LEMON GROVE CITY COUNCIL
AGENDA ITEM SUMMARY

Item No. 3
Mtg. Date August 15, 2017
Dept. Development Services Department

Item Title: **Public Appeal to Consider Appeal No. AA1-700-0002 Regarding the Denial of Zoning Clearance No. ZC1-700-0010 Continued from July 18, 2017; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 8249 Broadway in the General Commercial Zone.**

Staff Contact: David De Vries, Development Services Director

Recommendation:

1. Continue the public hearing from July 18, 2017; and
2. Adopt a Resolution (**Attachment B**) upholding the Development Services Director's determination to deny ZC1-700-0010, a request to apply for a conditional use permit to establish a medical marijuana dispensary at 8249 Broadway in the General Commercial Zone.

Item Summary:

On April 3, 2017, the Development Services Director (Director) denied Zoning Clearance Application No. ZC1-700-0010, a request to establish a medical marijuana dispensary (MMD) on an undeveloped lot at 8249 Broadway. The application was denied because the proposed MMD would be at a property located within 1,000 feet of a private school and a State-licensed daycare center (Saint John of the Cross Catholic Parish). The appellant, Mr. Rodi Mikha, subsequently filed an appeal and request for public hearing, stating: "The property may not be within 1,000 feet of a school or daycare facility. Further, the parcel can be divided to avoid possibly being within 1,000 feet of a school, or daycare facility. Lastly, the map put out by the City of Lemon Grove showing parcels that could contain a medical marijuana dispensary included at least part of APN: 503-012-34-00." Staff's response to the appellant's statements are provided herein (**Attachment A**). This public hearing was continued from July 18, 2017.

Fiscal Impact:

None.

Environmental Review:

☒ Not subject to review
☐ Negative Declaration
☐ Categorically Exempt
☐ Mitigated Negative Declaration

Public Information:

☐ None
☐ Newsletter article
☐ Tribal Government Consultation Request
☒ Notice published in local newspaper
☒ Notice to property owners within 500 ft.

Attachments:

A. Staff Report
B. Resolution of Denial
C. Lemon Grove Municipal Code Section 17.32.090
D. Search Results from Greatschools.org
E. Search Results from State Department of Social Services Website
F. Draft City of Lemon Grove Medical Marijuana Zoning Map
G. ZC1-700-0010 Application Form
H. Staff Denial Letter for ZC1-700-0010
I. AA1-700-0002 Appeal Form
J. Map Showing Distance Between Uses
K. Staff Acknowledgment Letter for AA1-700-0002
L. Director's Approval of Continuance Request
M. Letter from Saint John of the Cross Catholic Parish Staff
N. Public Comment from Jack and Helen Ofield

Attachment A

LEMON GROVE CITY COUNCIL
STAFF REPORT

Item No. 3
Mtg. Date August 15, 2017

Item Title: **Public Appeal to Consider Appeal No. AA1-700-0002 Regarding the Denial of Zoning Clearance No. ZC1-700-0010 Continued from July 18, 2017; a Request to Apply for a Conditional Use Permit to Establish a Medical Marijuana Dispensary at 8249 Broadway in the General Commercial Zone.**

Staff Contact: David De Vries, Development Services Director

Background:

This appeal hearing was scheduled for the July 18, 2017 City Council meeting. At the public hearing, the hearing was continued by the City Council to August 15, 2017 at the applicant's request.

In November 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries (MMDs) and establishing performance standards and a permit process by which MMDs may be established. Measure V was subsequently codified in Chapter 17.32 of the Lemon Grove Municipal Code. The permit process for MMDs requires approval of a conditional use permit (CUP), and the performance standards prohibit MMDs on properties within 1,000 feet of certain protected uses, including schools and licensed daycare facilities. Schools include any public or private school providing instruction in kindergarten or grades one to 12. See Lemon Grove Municipal Code Section 17.32.090 (**Attachment C**).

In order to identify and map the location of protected uses, staff relied on a variety of resources including, but not limited to, the website Greatschools.org and the website for the California Department of Social Services (DSS). DSS is the licensing agency for daycare throughout the State of California **(Attachments D and E)**. The City Council should note that the DSS Website reveals the locations of licensed daycare conducted in commercial and institutional settings, but does not reveal the locations of family daycare homes, which are conducted in private residential settings. To provide the public with a map identifying potential locations for MMDs, while protecting the locations of family daycare homes, City staff created a draft map with 1,000 foot buffers around the parcels where known protected uses are located. Staff then made those buffers opaque to obscure the underlying parcel geography **(Attachment F)**.

On March 7, 2017, staff presented a report to the City Council describing the recommended draft review procedures and draft conditions of approval for requests to establish MMDs. Staff also presented the draft Medical Marijuana Zoning Map it had created. The review procedures include using the Zoning Clearance (ZC) process as the initial step in screening and reviewing of MMD applications. Complete ZC applications for sites which meet the zoning criteria and distance restrictions described in LGMC Chapter 17.32, and which include all required application materials will be deemed complete, and the applicants may then submit for CUP approval by the City Council. ZC applications for sites that do not meet the specified criteria are denied by staff. Staff's decision to deny any application is subject to appeal to the City Council, pursuant to LGMC Section 17.28.020(I).

On March 30, 2017, the appellant filed ZC1-700-0010, an application to apply for a conditional use permit to establish a MMD at the subject property (**Attachment G**). Prior to accepting the application, staff checked the location of the project site on the Medical Marijuana Zoning Map and determined it was ineligible for a dispensary. Staff then informed the appellant that the

proposed project site was within 1,000 feet of a protected use, and therefore staff would have no option but to deny the ZC application.

The appellant chose to file the ZC application despite staff's admonishment, and on April 3, 2017, the Development Services Director denied ZC1-700-0010 (**Attachment H**). On April 12, 2017, the appellant filed AA1-700-0002, an administrative appeal of the Director's decision **(Attachment I)**. The basis of the appeal is that a small portion of the subject property is outside the 1,000 foot buffer around Saint John of the Cross Catholic Parish. The appellant states that portion of the property could be subdivided to create a separate parcel more than 1,000 feet from the Church's property. See the attached exhibit prepared by staff depicting the location of the site in relation to the Church property (**Attachment J)**. As of August 9, 2017, no application for a subdivision has been submitted.

