



Legislation Details (With Text)

File #: 2023-0866 **Version:** 1 **Name:**

Type: Consent **Status:** Agenda Ready

File created: 11/8/2023 **In control:** City Council

On agenda: 11/21/2023 **Final action:**

Title: CONSIDER ADOPTION OF RESOLUTION NO. 23-187 FURTHER EXTENDING THE TIMELINE FOR SYWEST DEVELOPMENT, LLC AND SOUTH BAY CARSON, LLC FOR COMPLIANCE WITH CONDITIONAL USE PERMIT NO. 940-13, RELOCATION REVIEW NO. 3047-13 AND RESOLUTION NO. 13-099 AND AMENDING RESOLUTION NO. 22-148 (CITY COUNCIL)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Resolution No. 23-187

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

Tuesday, November 21, 2023

Consent

SUBJECT:

CONSIDER ADOPTION OF RESOLUTION NO. 23-187 FURTHER EXTENDING THE TIMELINE FOR SYWEST DEVELOPMENT, LLC AND SOUTH BAY CARSON, LLC FOR COMPLIANCE WITH CONDITIONAL USE PERMIT NO. 940-13, RELOCATION REVIEW NO. 3047-13 AND RESOLUTION NO. 13-099 AND AMENDING RESOLUTION NO. 22-148 (CITY COUNCIL)

I. SUMMARY

Presented for City Council consideration is Resolution No. 23-187 for third extension for SyWest Development, LLC and South Bay Carson, LLC for compliance with Conditional Use Permit No. 940-13, Relocation Review No. 3047-13 and Resolution No. 13-099 (collectively, the "Original CUP"), which permitted, for an initial term of four (4) calendar years, the use of an approximately 24.65 acre site previously used as an organic refuse landfill, drive-in theater and auto-auction, located at 20151 South Main Street, Carson, California. Currently, the compliance period, per Resolution No. 22-148 extending the compliance period, ends on June 1, 2024.

On July 20, 2020, SyWest submitted an application for development of the Property, which Application includes a request for a General Plan Amendment, Specific Plan and related

entitlements (e.g., Development Agreement, tentative parcel map, site plan and design review). Per the proposed Resolution, Sywest must comply with the Original CUP for the extended time of June 1, 2025, or earlier if the development applications are approved by the City and construction of the development is ready to commence.

II. RECOMMENDATION

WAIVE further reading and **ADOPT** Resolution No. 23-187, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, FURTHER EXTENDING THE TIMELINE FOR COMPLIANCE ON THE PART OF SOUTH BAY CARSON, LLC & SYWEST DEVELOPMENT, LLC, WITH THE TERMS AND CONDITIONS OF CONDITIONAL USE PERMIT NO. 940-13, RELOCATION REVIEW NO. 3047-13 & RESOLUTION NO. 13-099, AND AMENDING RESOLUTION NO. 22-148 REGARDING VEHICLE STORAGE FACILITIES LOCATED ON THAT CERTAIN REAL PROPERTY WHOSE COMMON STREET ADDRESS IS 20151 SOUTH MAIN STREET, CITY OF CARSON”

III. ALTERNATIVES

TAKE such other and further actions as the City Council deems appropriate consistent with the requirements of law.

IV. BACKGROUND

In 2013, South Bay Carson, LLC and SyWest Development, LLC (collectively “SyWest”), acting on behalf of Enterprise Rent-A-Car Company of Los Angeles, LLC (“Enterprise”), applied for and was granted Conditional Use Permit No. 940-13, Relocation Review No. 3047-13 and Resolution No. 13-099 (the “Original CUP”) which permitted, for an initial term of four (4) calendar years, the use of an approximately 24.65 acre site previously used as an organic refuse landfill, drive-in theater and auto-auction, located at 20151 South Main Street, Carson, California (the “Property”), for the storage of rental cars, including as a regional rental car storage hub, and the relocation of certain modular office buildings on that portion of the Property zoned ML-ORL-D.

