-8(d)(2), by assigning all Alternate Applicants an alternate preference number corresponding to the order in which they were selected.*
      - 1.) *The Town may adopt administrative rules and regulations specifying the policies and procedures for conducting the Lottery.*
    - The Board moved to enter Igadi LTD. and Verts Grand Lake LLC. into the lottery on January 22, 2024.
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- **January 22, 2024, Board of Trustees Meeting:**
    - *Per Ordinance 06-2023, Section 6-5-7(i) Lottery Selection. "Upon final determination by the Board of all Lottery Phase Applications that qualify for entry into the Lottery ("Lottery Applicant(s)"), the Town shall conduct a random Lottery at its next regular public meeting, subject to Subsection (d) of this Section, to select which Lottery Applicant shall proceed with the License Phase Application process under 6-5-8. Following such selection, and at the same public meeting, the Town shall also conduct a random Lottery to select alternate Lottery Applicants ("Alternate Applicant(s)"), for the purpose set forth in Section 6-5-8(d)(2), by assigning all Alternate Applicants an alternate preference number corresponding to the order in which they were selected.*
      1. *The Town may adopt administrative rules and regulations specifying the policies and procedures for conducting the Lottery."*
    - Each applicant was assigned a set of numbers, Igadi 1-11, who did receive 10% bonus weight, per section 6-5-7(d)(2), as they are a Social Equity Licensee under the Colorado Marijuana Code, and Verts Grand Lake LLC. assigned numbers 12-21. The winning number was generated through random.org and broadcast live at the Board of Trustees Meeting in order to maintain transparency to the public. Both applicants confirmed their support in conducting the lottery in this manner. Since the Town only received the two applications, the runner up will become the automatic "Alternate Applicant".
    - Per random.org, the number generated was "17", declaring Verts Grand Lake LLC. as the lottery winner and Igadi as the "alternate candidate".
  - **March 18, 2024, Town of Grand Lake Marijuana Application received from Verts Grand Lake LLC.**
  - **April 12, 2024, the Town Clerk declares the Verts Grand Lake LLC Application complete.**
  - **April 3, 2024, Planning Commission, Conditional Use Permit:**
    - Per municipal code 12-2-31 (B) staff presented the application to the Planning Commission at the Planning Meeting on April 3, 2024, at which point the Planning Commission voted to schedule a public hearing.
  - **April 17, 2024, Planning Commission, Conditional Use Permit:**
    - Staff noticed the meeting 15 days prior to the April 17<sup>th</sup> meeting. A letter was sent to Town prior to the official noticing of the item. Staff presented the application during Public Hearing to the Planning Commission on April 17, 2024, at which point the Planning Commission discussed the matter and moved to continue until May 1, 2024. Since the Planning Commission continued the hearing and did not make recommendation to the Board at the April 22<sup>nd</sup> BOT meeting, the Board continued the Conditional Use Permit Hearing until May 13<sup>th</sup>, 2024, in order to have a recommendation from the Planning Commission.
  - **May 1, 2024, Planning Commission, Conditional Use Permit:**
    - At the May 1, 2024, PC hearing, the Planning Commission took into consideration the following factors while making a recommendation to the Town Board of Trustees:
      - (ii) Relationship of the proposed Conditional Use to the economic development objectives of the Town and the anticipated impact of the Conditional Use on existing businesses and neighborhood residences (as listed in 6.pdf).
      - (iii) Effect upon the character of the area in which the proposed Conditional Use is to be located, including the scale and bulk of the proposed Conditional Use in relation to surrounding uses and neighborhood (as listed in 7.pdf).
      - (iv) Other factors such as: hours of operation; signage; specific businesses, land owners or other interested parties to be notified; or proposed conditions of CUP issuance (as listed in 1-5,8.pdf).
    - At the May 1, 2024, PC hearing, the Commission voted 2:2 on a motion to approve the Conditional use with conditions. The tie vote means that the motion did not gain a majority of votes.
  - **May 13, 2024, Board Trustees Meeting, Conditional Use Permit:**
    - The Board approved Resolution 27-2024, a Conditional Use Permit for Verts Grand Lake, LLC at 525 Grand Avenue to the Board with the following necessary and appropriate terms and conditions including the installation of a Boardwalk, greenspace, and improved parking
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surface adjacent to the frontage of the property, the work for which shall be completed within 3 months of an adjoining property completing the same work.

- **July 8, 2024, Boart of Trustees Meeting:**

- *Per Ordinance 06-2023, Section 6-5-8(e)(3)*, Town staff presented to the Board its findings that the Applicant had submitted all required materials and otherwise satisfied all requirements under the Town Code to qualify for a Regulated Marijuana Store License.

- **July 22, 2024, Board of Trustees Meeting:**

- *Per Ordinance 06-2023, Section 6-5-9 Public Hearing*

(a) *The Town Clerk shall schedule a public hearing before the Board on the License Phase Application.*

1. *The public hearing shall be held not less than fourteen (14) days from the date the Town Clerk reported the findings under Section 6-5-8(e)(3).*
2. *The public hearing shall only be held after the Town Planning Commission has reported its recommendations to the Board, pursuant to Town Code 12-2-31(B)(3)(a)(3), on the Applicant's Conditional Use Permit application.*

(b) *The Town shall post and publish notice of the hearing not less than fourteen (14) days prior to the hearing. The Town shall give public notice by the posting of a sign in a conspicuous place at the property of the proposed Regulated Marijuana Store, and by publication in a newspaper of general circulation in the Town.*

- The Board moved to set the public hearing date on August 12, 2024.

- **Public Notice:**

- Middle Park Times for the following publication dates:
  - July 24, 2024
  - July 31, 2024
  - August 7, 2024
- Facility Location, 525 Grand Avenue:
  - July 22, 2024
- Posted at the Following Locations:
  - Town Hall, 1026 Park Avenue
    - July 22, 2024
  - Grand Lake Post Office, 520 Center Drive
    - July 23, 2024

#### **FISCAL NOTE**

- Lottery Phase application fee \$4,000.00
- Licensing Phase Application fee \$3,000.00
- License Renewal fee \$2,000.00
- Transfer of Ownership fee \$1,000.00

#### **BOARD OPTIONS**

##### ***Sec. 6-5-10. Issuance or Denial of License.***

(a) *For the purpose of voting to approve or deny a License, the Board may consider the facts and evidence adduced as a result of:*

1. *The review and investigation under Section 6-5-8(e).*
2. *Review and investigation of the License Phase Application by the Board.*
3. *The recommendations of the Planning Commission.*

*The testimony and evidence presented by the Applicant, the public, or Town staff at the public hearing under Section 6-5-9, including any written or oral public comments submitted in conjunction therewith. Any other facts pertinent to the qualifications of the Applicant.*

(b) *The Board has the authority to refuse to approve a License for good cause, including without limitation, if the Board has made the following findings:*

1. *The Applicant has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions, or provisions of the License, the Town Code, the Colorado Marijuana Code, or any applicable state or local law, rule, or regulation.*
  2. *The Board has determined that the Applicant's character, record, or reputation is not satisfactory after consideration of factors, which include without limitation:*
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1. The Applicant has knowingly submitted false information, made willful misrepresentations, knowingly committed fraudulent acts, or omitted material facts;
  11. The Applicant has a criminal history of crimes of moral turpitude, which may include without limitation murder, burglary, robbery, arson, kidnapping, or sexual assaults;
  111. The Applicant has had a professional license, including without limitation a government-issued marijuana license, denied or revoked as a result of violations of law, rule, or regulation, or a finding of bad moral character by a government entity; or
  - 1v. The Applicant has been found to be currently delinquent in the payment of any state or local taxes, and has shown a pattern of failing to correct such delinquency;
  3. Specific evidence pertaining to the Applicant that approving the License at the location specified in the License Phase Application will adversely affect the public health, safety, or welfare.
- (c) No later than thirty (30) days from the date of the public hearing under Section 6-5-9, the Board shall issue its decision approving or denying the License. The decision shall be in writing and shall state the reasons for the decision. The Board shall send a copy of the decision, by email and U.S. mail, to the Applicant at the address shown in the License Phase Application, and shall make its decision available to the public.
- (d) The Board may impose reasonable conditions upon a License.
- (e) After approval of a License, the Board shall not issue the License until:
1. The Applicant has obtained all other required licenses and permits related to the operation of the Regulated Marijuana Store, and has satisfied all pre-issuance License conditions, if any.
  2. The Regulated Marijuana Store building and site is approved for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of all state and local laws and regulations, and any License conditions imposed by the Board.
  3. The Board has voted to approve the Applicant's Conditional Use Permit.
  4. The Applicant has complied with Section 6-5-17 of this Article.

(t) After approval of a License, the Board, or its designee, shall notify the MED of such approval.

#### **SAMPLE RESOLUTION & SUGGESTED MOTIONS**

Staff has attached to this memo a sample resolution approving the Application, including written findings and license conditions.

The following are four suggested motions the Board may choose from:

***I make a motion to approve Resolution 48-2024, a marijuana license for Verts Grand Lake LLC., d/b/a Verts Neighborhood Dispensary at 525 Grand Avenue.***

***I make a motion to approve a marijuana license for Verts Grand Lake LLC., d/b/a Verts Neighborhood Dispensary at 525 Grand Avenue, and direct Town Staff to draft an approval resolution reflecting the findings and license conditions as set forth by the Board.***

***I make a motion to deny a marijuana license for Verts Grand Lake LLC., d/b/a Verts Neighborhood Dispensary at 525 Grand Avenue, and direct Town Staff to draft a denial resolution reflecting the findings as set forth by the Board.***

***I make a motion to continue the public hearing to the next regular meeting of the Board on August 26, 2024.***

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