On April 26, 2017, staff sent a letter to the appellant acknowledging receipt of the appeal, informing him that the appeal hearing date would be May 16, 2017, and advising him to submit any additional information he wished to provide prior at the hearing (**Attachment K**). However, the appellant's legal counsel did contact staff and requested to defer the hearing until July 18, 2017. That request was granted by the Director of Development Services as indicated on **Attachment L**, dated May 8, 2017. In the same letter, staff disclosed that the protected use affecting the subject property was the Saint John of the Cross Catholic Parish and that school operations are located at both 8086 and 8175 Broadway. As of August 9, 2017, no additional information has been received from the appellant. On May 23, 2017, City staff received a letter (**Attachment M**) from the staff at Saint John of the Cross Catholic Parish. The letter verifies that all three parcels comprising the church property are utilized in the conduct of the school and the daycare program. For example, the school uses the auditorium on the eastern parcel (APN 503-011-11-00) to conduct school-related events and to serve school lunch on a daily basis. The church also uses the youth center located on the eastern parcel to conduct daycare activities.

Discussion:

The purpose of this appeal is to determine whether a MMD is allowed to proceed with a conditional use permit application based on a determination that the subject property is within 1,000 feet of a protected use, in this instance a school and licensed daycare facility. Staff contends that it has discovered appropriate evidence and made appropriate measurements to justify that there is both a school and a licensed daycare facility within 1,000 feet of the subject property. The appellant contends that the subject property may not be within 1,000 feet of the protected uses, and also suggests that the subject property could be subdivided in order to create a separate lot that would be more than 1,000 feet from the existing school and daycare property.

As indicated above and on **Attachment J**, staff has verified that Saint John of the Cross Catholic Parish is located approximately 744 feet west of the proposed dispensary site. As such, the site is ineligible for a dispensary. Staff further contends that the portion of the subject property which is more than 1,000 feet from the protected uses is too small to be developed and used as a separate commercial property.

The total area of the subject property is 46,174 square feet. The portion of the site located outside the 1,000 foot buffer around the protected uses has an area of approximately 5,600 square feet. The minimum size for a lot in the General Commercial zone is 10,000 square feet. As such, the portion of the subject property located outside the 1,000 foot buffer around the protected uses does not meet the minimum area requirements established in the Lemon Grove Municipal Code for lots in the General Commercial zone. Regardless, the property is not subdivided and a zoning clearance application authorizing such use could not be approved until the subdivision is finaled.

Public Information:

The Notice of Public Hearing for this item was published in the July 6, 2017 edition of The East County Californian, and mailed to all property owners within 500 feet of the subject property.

As of August 9, 2017, the City has received one response to the Notice of Public Hearing opposing the appellant's request which was a revision of a previously submitted statement (**Attachment N**). At the time of the public hearing, staff will provide the City Council with any additional written comments that may be received after distribution of the staff report.

Conclusion:

Staff recommends that the City Council conduct a public hearing and adopt a Resolution (**Attachment B**) upholding the Development Services Director determination to deny ZC1-700-0010, and denying a request to apply for a conditional use permit to establish a medical marijuana dispensary at 8249 Broadway.

Attachment B

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMON GROVE UPHOLDING THE DEVELOPMENT SERVICES DIRECTOR'S DETERMINATION TO DENY A REQUEST TO APPLY FOR A CONDITIONAL USE PERMIT TO ESTABLISH A MEDICAL MARIJUANA DISPENSARY AT 8249 BROADWAY, LEMON GROVE, CALIFORNIA

WHEREAS, on November 8, 2016, voters in the City of Lemon Grove passed Measure V, an initiative removing the City's prohibition of medical marijuana dispensaries and establishing performance standards and a permit process by which medical marijuana dispensaries may be established; and

WHEREAS, Measure V includes the adoption of Lemon Grove Municipal Code Chapter 17.32 which prohibits the establishment of medical marijuana dispensaries within 1,000 feet of certain protected uses, including schools and licensed daycare facilities; and

WHEREAS, City staff verified the presence of a school and State-licensed daycare facility at Saint John of the Cross Catholic Parish located at 8086 and 8175 Broadway; and

WHEREAS, staff at the church has verified in writing that the church uses all three parcels comprising the church's property to conduct school and daycare-related activities; and

WHEREAS, on March 21, 2017, after being informed verbally by City staff that the subject property was within 1,000 feet of a school and licensed daycare facility, and that submittal of a zoning clearance application would result in a denial, the appellant (Rodi Mikha) filed ZC1-700-0010, an application to apply for a conditional use permit to establish a MMD at 8249 Broadway, Lemon Grove, CA; and

WHEREAS, on April 3, 2017, the Development Services Director denied ZC1-700-0010 because the proposed project site is located within 1,000 feet of a school and a state-licensed daycare facility; and

WHEREAS, on April 26, 2017, the appellant filed an administrative appeal of the Director's decision (AA1-700-0002), suggesting that there may be no schools or licensed daycare facilities within 1,000 feet of the subject property, and suggesting that the subject property could be subdivided to create a new lot more than 1,000 feet from any schools or daycare facilities; and

WHEREAS, the Lemon Grove Municipal Code requires at least 10,000 square feet to create a new lot in the General Commercial zone; and

WHEREAS, the portion of the subject property located more than 1,000 feet from the existing school and daycare facility at 8086 Broadway is only 5,600 square feet; and

WHEREAS, City staff disclosed in writing the address of the existing school and daycare facility at 8086 and 8175 Broadway on May 8, 2017 as evidenced by the letter attached to the Agenda Item Summary as Attachment "L"; and

WHEREAS, the appellant has failed to show that their facility is greater than 1,000 feet from the school and California-licensed daycare facility at 8086 and 8175 Broadway; and

WHEREAS, at the request of the applicant, the Director of Development Services set the hearing date to consider AA1-700-0002, an appeal of the Development Services Director's determination to deny ZC1-700-0010 as July 18, 2017; and

Attachment B

WHEREAS, on July 18, 2017, the Lemon Grove City Council held a duly noticed public hearing to consider AA1-700-0002, an appeal of the Development Services Director's determination to deny ZC1-700-0010 and at the request of the applicant, the City Council continued the public hearing to August 15, 2017; and

WHEREAS, on August 15, 2017, the Lemon Grove City Council held a continued public hearing to consider AA1-700-0002, an appeal of the Development Services Director's determination to deny ZC1-700-0010; and

WHEREAS, the appeal of this determination is not a project and is not subject to the environmental review requirements of the California Environmental Quality Act (CEQA);

NOW, THEREFORE, INCORPORATING THE ABOVE STATEMENTS HEREIN, BE IT RESOLVED that the City Council of the City of Lemon Grove hereby:

1. Denies Rodi Mikha's Administrative Appeal No. AA1-700-0002 based on the above-findings; and
2. Upholds the Development Services Director's April 3, 2017 determination to deny Zoning Clearance No. ZC1-700-0010, a request to apply for a conditional use permit to operate a medical marijuana dispensary, at 8249 Broadway, Lemon Grove, CA.

