

RESOLUTION NO. 17-081

AN EXCEPTION TO THE APPLICATION OF INTERIM URGENCY ORDINANCE NO. 17-1618U TO ALLOW CONTINUATION OF PROCESSING OF PLANS AND PERMITS NECESSARY TO CONSTRUCT A NEW 102,931 SQUARE-FOOT LOGISTICS FACILITY FOR CALPAK LOCATED AT 17706 S. MAIN STREET

WHEREAS, on March 21, 2017, the City Council of the City of Carson adopted Interim Urgency Ordinance No. 17-1615U by a 5-0 vote, pursuant its authority under Government Code Section 65858; and

WHEREAS, Interim Urgency Ordinance No. 17-1615U enacted a 45-day moratorium on the establishment, expansion, or modification of truck yards, logistics facilities, hazardous materials and hazardous waste facilities, container storage, and container parking (collectively, "Logistics Facilities") in the City of Carson; and

WHEREAS, on May 2, 2017, the City Council adopted Interim Urgency Ordinance No. 17-1618U by a 5-0 vote, pursuant to its authority under Government Code Section 65858; and

WHEREAS, Interim Urgency Ordinance No. 17-1618U enacted a 10-month and 15-day extension of the moratorium on the establishment, expansion, or modification of Logistics Facilities (the "Ordinance"); and

WHEREAS, during the effective period of the Ordinance, no application for permit is being accepted, no consideration of any application for permit is being made, and no permit is being issued by the City for the establishment, expansion, or modification of Logistics Facilities; and

WHEREAS, the City Council may allow exceptions to the application of the Ordinance if, based on substantial evidence presented, it determines any or a combination of the following:

1. The City's approval of an application for a permit to establish, expand, or modify a Logistics Facility within the City's jurisdiction will not have a material negative impact upon the public health, safety, and welfare.
2. Application of the Ordinance would impose an undue financial hardship on a property or business owner.
3. Land controlled by the City or by any of its agencies and authorities including, transactions approved by the Department of Finance.
4. The developer or tenant agrees to form or to participate in a Community Financing District (CFD) to pay for ongoing City services, including but not limited to, road maintenance, landscape maintenance, lighting, public safety, storm water management, etc., to the satisfaction of the City Council

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5. The developer or tenant enters into an agreement that guarantees the City the same financial assurances offered by a CFD.
6. The fiscal impact analysis for the business shows that the business will not, after taking into consideration all fiscal and employment benefits to the City and its residents, have material adverse negative fiscal impacts on the City.
7. The Logistics Facility will not generate additional materially adverse truck traffic impacts in excess of those generated by the use of the property as of the effective date of this Ordinance.
8. The facility enters into a development impact fees agreement with the City.
9. The use is permitted or conditionally permitted in the zone;
10. The use is consistent with the purposes of this Ordinance and the General Plan;
11. The use will not be in conflict with any contemplated general plan, specific plan, or zoning code update that the City Council is considering or studying or intends to study;
12. The use is not and will not become a hazardous materials facility, a truck yard, or a container storage facility;
13. The use will not abut a sensitive land use, or the impacts on an abutting sensitive land use can be adequately mitigated with reasonable conditions;
14. The use will not constitute a threat to the public health, safety, and welfare.

WHEREAS, on May 9, 2017, On May 30, 2017, Mr. John C. Killen representing CALPAK ("Applicant"), filed a request for an exception to the Ordinance to allow filing and processing of all applicable applications and/or permits necessary to allow for construction of a 102,931 square-foot logistics facility construction of the 420,000 square-foot Logistics Facility on a 4.7-acre parcel located at 17706 S. Main Street (the "Project"), in the ML (Manufacturing Light) zone;

WHEREAS, the Project has begun, but not completed, the process to obtain the necessary entitlements, to wit, the site plan, landscape plan, and the elevations of the project have been finalized, and a revised initial study has been submitted; and

WHEREAS, Staff has reviewed the exception application and views this proposal to be consistent with the purposes of this Ordinance and the General Plan;

WHEREAS, Applicant has agreed to comply with several the following in exchange for being granted an exception under Ordinance No. 17-1618U:

