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Title: CONSIDERATION OF APPROVAL OF CONSENT TO TRANSFER OF DEVELOPER'S INTEREST IN DEVELOPMENT AGREEMENT NO. 22-19 FOR A DIGITAL OUTDOOR ADVERTISING SIGN LOCATED AT 2201 E. 223RD STREET, APN 7315-040-013, TO WECO RE HOLDINGS, LLC AND TRANSFER OF DEVELOPER'S INTEREST IN THE SUBJECT PROPERTY (CITY COUNCIL)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit 1, Recorded Development Agreement No. 22-19 (Win Chevrolet Inc), 2. Exhibit 2, WIN Consent to Transfer Sign Development Agreement-FINAL

Date	Ver.	Action By	Action	Result
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Report to Mayor and City Council

Tuesday, September 19, 2023

Consent

SUBJECT:

CONSIDERATION OF APPROVAL OF CONSENT TO TRANSFER OF DEVELOPER'S INTEREST IN DEVELOPMENT AGREEMENT NO. 22-19 FOR A DIGITAL OUTDOOR ADVERTISING SIGN LOCATED AT 2201 E. 223RD STREET, APN 7315-040-013, TO WECO RE HOLDINGS, LLC AND TRANSFER OF DEVELOPER'S INTEREST IN THE SUBJECT PROPERTY (CITY COUNCIL)

I. SUMMARY

In 2021, WIN Chevrolet Properties, LLC (as "Developer"), entered into Development Agreement No. 22-19 ("Exhibit No. 1; the "Sign DA") with the City for removal of two then-existing on-premises digital pylon signs and installation of one new double-sided outdoor digital advertising sign ("Billboard") measuring approximately 64 feet high from ground level at the dealership.

The 30-year Development Agreement requires the Developer to pay the City an annual fee of \$40,000 (adjusted every three years by 6%). The Billboard is now operational, and the first payment was recently made by the Developer. The payment was late and therefore included \$6,000 in late penalties for a total payment of \$46,000 received by the City.

The Developer now seeks to assign its interest in the Development Agreement to WECO

RE Holdings, LLC, as the Developer intends to sell the 405 Freeway Site to WECO RE Holdings, LLC. These proposed transfers relate to the sale of the two existing automobile dealerships on the site (Chevrolet and Hyundai) from WIN Chevrolet, Inc. to Carson Chevrolet, LLC for the Chevrolet dealership, and WECO Motors, LLC for the Hyundai dealership, respectively. Developer is currently leasing the respective portions of the subject property (referred to in the Sign DA as the “405 Freeway Site”) to Carson Chevrolet, LLC and WECO Motors, LLC to facilitate their operation of the dealerships; the lease to Carson Chevrolet includes the Billboard, and the lease to WECO Motors includes the right to use 50% of the Billboard for operation of the Hyundai dealership.

The proposed “Consent to Transfer of Development Agreement No. 22-19” (“Exhibit No. 2”; the “Consent Agreement”) would grant the City’s consent to the transfer of the Sign DA and the 405 Freeway Site, as well as the dealership leases, pursuant to the Sign DA. This Consent Agreement has been reviewed by the City Attorney’s Office and has received the negotiated approval of the other aforementioned entities, which are parties to the Consent Agreement.

II. RECOMMENDATION

TAKE the following actions:

1. **APPROVE** the “Consent to Transfer of Development Agreement No. 22-19” (Exhibit No. 2; the “Consent Agreement”); and
2. **AUTHORIZE** the City Manager to execute the Consent Agreement following approval as to form by the City Attorney.

III. ALTERNATIVES

TAKE any other action the City Council deems appropriate and is consistent with the requirements of law.

IV. BACKGROUND

The subject property is located along the southern side of the I-405 Freeway corridor between Wilmington Avenue and Alameda Street. The subject property was originally developed between 1965 and 1970 as four distinct buildings. Two pylon signs were installed in 2012 and a fifth building was developed in 2013. Carson Municipal Code Section 9146.7 (Signs) states that billboards are permitted in the City within four designated freeway corridors: Alameda Corridor, I-405 Freeway, SR-91 Freeway and I-110 Freeway subject to Zoning Ordinance development standards and a development agreement.

The Billboard is within the I-405 Freeway’s “Alameda Street portion,” which is defined by Section 9146.7(A)(3) as “that portion of the I-405 Freeway that is between the west line of Alameda Street and a point that is two thousand one hundred (2,100) feet west of the west line of Alameda Street.”

As part of the Sign DA, the Developer removed two on-premises dual-faced digital freeway signs at 2201 E 223rd Street (APN 7315-040-013). These former signs consisted of (i) a 47' tall digital sign advertising the Win Chevrolet dealership (the "Win Chevrolet Sign") and (ii) a 54'7" tall digital sign advertising Win Hyundai dealership (the "Win Hyundai Sign").

