



DATE: May 7, 2019

TO: Mayor and City Council

FROM: City Manager
City Attorney
Development Services Director

SUBJECT: Adoption of a Resolution Rescinding Approval of a Commercial Cannabis Permit – Vista Development Enterprises

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) rescinding approval of a commercial cannabis permit for Vista Development Enterprises to operate a cannabis distribution business in Hayward, based on the information provided in this report.

SUMMARY

Vista Development Enterprises was approved for issuance of a commercial cannabis permit for distribution. Subsequently, City staff has received information indicating that Vista is associated with an individual who was recently arrested by the Hayward Police Department for illegal cannabis cultivation. Vista did not disclose this individual's involvement with Vista during the application review process. This was an omission of material information that affected the outcome of Vista's application and justifies the City Council rescinding the prior approval.

BACKGROUND

On October 30, 2017, the City Council adopted Ordinance 17-13, adding Article 14 to Chapter 6 of the Hayward Municipal Code¹, which established the request for proposals (RFP) process by which the City selects commercial cannabis businesses. Application review was completed in early May 2018 and the top scoring applicants were invited to participate in interviews with internal City staff. Those applicants that passed the interview panel were recommended for commercial cannabis permits.

On June 26, 2018, the City Council approved issuance of a commercial cannabis permit to Vista Development Enterprises (Vista), owned by Igor Goldenberg, to operate a commercial cannabis distribution business. In order to commence operations, Vista was also required to obtain land use approvals and obtain a commercial cannabis license from the State. Vista

¹ Commercial Cannabis Businesses:
https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH6BUPRTR_ART14COCABU

submitted a land use application to the Development Services Department on December 20, 2018. The Planning Division notified Vista that the application was incomplete via letter dated January 18, 2019.

Subsequently, the Development Services Department was notified by the Hayward Police Department that an investigation regarding an illegal cannabis cultivation operation at an undisclosed address within the City of Hayward had yielded evidence of a possible connection between the suspect and Vista.

DISCUSSION

Pursuant to Section 6-14.12(f) of the HMC, the City Manager or his/her designee shall investigate the truth of the statements set forth in the application to determine if an applicant is qualified to obtain a commercial cannabis permit. An application will be rejected if:

- (1) It is found to contain material misstatements or omissions;
- (2) The applicant is determined to be ineligible or prohibited from obtaining a state cannabis license pursuant to state law;
- (3) The applicant, or any of its officers, directors, or owners is found to have been convicted of any of the following offenses: A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code; A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code; A felony conviction involving fraud, deceit, or embezzlement; A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor; A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code;
- (4) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code; or
- (5) The applicant, or any of its officers, directors, or owners, has been sanctioned by a state licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities.

Following the action by Council to approve a commercial cannabis permit in June 2018, staff has become aware of an association between Vista and Arkaidy "Eric" Salko, an individual with a history of engaging in large-scale illegal cannabis cultivation in Hayward. Mr. Salko was arrested by the Hayward Police Department in January 2019 for illegal cannabis cultivation and is currently being prosecuted by the Alameda County District Attorney's Office.

Vista's Articles of Incorporation filed with the California Secretary of State lists a business address of 1715 Greenhills Ct. in Lafayette, CA (Attachment III). This address is Mr. Salko's residential address where he has lived for the past four years (Attachment IV). In February 2019, the Hayward Police Department executed a search warrant at 1715 Greenhills Ct. as part of the investigation related to Mr. Salko's illegal cannabis cultivation. The Hayward Police Department collected evidence indicating Mr. Salko's association with Vista. For example, Mr. Salko was in possession of a binder entitled "Vista Development Enterprises – Standard Operating Procedures Manual" and there is evidence that Mr. Salko paid for a flooring installation estimate for Vista's proposed business location at 2376 Davis St. (Attachment V).

Mr. Salko's involvement with Vista was not disclosed as part of the commercial cannabis permit application that was ultimately approved by the City Council. Vista/Mr. Goldenberg's failure to disclose Mr. Salko's association with Vista during the application review process materially affected the outcome of Vista's application since the background check process would have identified Mr. Salko's prior history of illegal cultivation and staff would not have recommended Vista for approval.

The Director of Development Services notified Vista's owner, Igor Goldenberg, via letter dated March 26, 2019 that review of Vista's land use application was being discontinued due to its involvement with Mr. Salko. Mr. Goldenberg was also advised that staff would seek City Council action to rescind the prior commercial cannabis permit approval.

PUBLIC CONTACT

Mr. Goldenberg and his legal counsel were provided 10-days prior notice of this hearing and were advised of the opportunity to submit supporting evidence and documents prior to the hearing.

Prepared by: Michael G. Vigilia, Senior Assistant City Attorney

Recommended by: Kelly McAdoo, City Manager
Michael S. Lawson, City Attorney
Laura Simpson, AICP, Development Services Director

Approved by:



Kelly McAdoo, City Manager