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/ / / / /

17.32.090 Medical marijuana dispensary regulations.

A. Zones. *Dispensaries* may be established by conditional use permit in the heavy commercial (HC), limited commercial (LC), general commercial (GC) and light industrial (LI) zones and subject to the distance requirements. *Dispensaries* are prohibited in mixed-use zones (Downtown Village Specific Plan and Central Commercial) and all residential zones (RLM, RL, RM, RMH).

B. Distance Requirements. An application may be submitted provided the proposed facility meets the required distance measurements. For purposes of measurements, all *dispensaries* are considered *regulated uses* and public parks as defined at Section 12.20.030 of Lemon Grove Municipal Code, playgrounds as defined at Section 18.28.020, subdivision (v), of the Lemon Grove Municipal Code, licensed day care facilities as defined at Section 17.08.030 of Lemon Grove Municipal Code, schools as defined at California Health and Safety Code Section 11362.768, subdivision (h), and alcohol and substance abuse treatment centers are considered *protected uses*. Measurement is made between the closest property lines of the *premises* in which the *regulated uses* and *protected uses* are located. A regulated use must not be:

1. Within one thousand feet of any other regulated use which is located either inside or outside the jurisdiction of the city,

2. Within one thousand feet from any protected use which is located either inside or outside the jurisdiction of the city.

The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access.

C. Standards.

1. Background Check Required for *Director*s and Employees. The *director* and employees of a *dispensary* must obtain a LiveScan background check through the California Department of Justice or the San Diego County sheriff's department prior to employment. *Director*s convicted of a serious felony, as defined in California Penal Code Section 1192.7, subdivision (c), and Health and Safety Code Section 11359 (Possession for sale) within the previous ten years shall not be eligible for a license. Other potential collective employees and volunteers convicted of the crimes identified in this section in the previous five years are ineligible for employment or participation. If during employment with the *dispensary*, a *director* or employee is convicted of a crime identified in this section shall be immediately dismissed from employment or required to resign as a corporate board member or officer. For purposes of this section, a conviction in another state that would have been a conviction equivalent under California law to those convictions specified in this section will disqualify the person from employment or volunteering at the *dispensary*.

2. Security Personnel Required. *Dispensaries* shall have at least one uniformed security guard on duty during operating hours that possess a valid Department of Consumer Affairs "Security Guard Card."

3. Community Relations Liaison Required. *Dispensaries* shall designate a community relations liaison (liaison) who shall be at least eighteen years of age. The liaison may also be the *director* of the *dispensary*. To address community complaints or operational problems with the *dispensaries*, the individual designated as the community relations liaison shall provide his or her name, phone number and email address to the following:

a. Lemon Grove city manager;

b. San Diego County sheriff's department personnel supervising law enforcement activity in Lemon Grove;

c. All neighbors within one hundred feet of the *dispensary*.

4. Inspection of *Premises*. City code enforcement officers, San Diego sheriff's department staff, and any other employee of the city requesting admission for the purpose of determining compliance with the standards set forth in this section shall be given access to the *premises*. City and sheriff staff shall not retain information pertaining to individual patient records viewed during an inspection, and information related to individual patients shall not be made public. Inspectors will give reasonable notice of a scheduled inspection. Unannounced inspections of a *dispensary* may occur if city or sheriff's department staff have probable cause that the collective is violating the law.

5. Inspection Requirements. In order to facilitate verification that a *dispensary* operates pursuant to state and local laws, the following records must be maintained at the *premises* at all times and available for inspection by city code enforcement officers, San Diego sheriff's department staff, and any other employee of the city:

a. Client Records. The *dispensary* shall keep a record of its clients. The record shall include the following and shall be maintained for a two-year period:

i. *Qualified patient* member's name, name of *primary caregiver* when appropriate, and name of *licensed physician* recommending use of *medical marijuana* for the member.

b. *Medical marijuana* Records. *Dispensary* shall keep a record of its *medical marijuana* transactions. The following records shall be maintained for a two-year period and labeling shall occur as specified:

i. A record identifying the source or sources of all *medical marijuana* currently on the *premises* or that has been on the *premises* during the two-year period preceding the current date. The record shall include the name of the cultivator or manufacturer and the address of the cultivation or manufacturing location.

ii. All *medical marijuana* at the *premises* must at all times be physically labeled with information that will allow for identification of the source of the *medical marijuana*.

iii. All *medical marijuana* at the *premises* shall be physically labeled with the monetary amount to be charged.

c. Financial Records. *Dispensary* shall maintain records of all transactions involving money and/or *medical marijuana* occurring at the *premises*. Records shall be maintained for a two-year period preceding the current date.

d. Employee Records. *Dispensary* shall maintain a record of each employee/volunteer and *director*. The record shall include name and background check verification. Records shall be maintained for a two-year period following the end of an employee's employment or *director*'s relationship with the *dispensary*.

6. *Operations manual*. The application for a conditional use permit shall include a detailed *operations manual* including, but not necessarily limited to, the following information:

a. Authorization for the city, its agents and employees, to seek verification of the information contained within the application;

b. A description of the staff screening process including appropriate background checks;

c. The hours and days of the week the *dispensary* will be open;

d. Text and graphic materials showing the site, floor plan and facilities of the *dispensary*. The material shall also show adjacent structures and land use;

e. A description of the security measures located on the *premises*, including, but not limited to, lighting, alarms, and automatic law enforcement notification;

f. A description of the screening, registration and validation process for *qualified patient*s;

g. A description of *qualified patient* records acquisition and retention procedures;

h. The process for tracking *medical marijuana* quantities and inventory controls employed, including the source of *medical marijuana* (on-site cultivation, processing, or plant material, or processed products, received from outside sources);

i. Procedures to ensure accurate record keeping, including protocols to ensure that quantities purchased do not suggest re-distribution;

j. Other information required by the development services director.

7. Operating Standards. *Dispensaries* shall comply with all of the following operating standards. In addition to these standards, the *dispensaries* shall comply at all times with conditions outlined in the approved conditional use permit and the operational manual.

a. Dispensing *medical marijuana* to an individual *qualified patient* or *primary caregiver* more than once a day is prohibited;

b. *Dispensaries* shall only dispense *medical marijuana* to an individual *qualified patient* or *primary caregiver* who has a valid, verified *licensed physician*'s recommendation, and if appropriate, a valid *primary caregiver* designation. The *dispensary* shall verify that the *licensed physician*'s recommendation is current and valid;

c. On-site evaluation by a *licensed physician* for the purposes of obtaining a qualified status is prohibited;

d. *Dispensaries* shall display the client rules and/or regulations in a conspicuous place that is readily seen by all persons entering the *dispensary*. The client rules and/or regulations shall include, but are not limited to:

i. Each building entrance to a *dispensary* shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming *medical marijuana* on the *premises* or in the vicinity of the *dispensary* is prohibited unless specifically authorized within the governing conditional use permit.

ii. The building entrance to a *dispensary* shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen are precluded from entering the *premises*.

iii. The hours of operation for an authorized *dispensary* shall be limited to between eight a.m. to eight p.m. or as specified within the conditional use permit.

iv. *Dispensaries* shall not permit the use or consumption of *medical marijuana* on-site unless specifically authorized under the conditional use permit.

v. *Dispensaries* shall not permit the on-site display of unprocessed marijuana plants or representations of marijuana plants in any areas visible to the public;

vi. All signage for *dispensaries* shall require a sign permit from the city prior to installation. Signage shall not include any terminology (including slang) or symbols for marijuana.

vii. *Dispensaries* shall only permit the distribution of *medical marijuana* plant material and *medical marijuana* manufactured products from licensed sources as allowed by the approved conditional use permit. Such distribution shall be limited to *qualified patient*s or *primary caregiver*;

e. *Dispensaries* shall maintain on the *premises* an on-site training curriculum capable of meeting employee, agents and volunteer training needs. The minimum training curriculum shall include professional conduct, ethics, and state and federal laws regarding patient confidentiality; specific procedural instructions for responding to an emergency, including robbery or violent incident.

f. *Dispensaries* shall maintain all necessary permits, and pay all appropriate taxes. *Dispensaries* shall also provide invoices to cultivators and manufacturers to ensure tax liability responsibility;

g. *Dispensaries* shall implement procedures as outlined in their approved *operations manual*;

h. *Dispensaries* shall submit an "annual performance review report" for review and approval by the development services director. The "annual performance review report" is intended to identify effectiveness of the approved conditional use permit, *operations manual*, and conditions of approval, as well as any proposed modification to procedures as deemed necessary. The development services director may review and approve amendments to the approved "*operations manual*"; and the frequency of the "annual performance review report." *Medical marijuana* cultivation and dispensing monitoring review fees pursuant to the current Master Fee Schedule shall accompany the "annual performance review report" for costs associated with the review and approval of the report.

i. *Dispensaries* shall maintain twenty-four-hour recorded video surveillance of the *premises*. Recordings shall be retained for thirty days for inspection by city staff. City staff must provide valid cause for viewing video surveillance. City staff must ensure that patient privacy is safeguarded. Video surveillance will not be shared with law enforcement except when formally requested as part of a law enforcement investigation directly involving the *dispensary*.

j. Sales of alcoholic beverages are prohibited.

k. Sales of tobacco and tobacco products are prohibited.

l. Sales of drug paraphernalia are prohibited.

m. The location of the *dispensary* shall include the installation of a centrally monitored alarm system

n. Lighting shall be installed to adequately light the exterior and interior of the *dispensary premises* while in conformance with Section 17.28.080.

8. Source of *Medical marijuana*. A *dispensary* shall only dispense marijuana from the following sources and this information shall be included in the *operations manual*:

a. On-Site Cultivation for Authorized *Dispensary*. If the conditional use permit authorizes limited, on-site *medical marijuana* cultivation at the *dispensary*, on-site cultivation shall be considered an accessory use and shall not exceed twenty-five percent of the *dispensaries*' total floor area and in no case exceed one thousand five hundred square feet. In addition to these area limitations, the accessory use shall conform to the specific zone regulations, Section 17.24.060 Accessory Buildings and Uses, Section 17.32.100 of this title, and applicable Building and Fire Codes. The *operations manual* shall include information regarding the on-site cultivation including, but not limited to:

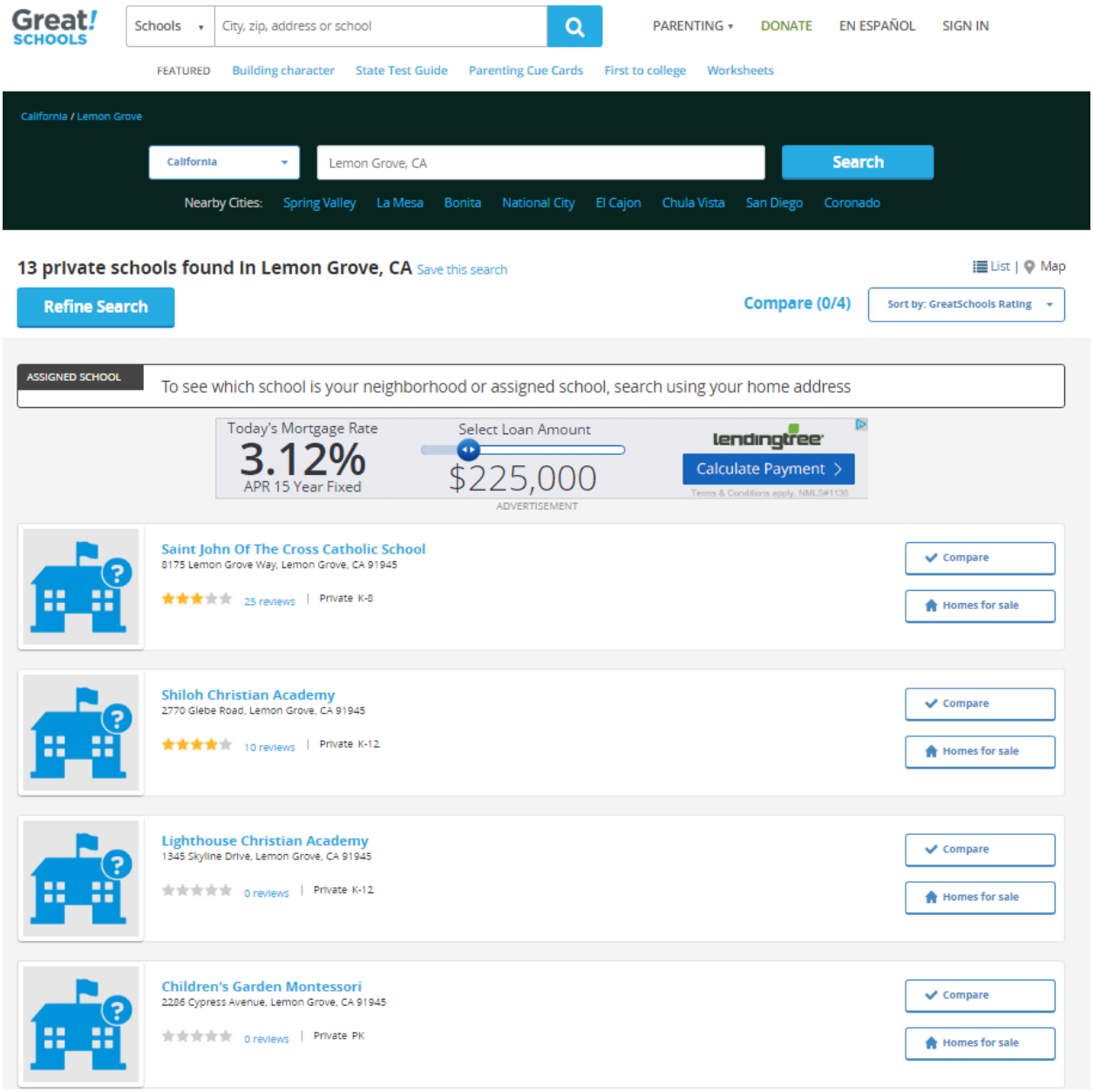
i. Description of measures taken to minimize or offset energy use from the cultivation or processing of *medical marijuana* on-site; and

