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Debra A Green
Park County Clerk

**PARK COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

Resolution No. 2017-38

A RESOLUTION DENYING THE MOTION FOR RECONSIDERATION OF SMART INNOVATIVE SOLUTIONS, LLC, RE: DENIAL OF A PARK COUNTY RETAIL MARIJUANA CULTIVATION FACILITY LICENSE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PARK (the "Board") THAT:

1. At the conclusion of the May 25, 2017, public hearing on the application of Smart Innovative Solutions, LLC ("Applicant") for a Park County retail marijuana cultivation facility license the Board gave direction to the County Attorney to prepare a resolution denying the application.

2. On June 8, 2017 the Board adopted Resolution no. 17-34 denying the application.

3. The Applicant has filed a Motion to Reconsider Denial asking the Board to reconsider its decision and to grant the application (the "Motion"). While the County's retail marijuana regulations do not address or specifically allow motions for reconsideration the Board has reviewed and considered the Motion.

4. Applicant initially argues that: "The Board's Denial Can Be Easily Reversed and Comply with existing Governing Law." Motion at 2. Applicant states, quite correctly, that "[w]hen determining the desires of the neighborhood, the Board has wide discretion when evaluating evidence." *Id.* Here, the Board carefully considered the written submittals, the testimony presented at the hearing and the canvassing performed by the County's staff, according such evidence the weight it deemed appropriate. Based on that evidence the Board found and concluded that the evidence regarding the desires of the adult inhabitants of the neighborhood demonstrated that the inhabitants generally did not favor issuance of the cultivation facility license. The Board sees no reason to reverse that conclusion.

5. Applicant next argues that: "Moral opposition from non-neighborhood residents should not be weighed more heavily than other evidence." Motion at 3. The Board agrees. In fact, as stated in Resolution No. 17-34, the Board did not consider testimony presented by non-inhabitants of the neighborhood at all. Applicant is also correct that "there is no legal basis to deny a marijuana application because of religious objections." Motion at 4. The Board did not do so. The Board's decision to deny the license was based entirely on the evidence relating to the desires of the actual inhabitants of the designated neighborhood and was not based on "religious objections."

6. Applicant notes that the owners of the Applicant are "people of good moral character." Motion at 4. Again, the Board agrees. The Board specifically found that "the Applicant, its officers and shareholders are of good moral character." Resolution No. 17-34. The denial of the application was based on the desires of the adult inhabitants of the neighborhood, not any lack of good moral character on the part of the Applicant or its owners.

7. Applicant argues that the "Survey results were not reliable" and that "a County-administered mail out" is "not contemplated by the Ordinance." The Board disagrees. Park County Ordinance No. 17-01 (copy attached) specifically authorizes the mail canvassing mechanism utilized by the County. This mail canvassing procedure is fair, objective and has the virtue of permitting participation by all inhabitants of the neighborhood. It is perhaps for this reason that the Applicant did not object to the procedure, or the consideration of the canvass result, at the hearing.

8. Applicant next contends that "Concerns relating to water and odor [were] not based in science." Motion at 5. Even were the Board to concede this point (which it does not), this argument goes to the weight of the evidence and not its admissibility. The Board rejects that suggestion that neighborhood concerns regarding widely reported odor problems and water usage by marijuana cultivation facilities such as the one proposed here, may only be considered if presented by scientific experts.

9. Finally, the Applicant refers to "generalized, unsubstantiated concern related to proximity to school." The proposed facility is outside the required setback from the nearest school. This, proximity to the Lake George Charter school did not play a role in the Board's decision.

10. For the reasons set forth above the Motion to Reconsider Denial is DENIED. Moved, seconded, and approved this 22 day of June, 2017.

PARK COUNTY BOARD OF COUNTY COMMISSIONERS


Mike Brazell, Chairman



ATTEST.


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Park County Clerk

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PARK COUNTY, COLORADO

Ordinance No. 17-01

AN ORDINANCE OF PARK COUNTY, COLORADO, AMENDING ORDINANCE NO. 16-01 GOVERNING THE LICENSING AND OPERATIONS OF RETAIL MARIJUANA ESTABLISHMENTS.