Development Agreement

Under State Law, cities have a right to enter into agreements with private parties to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development. Development agreements are often used in large, complex projects and in projects that have a long lead time, multiple phases, or a long development period, to give the Developer certainty in regard to the entitlements and other governmental actions. A development agreement is a binding contract between a city and any person or entity having a legal or equitable interest in a property.

The subject Development Agreement (the Sign DA) was approved by the City Council in 2021. Per Section 2.3:

"Developer may only assign or otherwise transfer this Agreement, or its interest in the 405 Freeway Site, to any other person, firm, or entity, upon presentation to the City of an assignment and assumption agreement in a form reasonably acceptable to the City Attorney and receipt of the City's written approval of such assignment or transfer by the City Manager; provided, however, that Developer may, from time to time and one or more times, assign this Agreement, or the 405 Freeway Site, to one or more persons or entities without City approval, but with written notice to the City, as long as Developer either assigns this Agreement to a financial institution that finances Developer's development of the Project or as long as Developer, or entities owned or controlled by it have and maintain at least a twenty-five percent (25%) ownership interest in such entities who are the assignees or transferees, or as long as the transfer is as a result of a sale of Developer and/or all or substantially all of its assets located in the State of California, including the rights granted under this Agreement, to another publicly-traded company or an entity having a net worth that is substantially similar to, or greater than, Developer's net worth prior to such assignment or at the time of execution of this Agreement, which net worth is subject to verification by the City; and further provided that any assignee executes an assumption agreement assuming all of Developer's duties and obligations hereunder. Any security posted by Developer may be substituted by the assignee or transferee. After a transfer or assignment as permitted by this Section, the City shall look solely to such assignee or transferee for compliance with the provisions of this Agreement which have been assigned or transferred."

The proposed Consent Agreement would provide City's consent to the transfers on the following key terms set forth in the Consent Agreement:

- If and when WECO RE Holdings, LLC acquires fee title to the 405 Freeway Site and records the grant deed and the Consent Agreement within 30 days of City execution of the Consent Agreement, the Sign DA shall be deemed automatically assigned to and assumed by WECO RE Holdings, LLC, such that WECO RE Holdings, LLC will

thereafter have all rights and obligations under the Sign DA instead of WIN Chevrolet Properties, LLC. Until then, WIN Chevrolet Properties, LLC will remain responsible under the Sign DA.

- Upon recordation of the grant deed for transfer of the 405 Freeway Site and the Consent Agreement, WECO RE Holdings, LLC shall promptly notify the City by providing the City with a recorded copy of both documents.
- As of the effective date of the Consent Agreement, City consents to (i) the assignment/assumption of the Sign DA from WIN Chevrolet Properties, LLC to WECO RE Holdings, LLC; (ii) the transfer of fee title to the 405 Freeway Site from WIN Chevrolet Properties, LLC to WECO RE Holdings, LLC; and (iii) the aforementioned leases of portions of the property to WECO Motors, LLC and Carson Chevrolet, LLC, for their operation of the respective dealerships. These leases are and shall remain subject to the terms of the Sign DA.
 - The City's consent does not waive the rights of City to consent to any further transfers of the Sign DA or the 405 Freeway Site pursuant to Section 2.3.
 - The assignee is also considering a lot split. The City's consent, and any potential future lot split approval, shall not imply any obligation of the City to release any portion of the 405 Freeway Site from the Sign DA.
- Per Section 4.1.1 of the Sign DA, "Developer shall further have the right, but not the obligation, to terminate the Agreement and remove the [Billboard] in the event of the expiration or termination of its interest in the 405 Freeway Site..." Under the Consent Agreement, WIN Chevrolet Properties, LLC waives its rights under this provision, ensuring that the Sign DA will remain in effect notwithstanding termination of WIN Chevrolet Properties, LLC's interest in the Sign DA as of the effective date of the Consent Agreement.

A separate item is being presented on tonight's agenda for the Successor Agency Board's consideration of approval of the transfers of the dealerships and the subject property as required pursuant to the 2011 Disposition and Development Agreement entered into between the former Carson Redevelopment Agency and WIN Chevrolet Properties, LLC and WIN Chevrolet, Inc.

V. FISCAL IMPACT

None. Approval of the Consent Agreement will not affect the rate or amount of the Development Agreement payments to which the City is and will be entitled.

The Development Agreement payments (which commence at \$40,000 per year and increase by 6% every three years) supplement the general funds via independent development fees paid by Developer to City for the Billboard to adequately mitigate potential impacts.

VI. EXHIBITS

1. Development Agreement No. 22-19 (pgs. 5-54)
2. Proposed Consent Agreement (pgs. 55-67)

Prepared by: James Nguyen, Special Projects Manager / Saied Naaseh, Community Development Director / City Attorney's Office