ii. Description of chemicals stored or used; and

iii. Description of any effluent discharged into the city's wastewater and/or stormwater system;

b. Licensed External Source. Until one year following the date when the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, *dispensaries* shall source their *medical marijuana* from cultivators and manufacturers that have obtained a local business license or equivalent document showing that the organization is operating in zoning and regulatory compliance from another jurisdiction for the *medical marijuana* cultivation or manufacturing. One year from the date that the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, all sources of *medical marijuana* or *medical marijuana* products sold in a *dispensary* must also have a state license for their *medical marijuana* activities. (Ord. 443 § 1, 2016)

Attachment D



Attachment E

Child Care Center Preschool (CDSS Website; Facility Search)

AKA HEAD START - SAN MIGUEL 7059 SAN MIGUEL 91945 Licensed

CHRISTIAN CHURCH OF LEMON GROVE PRESCHOOL 6970 SAN MIGUEL AVENUE 91945 Licensed

CHRISTIAN CREATIVE LEARNING ACADEMY 2920 MAIN ST 91945 Licensed

DISCOVERY LEARNING CENTER 1515 SKYLINE DRIVE 91945 Licensed

LEMON GROVE SCHOOL DISTRICT-GOLDEN AVE PRESCHOOL 7885 GOLDEN AVENUE 91945 Licensed

LEMON GROVE SCHOOL DISTRICT-MONTEREY HEIGHTS P.S. 7550 CANTON DRIVE 91945 Licensed

LEMON GROVE SCHOOL DISTRICT-MOUNT VERNON PRESCHOOL 8350 MOUNT VERNON STREET 91945 Licensed

LEMON GROVE SCHOOL DISTRICT-SAN ALTOS PRESCHOOL 1750 MADERA STREET 91945 Licensed

LEMON GROVE SCHOOL DISTRICT-SAN MIGUEL PRESCHOOL 7059 SAN MIGUEL AVENUE 91945 Licensed

LIGHTHOUSE CHRISTIAN PRESCHOOL 1345 SKYLINE DRIVE 91945 Licensed

MERRY GO ROUND LEARNING CENTER 2749 LEMON GROVE AVENUE 91945 Licensed

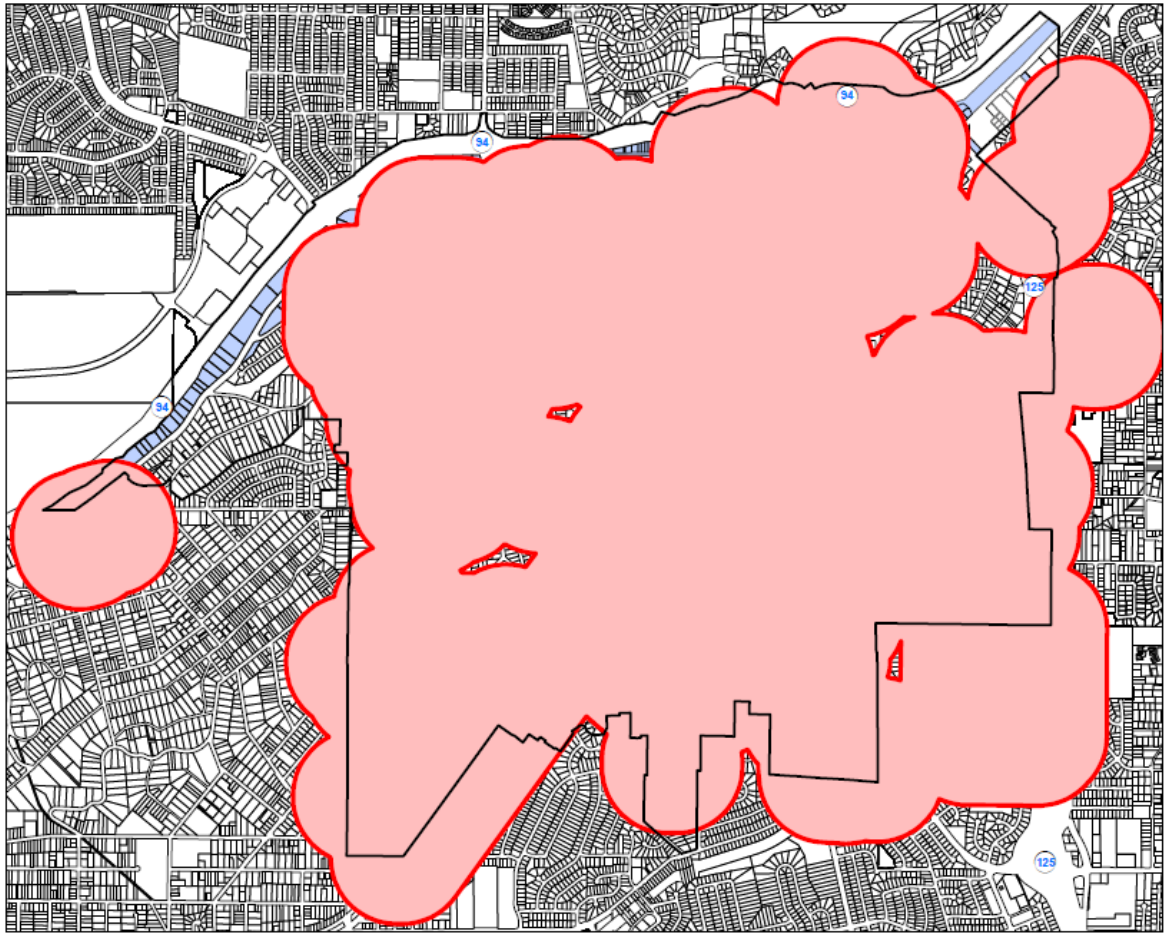
SHILOH CHRISTIAN ACADEMY 2770 GLEBE ROAD 91945 Licensed

