



Legislation Text

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Report to Mayor and City Council

Tuesday, May 16, 2017

Discussion

SUBJECT:

CONSIDER RESOLUTION NO. 17-065, AN EXCEPTION TO THE APPLICATION OF INTERIM URGENCY ORDINANCE NO. 17-1618U TO ALLOW FILING AND PROCESSING OF PLANS AND PERMITS NECESSARY TO CONSTRUCT A NEW 420,000 SQUARE-FOOT LOGISTICS FACILITY LOCATED AT 21900 AND 21930 S. WILMINGTON STREET, AND 2061 E. 220TH STREET(CITY COUNCIL)

I. SUMMARY

On May 2, 2017, the City Council adopted Interim Urgency Ordinance No. 17-1618U, extending for 10 months and 15 days a moratorium on the establishment, expansion, or modification of truck yards, logistics facilities, hazardous materials or waste facilities, container storage, and container parking (Exhibit No. 1). Section 6 of this Ordinance allows the City Council to make exceptions to the application of this Ordinance. On May 9, 2017, Mr. Scott Kelrick with Alpert Properties, LLC, filed a request for an exception to the Ordinance to allow filing and processing of all the necessary applications and/or permits to allow construction of a 420,000 square-foot logistics facility (Exhibit No. 2). "Logistics facility" is defined in Section 2, subsection M, of the Ordinance.

If the City Council determines to allow an exception pursuant to Section 6, such applications and/or permits may be filed and processed in accordance with the City's regulations and authority, and any other applicable laws, ordinances, and regulations. The exception does not mean final approval of the project. Staff recommends adoption of Resolution No. 17-065 approving Alpert Properties, LLC's request (Exhibit No. 3).

II. RECOMMENDATION

1. WAIVE FURTHER READING AND ADOPT RESOLUTION NO. 17-065, "AN EXCEPTION TO THE APPLICATION OF INTERIM URGENCY ORDINANCE NO. 17-1618U TO ALLOW FILING AND PROCESSING OF PLANS AND PERMITS NECESSARY TO CONSTRUCT A NEW 420,000 SQUARE-FOOT LOGISTICS FACILITY LOCATED AT 21900 AND 21930 S. WILMINGTON STREET, AND 2061 E. 220TH STREET."

2. DIRECT THE CITY MANAGER, PLANNING MANAGER, AND CITY ATTORNEY TO

ENTER INTO THE AGREEMENTS ARTICULATED IN RESOLUTION NO. 17-065, IN ACCORDANCE WITH THE TERMS STATED THEREIN.

III. ALTERNATIVES

TAKE such other action as the City Council deems appropriate, consistent with the requirements of the law.

IV. BACKGROUND

Alpert Properties, LLC is proposing to build a 420,000 square-foot logistics building with 68 truck doors on a 20-acre parcel located at the northeast corner of Wilmington Avenue and 220th Street. The building is proposed as a speculative building with no specific tenant proposed at this time. According to the provisions of Ordinance 17-1618U, the proposed project is subject to the moratorium since it is proposing to build a new logistics facility. The project does not qualify for the Section 4. Exemptions of the Ordinance which include:

1. The annual renewal of an existing business license, any permits necessary for minor changes, remodeling, or alterations consisting of cosmetic upgrades, routine maintenance of the buildings or sites, or repair, replacement or enhancement of damaged or outdated building components or areas. or any permits necessary for repairs required due to an emergency or to protect the public health, safety, and welfare shall not be considered issuance of a permit;
2. Tenant improvements for current tenants within an existing building, provided the tenant improvements would not otherwise be considered an expansion or modification of the facility;
3. Any logistics facility with a vested property right;
4. Any logistics facility with 5 or fewer truck loading doors. This exemption does not apply to hazardous materials facilities, truck yards, or container storage facilities, or to a facility that abuts a sensitive use;
5. Any new or renewed lease agreement, provided that the term does not exceed 7 years. This exemption does not apply to hazardous materials facilities, truck yards, or container storage facilities, or to a facility that abuts a sensitive use;
6. Any new or renewed lease agreement for a logistics facility located within a Planned Industrial Area. This exemption does not apply to hazardous materials facilities, truck yards, or container storage facilities;
7. Big box stores.