- a. The Applicant has agreed to pay a one-time Interim Development Impact Fee of \$2 per square foot, for a total of \$205,862.00. The Applicant will be required to enter into an Interim Development Impact Fee Agreement ("IDIF Agreement").
- b. The Applicant has agreed to negotiate in good faith to form, fund, and/or participate in a Community Facilities District (CFD) and/or a Development

Agreement to pay for on-going costs associated with their project relating to law enforcement, street maintenance, landscape maintenance, street sweeping, or any other impacts. The Applicant will be required to enter into a CFD agreement ("CFD Agreement") or a Development Agreement.

c. At the City's discretion, the Applicant may be required to enter into a Development Agreement relating to the Project, if the City deems the IDIF and CFD Agreements not to adequately mitigate the Project's impacts.

d. Applicant will enter into an agreement to reimburse the City for all its costs (the "Reimbursement Agreement"), including but not limited to all consultant costs (such as the CFD consultant work associated with the processing of the portion of the Applicant's CFD assessment), and attorney fees associated with the Applicant's exception application and finalizing of the CFD Agreement, IDIF Agreement, Reimbursement Agreement, and Development Agreement, if applicable, or other agreements and/or entitlement processes.

WHEREAS, if the City Council determines to allow an exception, then such applications and/or permits may be filed and processed in accordance with the City's then current regulations and authority, subject to the California Environmental Quality Act ("CEQA"), CEQA Guidelines, and any other applicable laws, ordinances and regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON HEREBY MAKES THE FOLLOWING FINDINGS:

1. Applicant CALPAK wishes to build and operate a 102,931 square foot Logistics Facility to be located at 17706 S. Main Street in the City of Carson (the "Project").

2. The Project is subject to the moratorium on the establishment, expansion, or modification of Logistics Facilities pursuant to Interim Urgency Ordinance No. 17-1618U.

3. Section 6 of Interim Urgency Ordinance No. 17-1618U states that the City Council may allow exceptions to the application of this Ordinance, if the City Council determines any of the provisions included in Section 6, A, 1 through 14 apply to the request. Staff has determined that provisions of Section 6.A. 1, 5, 8, 9, 10, 11, 12, 13, and 14 applies to this request.

4. The Applicant shall pay the one-time Interim Development Impact Fee (IDIF) of \$2.00 per square foot, totaling \$205,862.00. The Applicant will be required to enter into an IDIF Agreement with the City.

5. The Applicant shall form, fund, and participate in a Community Facilities District (CFD) to pay for on-going costs associated with their project relating to law enforcement, street maintenance, landscape maintenance, street sweeping, and all other impacts of its project. The City has engaged the services of a consultant to calculate the amount of this assessment, which amounts Applicant will not challenge. Applicant shall enter into a CFD Agreement or a Development Agreement with the City.

6. At the discretion of City, Applicant may be required to enter into a Development Agreement, to mitigate any impacts that are not mitigated by the IDIF or the CFD Agreements.

7. Applicant shall enter into a Reimbursement Agreement to reimburse the City for all its fees and costs, including attorney and consultant fees, for all agreements and entitlements necessary pursuant to this Resolution and the City's Zoning Ordinance.

8. The IDIF Agreement, CFD Agreement, Development Agreement (if applicable) and Reimbursement Agreement are conditions precedent to the validity of this exception.

9. Notwithstanding any provision to the contrary, Applicant shall pay all normal and customary fees and charges applicable to all permits necessary for the Project, and any taxes, fees, and charges hereafter imposed by City in connection with the Project which are standard and uniformly-applied to similar projects in the City.

10. If within ninety (90) days of adoption of this Resolution, the IDIF Agreement, CFD Agreement, Development Agreement (if applicable) and Reimbursement Agreement have not been finalized, then the Council has the right to rescind this Resolution in its sole discretion and the Applicant will be subject to the Ordinance.

11. Applicant's failure to enter into the IDIF Agreement, the CFD Agreement, the Reimbursement Agreement, and the Development Agreement may be grounds for the City to deny the Applicant's permits to construct the Project, and all of Applicant's land use applications and entitlements being null and void.

PASSED, APPROVED AND ADOPTED THIS ____ DAY OF _____, 2017.

MAYOR ALBERT ROBLES

ATTEST:

DONESIA L. GAUSE, CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY