



CITY OF CARSON

Legislation Text

File #: 2018-859, Version: 1

Report to Mayor and City Council

Tuesday, November 20, 2018

Special Orders of the Day

SUBJECT:

PUBLIC HEARING CONSIDERING INTRODUCTION OF ORDINANCE NO. 18-1824 APPROVING DEVELOPMENT AGREEMENT NO. 18-2018 BY AND BETWEEN THE CITY OF CARSON AND CALIFORNIA PROCESSING COMPANY, LLC, FOR A PROPOSED COMMERCIAL CANNABIS OPERATION CENTER LOCATED AT 2403 E. 223RD STREET (APN: 7315012900, 7315012804) AND;

INTRODUCTION OF ORDINANCE NO. 18-1823 FOR ZONING TEXT AMENDMENT NO. 30-2018 TO EXPRESSLY PERMIT COMMERCIAL CANNABIS USES WITHIN COMMERCIAL ZONES SUBJECT TO APPROVAL OF A DEVELOPMENT AGREEMENT; AND, APPROVAL OF RESOLUTION NO. 18-161 CERTIFYING ASSOCIATED MITIGATED NEGATIVE DECLARATION (CITY COUNCIL)

I. SUMMARY

On October 30, 2018, the Planning Commission recommended approval of this request with a 5-4 vote, Exhibit No. 1. California Processing Company, LLC ("Applicant" / "Developer") is requesting approval of a Development Agreement ("DA") by and between the City of Carson and Applicant, a Zoning Text Amendment ("ZTA"), and an Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. (Exhibit Nos. 2, 3, AND 4) The proposed development is the construction of an approximately 220,000 sq. ft., four-story tilt-up concrete building on a 3.7 acre vacant lot located at 2403 E. 223rd Street. The building will be used for commercial cannabis operations including manufacturing, distribution, testing, and small-scale cultivation. The term of the DA is twenty years.

Public benefits include no less than \$4 million in cannabis tax revenues to the City over first three years of operation (and no less than \$1.75 million annually thereafter), payment of \$440,000 in development impact fees to the City, participation in a community facilities district to provide funding for public safety services and infrastructure, social justice hiring and a commitment to local hiring.

II. RECOMMENDATION

Staff recommends Council DISCUSS and then CONSIDER whether to take the following actions (in the following order):

1. OPEN the public hearing, TAKE public testimony, and CLOSE the public hearing;
and
2. APPROVAL OF RESOLUTION NO. 18-161, CERTIFYING AND ADOPTING A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING AND REPORTING PROGRAM, FOR THE CALIFORNIA PROCESSING COMPANY, LLC PROJECT, FOR WHICH AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; and
3. INTRODUCE FOR FIRST READING, BY TITLE ONLY AND WITH FURTHER READING WAIVED, ORDINANCE NO. 18-1823, ZONING TEXT AMENDMENT NO. 30-2018, TO EXPRESSLY PERMIT COMMERCIAL CANNABIS USES WITHIN COMMERCIAL ZONES SUBJECT TO APPROVAL OF A DEVELOPMENT AGREEMENT; and
4. INTRODUCE FOR FIRST READING, BY TITLE ONLY AND WITH FURTHER READING WAIVED, UNCODIFIED ORDINANCE NO. 18-1824, APPROVING DEVELOPMENT AGREEMENT NO. 18-2018 BY AND BETWEEN THE CITY OF CARSON AND CALIFORNIA PROCESSING COMPANY, LLC, FOR A PROPOSED COMMERCIAL CANNABIS OPERATION CENTER LOCATED AT 2403 E. 223RD STREET (APN: 7315012900, 7315012804).

OR

5. DENY the request by not taking action.

III. ALTERNATIVES

Take no action and/or provide further direction to City staff.

IV. BACKGROUND

A. Project Site and Surrounding Land Uses

The proposed project involves the development of an undeveloped parcel located at 2403 E 223rd Street in the City of Carson (APN 7315012900, 7315012804). The project is located south of Interstate 405 (I-405), east of the Alameda Corridor (railroad corridor), east of East 223rd Street.

B. Background and Analysis

The City's Commercial Cannabis Operation Permit Regulatory Program as contained in Chapter 15 of Article VI of the Carson Municipal Code authorizes no more than four (4) commercial cannabis centers ("Permits").

A commercial cannabis center may include indoor cultivation, mixed-light cultivation, manufacturing, testing and/or (wholesale) distribution. Applications for Permits were accepted by the City and subject to an initial review for adherence to local and state requirements. City's cannabis consultant reviewed the applications. Five Permit applications were eligible to be sent to the Cannabis Permit Committee ("CPC") for review based on specified criteria ("Merit List").

The CPC convened on August 2 and 13, 2018 and recommended that two applicants be issued a Permit. At the September 4, 2018 City Council meeting, a resolution to approve the CPC's recommendations based on Merit List criteria was provided for consideration.

The City Council upon receipt of CPC recommendations made a final determination and issued two Cannabis Operation Permits (Resolution No. 18-128) based on Merit List factors including one to California Processing Company, LLC (Carcom), Exhibit No. 5.

The Carson voters by a margin of almost 2:1 at the November 6, 2016 General Municipal Election approved taxes on commercial cannabis activities.

At the September 4, 2018 City Council meeting, Resolution 18-130 was approved to set the interest rate on unpaid cannabis taxes at 5%, to set commercial cannabis operation tax rates at 18% of proceeds and at \$25 per square foot of cultivation, with the intention of securing a total of four million dollars or more over a three year period from individual commercial cannabis centers (four centers maximum), Exhibit No. 6.

C. Planning Commission Action

On October 30, 2018, the Planning Commission held a public hearing to consider the said project. The Planning Commission recommended approval of the project to the City Council with a 5-4 vote. The Planning Commission's action included the following amendments:

1. The applicant shall submit a Safety-Policing Plan approved by the L.A. County Sheriff and City of Carson prior to issuance of building permits; and
2. The City shall devote 25% of the revenues generated by this project to drug rehabilitation and homeless programs.

D. Proposed Project

The proposed project includes the development of a four-story, 220,000 sf commercial/industrial/manufacturing building. The project would be either three or four stories with floors one and two to be used for light industrial manufacturing, distribution, delivery or testing and the third and fourth floor for office use and possibly limited nursery

cultivation and research. The footprint for the building will be approximately 60,000 sf per floor. The project would maintain a refrigeration area(s). The project would also contain up to 15 ovens and would use and store CO₂, butane, and propane for preparing and processing products.

The project initially would employ up to 50 employees. It is anticipated the hours of operation for the project would be 24 hour operations as manufacturing and processing can be done outside of standard business hours.

Based on statewide manufacturing and distribution employment numbers in the industry, the center expects approximately 1 employee per 1,000 sf upon full occupancy or 220 employees. Additionally, 10 delivery trips on to the site are expected daily and 50 number of delivery trips are expected off-site daily. Deliveries and pickup of products would be scheduled whenever possible before or after normal hours.

The proposed project could include the following uses:

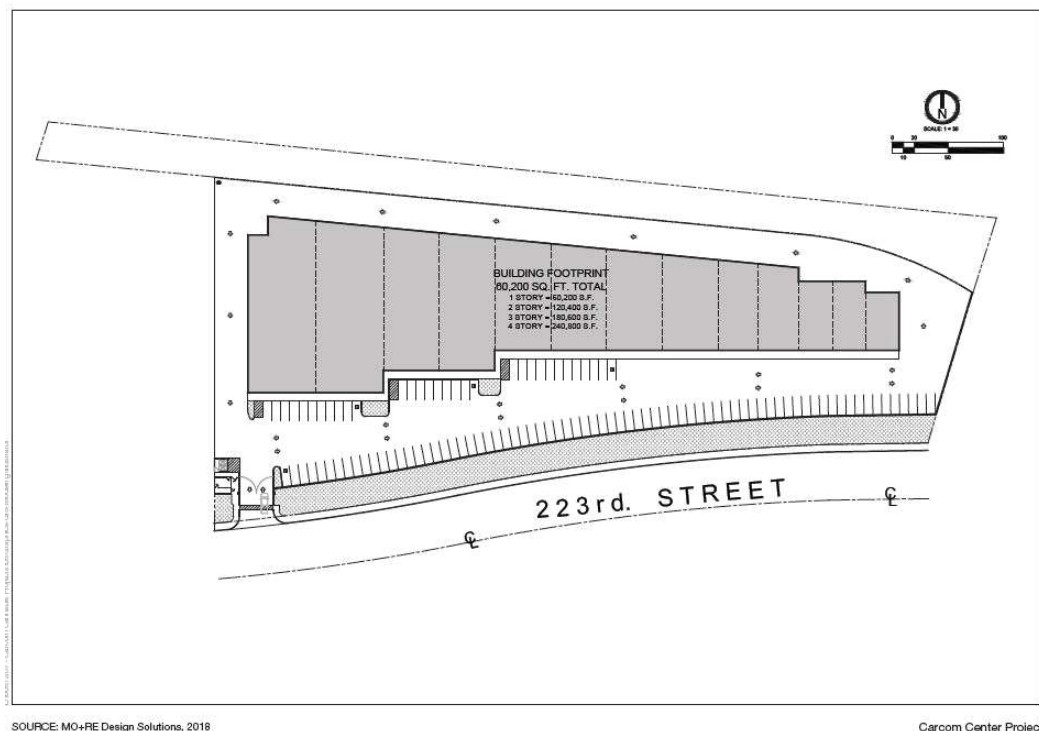
- Commercial kitchen and food manufacturing for cannabis infused edibles products;
- Beverage manufacturing and bottling;
- Small scale cultivation nursery (200 sf with 200 plants in various stages of growth);
- Tinctures, oils and vape products;
- THC and CBD Oil Extraction (volatile and non-volatile);
- Van-based delivery service to locations outside of City of Carson;
- Warehousing and Wholesale Distribution (including co-pack and pick, pack and ship); and
- Secure exchange facility for input delivery.

Access to the project site would be from one driveway (ingress and egress) accessible from East 223rd Street. The driveway would provide access to approximately 110 parking spaces for employees and approximately 15 spaces for delivery vehicles.

The Applicant intends for the site to maintain the existing row of trees along East 223rd trees and would also provide landscaping treatment throughout the site.

The entire property will be highly secure with 24-hour manned security and check in point at the gated entry. The Project has no public access and daily trips in and out of the facility will be restricted to authorized users.

The Applicant intends to utilize solar and other green building features wherever feasible. The construction period is anticipated to occur over six to eight months. Construction is expected to begin in second quarter 2019.



Conceptual Site Plan

E. Discretionary Approvals

The proposed project is subject to City of Carson Ordinance No. 17-1637 (Chapter 15 of Article VI of the Carson Municipal Code), which contains conditions necessary for a Commercial Cannabis Operation Permit, that include requirements for hours of operation, an odor control plan, a detailed security plan, and a fire safety plan. In compliance with the City's Municipal Code, the Applicant will seek City approvals which include the following:

- Development Agreement (DA) - between the City of Carson and California Processing Company, LLC - subject of this request
- Zoning Text Amendment (ZTA) to expressly allow commercial cannabis within Commercial zones (zoning code presently silent) - subject of this request
- Mitigated Negative Declaration - subject of this request
- Conditional Use Permit (CUP) - administrative review and approval pursuant to the Development Agreement (to determine the required number of parking spaces based on demand)
- Site Plan & Design Review (DOR) - administrative review and approval pursuant to the Development Agreement (to permit final layout and design of the development)

F. Development Agreement

State Law allows cities to enter into DAs with private parties. A DA is a legal, binding contract between a city and any person or entity having a legal or equitable interest in a property. The agreement must clearly outline conditions, terms, restrictions and

requirements.

The DA includes three basic deal points: the term or length of the Agreement, the fees the developer has to pay to the City, and community wide benefits. Once a DA is approved by the City Council, the rules of development for that property cannot change even if the zoning code or other development codes are changed.

Under the Development Agreement Statute, cities have a right to enter agreements with private parties to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development. The Statute authorizes the City to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property and establishing certain development rights therein.

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, in order to give the developer certainty in regards to the entitlements and other governmental actions. There may also be a “business deal” component to a DA, where a city may agree to undertake certain actions to help a project in return for other considerations from a developer, sometimes financial.

G. Development Agreement Deal Points

The most important parts of DAs are the financial and non-financial deal points that are agreed upon between the City and the Applicant. (Exhibit No. 3.) There are no established rules or policies when negotiating these deal points as each proposal is unique and should be considered on its own merits. The following provides a brief discussion of each of the deal points:

- 1) Term: 20 years
- 2) Fees:
 - a. Taxes and Fees: First Year and before issuance of certificate of Occupancy, Developer will advance and remit to the City minimum \$1,000,000 in taxes and fees; Second Year on a quarterly basis, Developer will pay minimum \$1,250,000 in taxes; Third Year on a quarterly basis, Developer will pay minimum \$1,750,000 in taxes in total; Fourth Year and thereafter on a quarterly basis, previous year Minimum Annual Payment increased every year by the change in the Consumer Price Index (range set between 2-3%).
 - b. Development Impact Fees: Developer will pay \$440,000 in Development Impact Fees, to mitigate Project impacts on the City's infrastructure, including but not limited to, any or all of the following: Traffic and circulation (roads, sidewalks, and signals); Public Safety (Fire and Sheriff's stations); Parks and open space (park land/improvements and trails and bikeways); Library; Noise (sound walls); Flood control and stormwater.

- c. CFDs: Developer shall join one or more community facilities districts (“CFDs”) to fund public safety services and infrastructure necessary to serve the Project. Developer shall cooperate and pay for the formation of such CFDs and shall agree to annex into such CFDs when requested by City. The CFDs will levy a special tax on the Site property.
- 3) Public Benefits:
 - a. Social Justice Programs: Developer and commercial cannabis operations at the Site shall promote equitable business ownership and employment opportunities at the Site in order to decrease disparities in life outcomes for marginalized communities and address the disproportionate impact of the war on drugs on those communities. To these ends, Developer and commercial cannabis operations at the Site shall engage in proactive efforts to hire partners and employees from marginalized communities and/or rehabilitated persons; seek to establish commercial cannabis operations that are diverse and inclusive; and, seek the hiring of otherwise qualified employees who have been arrested for or convicted of minor cannabis-related crimes that would not be considered crimes following the passage of the Adult Use of Marijuana Act (Proposition 64).
 - b. Local Hiring: Developer covenants that with respect to the construction, operation and maintenance of the Project and Site, Developer shall cause all solicitations, for full-time, part-time, new or replacement employment relating to the construction, operation and maintenance of the Project and Site, to be advertised in such a manner as to target local City residents, and Developer shall make other reasonable efforts at local employment outreach as City shall approve. Developer shall also notify City of jobs available at the Project and Site such that City may inform City residents of job availability at the Project and Site. Developer shall include in each lease or sale of any portion of the Site, as the case may be, this Local Hiring Program as a guideline for any subtenant, lessee, owner of any portion of the Site, or by any applicant licensed on any portion of the Site

In exchange for these benefits to City and the other public benefits described in the DA, the Developer shall have a vested right to develop the Project on the site in accordance with and to the full extent permitted by the Development Agreement which shall exclusively control the development of the Project.

H. General Plan & Zoning Consistency

According to the City’s General Plan, Land Use Plan, the project site is designated as Regional Commercial. The Regional Commercial category includes uses intended to offer a wide range of services to both the community and the region.

Proposition 64 established a presumption that state licensed commercial cannabis operations are allowed unless otherwise expressly prohibited. The subject property is currently zoned CA (Commercial, Automotive) which is silent on commercial cannabis

uses. Carson Ordinance No. 17-1637 allows for the issuance of commercial cannabis operation permits in commercial zones. A ZTA is provided for consideration to expressly allow cannabis uses within commercial zones subject to an approved DA. (Exhibit No. 1.)

I. Environmental Review

The proposed Project is subject to the provisions of the California Environmental Quality Act (CEQA). An Initial Study, Mitigated Negative Declaration ("MND") and Mitigation Monitoring and Reporting Program were prepared for the project and are provided for consideration and approval.

The MND is based on the finding that, by implementing the identified mitigation measures, the project's potentially significant environmental effects will be reduced to levels that are less than significant. The reasons to support such a finding are documented by an Initial Study prepared by the City. (Exhibit No. 2.)

J. Public Notice

Public notice was posted in the Our Weekly newspaper on October 10, 2018. Notices were mailed to property owners and occupants within 500 feet on November 8, 2018. The agenda was posted at City Hall 72 hours prior to the City Council meeting.

V. FISCAL IMPACT

Cannabis tax revenue to the City from the California Processing Company, LLC commercial cannabis center is estimated to be no less than \$1,000,000 in the first year of operation, no less than \$1,250,000 in the second year of operation, and no less than \$1,750,000 in the third year of operation and thereafter annually. Developer has agreed to pay \$440,000 in development impact fees to the City. Developer has agreed to join a CFD to fund public safety services and infrastructure.

VI. EXHIBITS

1. Planning Commission Draft Minutes, October 30, 2018 (pgs. 10-13)
2. Ordinance No. 18-1823, Zoning Text Amendment No. 30-2018 (pgs. 14-18)
3. Resolution No. 18-161, Certifying and Adopting a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program
<http://ci.carson.ca.us/content/files/pdfs/planning/cannabis/CarcomMND.pdf> (pgs. 19-29)
4. Ordinance No. 18-1824, Approving Development Agreement No. 18-2018 (pgs. 30-105)
5. Resolution No. 18-128, Cannabis Operation Permits (pgs. 106-112)
6. Resolution 18-130, Cannabis Tax (pgs. 113-116)

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