Therefore, in order for staff to continue processing the application, the applicant has filed for an Exception. Section 6 of 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, 4, 5, 8, 9, 10, 11, 12, 13, and 14. apply to this request. These Sections of Interim Urgency Ordinance state:

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.
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
5. The developer or tenant enters into an agreement that guarantees the City the same financial assurances offered by a CFD.
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.

Status of Entitlements

Prior to enactment of the moratorium, the site plan, landscape plan, and the elevations of the project were finalized. The revised Initial Study has been resubmitted to the City; however, the review process has been paused because of the moratorium. If the Exception request is granted by the City Council, the Initial Study will be forwarded to the City's CEQA consultant. After finalizing the environmental document, a 30-day public review process will be initiated. Staff anticipates Planning Commission to consider the project in July.

It should be noted that the applicant has prepared a Fiscal Impact Report for the project. Staff has reviewed the report and does not agree with the conclusion of the report because the City does not have adopted protocols on calculating the revenues generated by the project or cost of services for the project. Therefore, it has been difficult for the applicant and staff to reach a consensus on the conclusion of the report. Staff recommends hiring a consultant to provide a thorough review of the Fiscal Impact Report and suggest protocols

for the City.

The Applicant has agreed to pay the one-time Interim Development Impact Fee (IDIF) of \$2.00 per square foot totaling \$840,000.00. The Applicant will be required to enter into a development impact fees agreement with the City. In addition, the applicant has agreed to form, fund, and/or 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 any other impacts. The applicant will be required to enter into a CFD agreement with the City. The City has engaged the services of a consultant to calculate the amount of this assessment. Staff intended to complete this study and present the amount of this assessment to the applicant prior to scheduling this Exception for City Council's consideration. However, the applicant has elected to move forward with their Exception request prior to knowing the amount of CFD assessment on their property, and will not challenge the amount of the CFD assessment once it is determined.

Staff recognizes the applicant's urgency to move ahead with their entitlement process. In order to accommodate the applicant, staff, and the City Attorney's office recommend the exception with the caveat that the applicant agrees that in addition to the Interim Development Impact Fee Agreement, the CFD and potentially even a Development Agreement have to be negotiated. Staff recommends that the exception automatically expires in 90 days if a CFD and/or a Development Agreement have not been negotiated and approved by the Council. In addition staff recommend that the exception be conditioned on the standard City Attorney's office reimbursement agreement where Applicant agrees to the reimbursement terms and immediately and upon 10 days of approval of the exception deposits \$50,000 to reimburse the City for all its costs, including but not limited to all consultant fees and costs, including but not limited to the CFD consultant work associated with the processing of the portion of the Applicant's CFD assessment, and attorney's fees associated with the Applicant's Exception Application and finalizing of the IDIF and CFD agreements, and any Development Agreement or other agreements and/or entitlement processes. Applicant's failure to enter into any of the necessary agreements (e.g., IDIF Agreement, the CFD Agreement, Reimbursement Agreement and/or the Development Agreement) could result in denial of the necessary permits for the Project.

V. FISCAL IMPACT

The applicant will be making a one-time payment of \$840,000.00 to the City. The applicant will also participate in a CFD to pay for the cost of services associated with their project. The amount of CFD will be determined at a later date. The Applicant will also enter into a reimbursement agreement with the City. Finally, the Applicant will, if deemed appropriate by the City, enter into a Development Agreement.

VI. EXHIBITS

1. Ordinance No. 17-1618U. (pgs. 6-19)
2. May 9, 2017 Letter, Mr. Scott Kelrick with Alpert Properties, LLC. Letter. (pgs. 20-27)
3. Resolution No. 17-065. (pgs. 28-31)

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