ST. JOHN OF THE CROSS PRESCHOOL 8175 LEMON GROVE WAY 91945 Licensed

Draft Lemon Grove Medical Marijuana Dispensary Zoning

Legend

- Lemon Grove Boundary
- Zones Permitting Dispensaries (With Approved CUP)
- 1,000 Foot BufferAround Protected/Regulated Uses (Dispensaries Prohibited Inside the Buffers)



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Feet
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NOTES:
1) This map may not include all protected uses, specifically those in surrounding jurisdictions.
2) To ensure privacy for family daycare homes, this map intentionally obscures the exact locations of protected uses.
3) Map last updated on July 5, 2017

PLANNING PERMIT APPLICATION

Development Services Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.lemongrove.ca.gov

APPLICATION REQUEST- SELECT ALL THAT APPLY – (SUBJECT TO OTHER PERMIT REQUIREMENTS)

- ☐ Zoning Clearance (ZC)
- ☐ Pre-Application (PA)
- ☐ Minor Use Permit (MUP)
- ☑ Conditional Use Permit (CUP)
- ☐ Planned Development Permit (PDP)
- ☐ Minor Modification (MM)
- ☐ Variance (VA)
- ☐ Boundary Adjustment/Lot Merger (BA)
- ☐ Tentative Map (TM) - 5 or more lots
- ☐ Other
- ☐ Tentative Parcel Map (TPM) - 4 or fewer lots
- ☐ Certificate of Compliance (CC)
- ☐ Zoning Amendment (ZA)
- ☐ Specific Plan Amendment (SPA)
- ☐ General Plan Amendment (GPA)
- ☐ Modification of_____
- ☐ Time Extension for_____
- ☐ Appeal of_____
- ☐ Substantial Conformance Review of _____

APPLICANT: Rodi Mikha	**PHONE:** 619 212-1508
ADDRESS: 8280 Broadway	**FAX:**
Lemon Grove, CA. 91945	**EMAIL:**
PROPERTY OWNER: Rodi Mikha	**PHONE:** 619 212-1508
ADDRESS: 8280 Broadway	**FAX:**
Lemon Grove, CA 91945	**EMAIL:**
CONTACT PERSON:	**PHONE:**
ADDRESS:	**FAX:**
	EMAIL:

*If applicant or property owner is a trust, partnership, or corporation, please attach record(s) of ownership listing all trustees, partners, or officers, as applicable.

PROJECT NAME: Lemon Grove plaza
PROJECT ADDRESS: 8249 Broadway Lemon Grove 91945
ASSESSOR PARCEL #: 503-012-34-00 **SITE ACREAGE:** 1.12

DETAILED DESCRIPTION OF PROPOSED PROJECT USE, STRUCTURE, AND IMPROVEMENT:

Licensed medical marijuana dispensary under Measure V.

DEVELOPMENT SERVICES
MAY 30 2017
CITY OF LEMON GROVE

Rev. November 2015

Attachment G

APPLICANT CERTIFICATION:
I hereby certify that the statements furnished in this application and in the supplemental materials present the data and information required for this project to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge. In addition, I grant permission to the City of Lemon Grove to reproduce submitted materials, including but not limited to plans, exhibits, photographs, and studies for distribution to staff, Planning Commission, City Council and other agencies in order to process this application.

X Signature:	Date: 03/20/17
X Name (please print): Rodi MIKHA	Phone: 619 212 1508

CONSENT BY PROPERTY OWNER
If applicant is other than property owner, owner must sign consent to filing. Attach additional sheets if necessary. If property owner is a corporation or trust, a designee authorization letter is required.

I/We, as the owner(s) of the subject property, consent to the filing of this application. We further consent and hereby authorize City representative(s) to enter upon my property for the purpose of examining and inspecting the property in preparation of any reports and/or required environmental review for the processing of the application.

Signature:	Date: 03/20/17
Name (please print): Rodi MIKHA	Phone: 619 212 1508
Signature:	Date:
Name (please print):	Phone:

Note: This application being signed under penalty of perjury and does not require notarization.

TO BE COMPLETED BY PLANNING STAFF

APPLICATION PROCESSING:

FILE #(s): ZC1-700-0010	**ACTION:**
DATE: 3-30-2017	☐ **APPROVED** ☐ **DISAPPROVED**
FEES: $150 **RECEIPT #:** 18227	☐ **CONDITIONALLY APPROVED (See Below)**
ZONE: GC	**LAND USE DESIGNATION:**

COMMENTS and/or CONDITIONS:

Rev. November 2015

CITY OF LEMON GROVE

"Best Climate On Earth"

Development Services Department

Date: April 3, 2017

Rodi Mikha
8280 Broadway
Lemon Grove, CA 91945

SUBJECT: Denial of Zoning Clearance Application ZC1-700-0010 for property located at 8249 Broadway, in the City of Lemon Grove (APN: 503-012-34-00).

Rodi Mikha,

On March 30, 2017, staff received the subject application to establish a medical marijuana dispensary (MMD) at the subject property in the City of Lemon Grove. The application has been denied for the following reasons, which may not be all inclusive:

- The property is located within 1,000 feet of a school and a State-licensed daycare facility.

In order for staff to process a conditional use permit application for a MMD, the application must include all of the information required by Chapter 17.32 of the Lemon Grove Municipal Code, as well as the items listed on the City's MMD Planning Permit Checklist. Additionally, the location of the proposed MMD must comply with the zoning requirements and distance restrictions contained within Chapter 17.32. If any of the required items are missing, or if the proposed location does not meet the zoning requirements and distance restrictions, then staff cannot process a conditional use permit application. Please review the requirements of Chapter 17.32 and the MMD Planning Permit Checklist prior to submitting another application. Please also verify that the site chosen meets the distance restrictions established by Chapter 17.32. Staff's decision to deny this application may be appealed to the Lemon Grove City Council pursuant to Lemon Grove Municipal Code, Section 17.28.020(I). Appeals must be filed in writing within 10 calendar days of the date on this denial letter and must include a filing fee of $75.00. Appeals must be filed using forms provided by the Development Services Department.

Respectfully,

David De Vries, Development Services Director

3232 Main Street Lemon Grove California 91945-1705
619.825.3805 FAX: 619.825.3818 www.ci.lemon-grove.ca.us

APPEAL APPLICATION & REQUEST FOR PUBLIC HEARING

Community Development Department / Planning Division
3232 Main Street, Lemon Grove, CA 91945
Phone: 619-825-3805 Fax: 619-825-3818
www.ci.lemon-grove.ca.us

APPLICANT: Iden's Investments, LLC, DBA Green Haven San Diego
PHONE: 619-784-6682
ADDRESS: 8249 Broadway, Lemon Grove, CA 91945 - Physical
8280 Broadway, Lemon Grove, CA 91945 - Mailing
FAX:
EMAIL: greenhavensd@gmail.com

CASE/PROJECT NUMBER: ZC1-700-0010 - Zoning Clearance Application

DECISION /CONDITIONS OF APPROVAL BEING APPEALED (INCLUDE CONDITION ITEM NUMBERS):

Denial of Zoning Clearance Application ZC1-700-0010 for a property located at 8249 Broadway, Lemon Grove, CA 91945 (APN: 503-012-34-00). Applicant seeks to establish a medical marijuana dispensary at the property, and the zoning clearance was denied because the property is allegedly within 1,000 feet of a school and a state-licensed daycare facility.

SPECIFIC REASON(S) FOR APPEAL OR REQUEST FOR PUBLIC HEARING:

The property may not be within 1000 feet of a school or daycare facility. Further, the parcel can be divided to avoid possibly being within 1000 feet of a school or daycare facility. Lastly, the map put out by the City of Lemon Grove showing parcels that could contain a medical marijuana dispensary included at least part of APN: 503-012-34-00.

Attach additional sheets if necessary.

Applicants Signature by Rodi Mikha, Member-Manger, for Iden's Investmetns, LL Date 4-12-2017

TO BE COMPLETED BY PLANNING STAFF

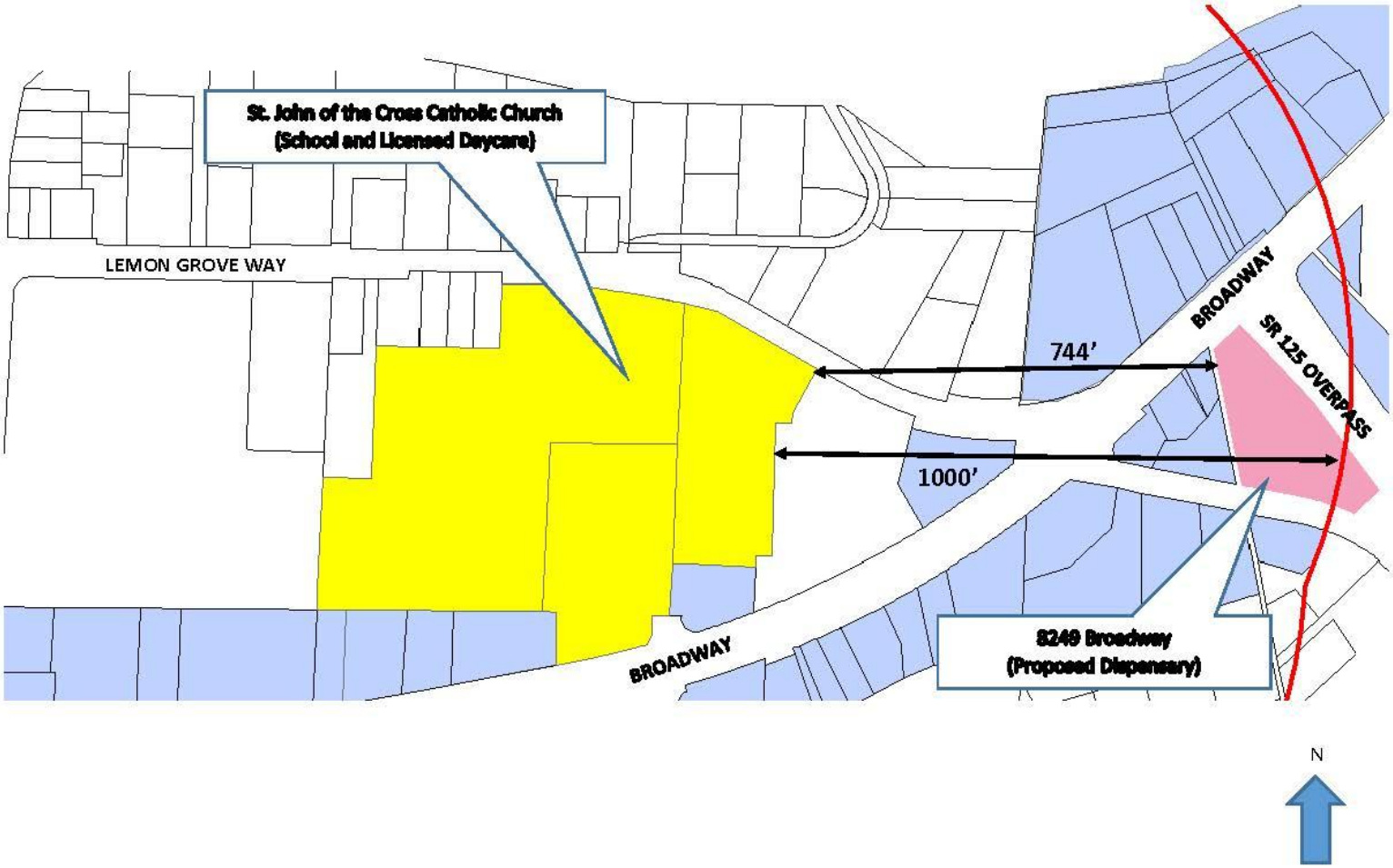
FILE #(s):
DATE:
FEES: RECEIPT #: ~~1009~~ 18430

COMMENTS and/or CONDITIONS:

CITY OF LEMON GROVE
APR 12 2017
DEVELOPMENT SERVICES

Attachment J

Saint John of the Cross and 8249 BROADWAY



CITY OF LEMON GROVE

"Best Climate On Earth"

Development Services Department

Date: April 26, 2017

Rodi Mikha
8280 Broadway
Lemon Grove, CA 91945

SUBJECT: Appeal hearing for denial of Zoning Clearance application ZC1-700-0010 for property located at 8249 Broadway, in the City of Lemon Grove (APN: 503-012-34-00).