Section 1. Section 7(h) of Park County Ordinance No. 16-01 is hereby amended to read as follows:

(h) Within thirty (30) days following the determination that an application is complete the local licensing authority shall designate the neighborhood affected by the application. The applicant shall, at its expense, UTILIZE A COUNTY-APPROVED CANVASS PROCEDURE TO DETERMINE the desires of the adult inhabitants thereof. THE CANVASS SHALL BE CONDUCTED EITHER BY COUNTY STAFF OR BY A MAIL CANVASS CONDUCTED BY A PERSON OR ENTITY SELECTED BY THE COUNTY. The canvass results, in written form, shall be submitted to the Board of County Commissioners no later than ten (10) days prior to the public hearing on the application.

Section 2. Section 15(b) of Park County Ordinance No. 16-01 is hereby amended to read as follows:

(b) Each license issued pursuant to this Ordinance shall be valid for one (1) year from the date of issuance and may be renewed only as provided in this Ordinance. All renewals of a license shall be for no more than one (1) year. An application for the renewal of an existing license shall be made to the local licensing authority not more than sixty (60) days and not less than thirty (30) days prior to the date of expiration of the license. Application for renewal shall be made on prescribed forms and shall be accompanied by a non-refundable renewal fee established by Resolution. A licensee may submit to the local licensing authority a late renewal application on the prescribed forms and pay a non-refundable late application fee in an amount established by Resolution for a renewal application made less than thirty (30) days prior to the date of the expiration of the license. All other provisions concerning renewal applications apply to a late renewal application. The timely filing of a completed renewal application or a late renewal application shall extend the current license until a decision is made on the renewal. No license shall be renewed where the licensee has not commenced operation of the licensed facility during the initial term of the license. THE LOCAL LICENSING AUTHORITY SHALL REVIEW AND CONSIDER ALL RENEWAL APPLICATIONS. A PUBLIC HEARING MAY BE HELD ON SUCH RENEWAL APPLICATION, AND SHALL BE HELD BEFORE ANY RENEWAL APPLICATION IS DENIED. ANY SUCH HEARING SHALL BE PRECEDED BY TEN (10) DAY'S NOTICE TO THE LICENSEE AND BY THE POSTING OF A SIGN ON THE LICENSED

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PREMISES IN A LOCATION THAT IS REASONABLE DETERMINED TO BE CONSPICUOUS AND VISIBLE TO MEMBERS OF THE PUBLIC NOT LESS THAN TEN (10) DAYS PRIOR TO THE HEARING. SUCH POSTED NOTICE SHALL, AT A MINIMUM, INCLUDE A SIGN OF SUITABLE MATERIAL, NOT LESS THAN TWENTY-TWO (22) INCHES WIDE AND TWENTY-SIX (26) INCHES HIGH, COMPOSED OF LETTERS OF NOT LESS THAN ONE (1) INCH IN HEIGHT. THE POSTED NOTICE SHALL STATE THE TYPE OF LICENSE HELD BY THE LICENSEE, THE DATE AND PLACE OF THE HEARING, THE NAME AND ADDRESS OF THE LICENSEE, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED TO FULLY APPRISE THE PUBLIC OF THE NATURE OF THE HEARING.

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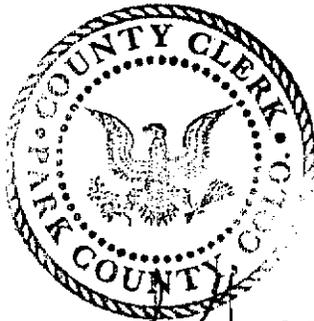
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Section 3. Effective date. Pursuant to C.R.S. § 30-15-405, this ordinance shall be published in full following its initial introduction and reading and published by title only following final adoption by the Board of County Commissioners and shall be effective thirty (30) days following such publication by title only.

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SIGNED this 2nd day of March, 2017.

**PARK COUNTY BOARD OF
COUNTY COMMISSIONERS**



ATTEST:

Mike Brazell, Chairman ACTING
MARK Dewaliby

Debra A Green
Park County Clerk & Recorder

I certify that this ordinance was introduced and read at the **February 9, 2017** public hearing of the Board of County Commissioners and published in *The Flume* on **2-17 & 2-24, 2017**.

Debra A Green
Park County Clerk & Recorder