Interim Urgency Ordinance Nos. 15-1575U and 16-1578U (collectively, the “Stadium Moratorium”) enacted a moratorium on the establishment, expansion, modification, or new development within the six (6) planning study areas within the City of Carson. SyWest requested an extension of the Original CUP beyond October 21, 2017 and further requested that such extension of the Original CUP be deemed subject to the “exemption” provision(s) of the Stadium Moratorium (the “CUP Extension Request”). The Original CUP required that SyWest would, within three (3) years of approval of the CUP, enter into an agreement with the appropriate environmental regulatory agency (“Environmental Regulatory Agency” or “ERA”) to commence steps necessary to support the cleanup and reuse of the Property for new development but staff has contended that SyWest failed or refused to comply with this condition of the Original CUP. SyWest requested additional time to complete this task concurrently with City’s update to its General Plan (the “ERA

Dispute”). SyWest has contended and advised staff that in order to fulfill this remediation condition of the Original CUP a proposed plan for redevelopment and long-term use of the Property is required to first be processed, considered and approved by the City, and SyWest and the City desired to confirm how this ERA Dispute would be addressed moving forward.

The Original CUP also required SyWest to develop, implement, and maintain a landscaping plan to assure an aesthetically appropriate appearance surrounding the Property but staff contended that certain areas of the existing landscaping around the Property were in disrepair and needed to be replaced and SyWest requested additional time to complete this task (“Landscape Dispute”).

In light of the foregoing, City and SyWest desired to fully and finally resolve the ERA Dispute, the Landscape Dispute, and the CUP Extension Request (collectively the “Disputes”), to avoid litigation arising out of such Disputes, and in furtherance of that objective, on September 5, 2017, the City Council adopted Resolution 17-120 (“Compliance Resolution”) which served as an attempt to effectuate the foregoing, and which also extended the compliance period under the Original CUP until October 31, 2020 (“Compliance Period”). The Compliance Resolution required Sywest to make a series of deposits and payments with the City against which City is permitted to deduct for various reasons.

SyWest submitted an application (“Application”) on July 20, 2020, for development of the Property, which Application includes a request for a General Plan Amendment, Specific Plan and related entitlements (e.g., Development Agreement, tentative parcel map, site plan and design review) (“Proposed Entitlements”) for development of a major retailer (“New Retailer”). Sywest has also addressed the Landscape Dispute by continuing to maintain the landscaping by a professional landscape company and replacing the landscaping if they are deemed unhealthy by the landscape maintenance company; generally, the appearance of the landscaping is acceptable.

To support the parking of new and used cars, the resolution further authorizes the following incidental uses: (a) access and operation (e.g., loading, unloading, long term parking) by car carriers accessing the Property from Figueroa Street; (b) installation and use of temporary structures, including, without limitation, mobile storage units, canopies, sanitary services (i.e., portable toilets), and modular offices; and (c) the direct-to-consumer delivery of new or used cars between 9:00 a.m. and 5:00 p.m. seven (7) days per week.

To allow time for the Application to be processed, SyWest is asking the City for another extension of time to comply with the Original CUP, which extension would give Sywest additional time to comply, which terminates on June 1, 2025 or when the Proposed Entitlements are finally approved and construction can commence, whichever occurs first (“Extended Compliance Period”). During this time, SyWest proposes to continue to park sprinter vans and new or used cars. Sywest requested the additional time well in advice of the current June 1, 2024 expiration date due to the request by the current tenants for certainty in their right to remain on the property. Otherwise, the tenants would have to terminate their leases and seek longer term options.

The Resolution approving such extension would require SyWest to remit to the City an annual Heavy Vehicle Transit Fee of Ten Thousand Four Hundred-sixteen Dollars

(\$10,416.00) for every acre of the Property used for the sprinter van and car parking and related operations during the term of the Extended Compliance Period.

Also under the Extended Compliance Resolution, SyWest will be required to (i) comply with all remaining conditions of approval in the Original CUP, including, but not limited to, the landscape and operations provisions of the same, to the reasonable satisfaction of City; and (ii) continue to diligently seek to secure the Proposed Entitlements from the City.

It should also be noted that an amendment to Reimbursement Agreement has been signed by Sywest which will require Sywest to pay for all City costs and fees associated with the Extended Compliance Resolution and any development of the Property.

V. FISCAL IMPACT

The proposed resolution commits SyWest to pay the Heavy Vehicle Transit Fee. Additionally, SyWest has separately entered into a reimbursement agreement with the City to fully reimburse the City its costs, including staff time, if any, and legal time in negotiating and documenting the extension provided by the resolution and all fees and costs associated with any development of the Property. As a consequence, there will be no direct costs to the City's General Fund.

VI. EXHIBITS

1. Resolution No. 23-187 (pgs.5-12)

Prepared by: City Attorney, Saied Naaseh, Community Development Director