Rodi Mikha,

On March 30, 2017, staff received the subject application to establish a medical marijuana dispensary (MMD) at the subject property in the City of Lemon Grove. On April 3, 2017, staff denied the application because the property is located within 1,000 feet of a school and a State-licensed daycare facility.

On April 12, 2017, staff received an appeal of its decision to deny the application. Staff's decisions are subject to appeal pursuant to the provisions of the Lemon Grove Municipal Code, Section 17.28.020(I). The Lemon Grove City Council will consider the appeal and make a determination to grant or deny the appeal at a public hearing to be conducted on May 16, 2017.

If you have any additional supporting material you would like to submit for the appeal, please provide that information to staff at your earliest convenience.

Respectfully,

Eric Craig, Associate Planner

3232 Main Street Lemon Grove California 91945-1705
619.825.3805 FAX: 619.825.3818 www.ci.lemon-grove.ca.us

CITY OF LEMON GROVE

"Best Climate On Earth"

Development Services Department

Date: May 8, 2017

Rodi Mikha
8280 Broadway
Lemon Grove, CA 91945

Jessica C. McElfresh
P.O. Box 230363
Encinitas, CA 92023

SUBJECT: Continued appeal hearing for denial of Zoning Clearance application ZC1-700-0010 for property located at 8249 Broadway, in the City of Lemon Grove (APN: 503-012-34-00).

Rodi Mikha,

At the request of your attorney, Jessica McElfresh, the City is continuing your appeal hearing from the May 16, 21017 City Council agenda, to the July 18, 2017 agenda. If you have any additional supporting material you would like to submit for the appeal, please provide that information to staff at your earliest convenience.

Also, in order to provide a full and open opportunity for you to understand the reason staff denied your zoning clearance permit, and to allow you to respond accordingly, we wish to inform you that the protected use affecting your project site is the Saint John of the Cross Catholic Church, located at 8086 Broadway. The church property is comprised of three parcels, each of which is utilized by the school and the licensed daycare facility associated with the church. As such, the entire church property is considered a protected use. By measuring georeferenced parcel boundary information, we have determined that your property at 8249 Broadway is located 745 feet west of the church property, and is therefore ineligible for approval as a dispensary. A copy of this letter will be attached to the City Council staff report.

Respectfully,

Eric Craig, Associate Planner

3232 Main Street Lemon Grove California 91945-1705
619.825.3805 FAX: 619.825.3818 www.ci.lemon-grove.ca.us

St. John of the Cross Catholic Parish
8086 Broadway Ave
Lemon Grove, CA, 91945

OFFICE OF RELIGIOUS EDUCATION
(619) 461-2681

May 23, 2017

Eric Craig, AICP
Associate Planner
City of Lemon Grove

Saint John of the Cross Catholic Church operates an elementary and middle school, and provides licensed daycare services. The church programs activities for both the school and the daycare on all three of the parcels that comprise the church property. For example, the school uses the auditorium on the eastern parcel (APN 503-011-11-00) to conduct school-related events and to serve school lunch on a daily basis. Our Youth Center which is also on the north eastern side of our parcel is also used extensively for child care and youth activities.

Should you have any questions please feel free to contact me at 619-461-2681.

Respectfully,

Jesse Ramirez
Director Religious Education/Facility Manager

David DeVries

From: Jack / Helen Ofield
Sent: Wednesday, August 2, 2017 3:45 PM
To: David DeVries
Subject: Pot Shop Opposition Letters for Aug. 15

Mayor and Council, City Manager, City Attorney,

Our family urges you to uphold your staff's recommendation and deny Mr. Rodi Mika a CUP to sell medical marijuana at 8249 Broadway opposite the campus of St. John of the Cross Church. St. John's encompasses a parish school (K-8), youth center, day care center, Knights of Columbus Hall, and playing fields, all in use by some 7,000 parishioners. For that reason Mr. Mikha's application to sell marijuana within the 1,000 foot buffer zone, is outrageous.

Morever, St. John's Plaza Senior Apartments, run by Catholic Charities, is right next door to the campus.

The Catholic church was established in our town in 1920 as St. Theresa's. The formal church, built in 1940, is now the Knights of Columbus Hall. The big church opened in 1959. This church community is a pillar of Lemon Grove and does not deserve to be subjected to the presence of an inherently criminal enterprise.

We suspect that Mr. Mikha's keen interest in selling a federally-banned drug--a business that all too often is an all-cash deal--may be linked to his several investment companies and his partners' profit motive. We should remember that the benign-sounding "medical marijuana" is but a pretext for raking in huge profits and is a target for criminals.

Please defend our city.

Jack and Helen Ofield

Mayor and Council, City Manager, City Attorney,

Our family urges you to uphold your staff's recommendation and deny Mr. Christopher Williams a CUP to sell medical marijuana at 8260 Broadway adjacent to the large campus of St. John of the Cross Church. St. John's serves thousands of diverse parishioners in a historic church built 77 years ago. The parish school, established in 1948, serves K-8. The William's pot shop is too close to this important campus.

St. John's is a linchpin of Lemon Grove, embedded in the heartbeat for nearly a century. Yet, the parish school principal reports that drug addicts hanging around Kunkel Park on the western border of church playing fields harass students with offers of drugs. Comes now a cynical effort to peddle marijuana under the guise of "medical" to help the sick and infirm. Nonsense. This is about raw profits for people who symbolize an increasingly addicted, anti-social and degenerate part of the population.

In closing, one of the nation's largest Fentanyl heists occurred in mid-June on Central Avenue in a historic residential neighborhood. One of the three smugglers was raised in Lemon Grove, while the other two appear to be Mexican nationals. And this is just part of the local drug crime we know about. Let's not exacerbate our town's already grim drug crime scenario by adding marijuana dispensaries. No self-respecting city council

would deny its law-abiding residents the protection they need in this new world of potentially rampant sales of marijuana and other drugs. Please say no.

Kind regards,
Jack and Helen Ofield

--
Jack and Helen Ofield