



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

C-16

333 West Ocean Boulevard 6th Floor • Long Beach, CA 90802 • (562) 570-5400 • Fax (562) 570-5414

July 18, 2017

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Refer to a Hearing Officer the business license application denial appeal by EZ Greens, LLC, at 1355 West Willow Street, Long Beach, CA 90810. (District 7)

DISCUSSION

On May 31, 2017, the Department of Financial Management denied the business license application for EZ Greens, LLC, to operate a medical cannabis dispensary at 1355 West Willow Street (Attachment A), due to the proposed business location being within an area zoned exclusively for residential use, which would be in violation of Long Beach Municipal Code (LBMC) Section 5.90.030 (Attachment B). On June 8, 2017, EZ Greens, LLC, filed an appeal of the business license application denial (Attachment C).

Pursuant to LBMC Section 3.80.421.6, an applicant for a business license whose application for such license has been denied by the Director of Financial Management may appeal such denial to the City Council.

Whenever it is provided that a hearing shall be heard by the City Council, the City Council may, in its discretion, conduct the hearing itself or refer it to a hearing officer, in accordance with LBMC 2.93.050(A). If referred, upon selection of a hearing officer, the matter will be heard not less than thirty (30) days thereafter.

This matter was reviewed by Deputy City Attorney Monica J. Kilaita on June 21, 2017.

TIMING CONSIDERATIONS

If referred, upon selection of a hearing officer, the matter will be heard not less than thirty (30) days thereafter.

FISCAL IMPACT

There is no fiscal or local job impact associated with this recommendation.

HONORABLE MAYOR AND CITY COUNCIL
July 18, 2017
Page 2

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

Handwritten signature of John Gross in black ink.

JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

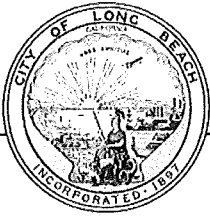
JG:STP:EA
K:\EXEC\COUNCIL LETTERS\BUSINESS SERVICES\7-18-17 HEARING - EZ GREENS- REFER APPEAL TO HO.DOC

ATTACHMENTS

APPROVED:

Handwritten signature of Patrick H. West in black ink.

PATRICK H. WEST
CITY MANAGER



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard 7th Floor • Long Beach, CA 90802 • (562) 570-6200 • Fax (562) 499-1097

May 31, 2017

EZ Greens LLC



MJ21701212

RE: **Medical Marijuana Dispensary Business License Application Denied**

Dear Applicant:

Thank you for submitting a Medical Marijuana Dispensary Business License Application with the City of Long Beach. We have reviewed your application and supplemental documents pursuant to Long Beach Municipal Code ("LBMC") Chapter 5.90, and found the proposed location violates the following buffer zones:

- 1,000 feet from a public or private school
- 1,000 feet from another medical marijuana dispensary
- 1,000 feet from a beach
- 600 feet from a public park
- 600 feet from a public library
- Area zoned exclusively for residential use

Due to this violation, your application has been **DENIED**. The Business License Department denied your application to operate a medical marijuana dispensary due to failure to comply with the location requirements pursuant to LBMC Section 5.90.030 and Section 5.90.060 (attached). Additional comments related to your denial can be found with Attachment A.

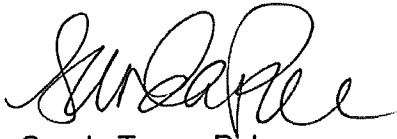
Should you wish to appeal the denial of your business license application to the Long Beach City Council you may do so by filing a notice of appeal with the Director of Financial Management within ten days from the date of mailing this letter per LBMC 3.80.421.6 (attached). The notice of appeal shall state the reason for the appeal and the grounds of such appeal. Please provide as much detailed information as possible with your appeal.

Please send the appeal to the address below along with a nonrefundable filing fee of \$1,270.

City of Long Beach
Business Services Bureau
Attn: Emily Armstrong
333 W. Ocean Blvd., 7th Floor
Long Beach, CA 90802

Should you have any questions please contact Emily Armstrong, Marijuana Program Specialist, at (562) 570-6649.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandy Tsang-Palmer". The signature is fluid and cursive, with the first name "Sandy" being the most prominent.

Sandy Tsang-Palmer
Purchasing and Business Services Manager

ATTACHMENTS

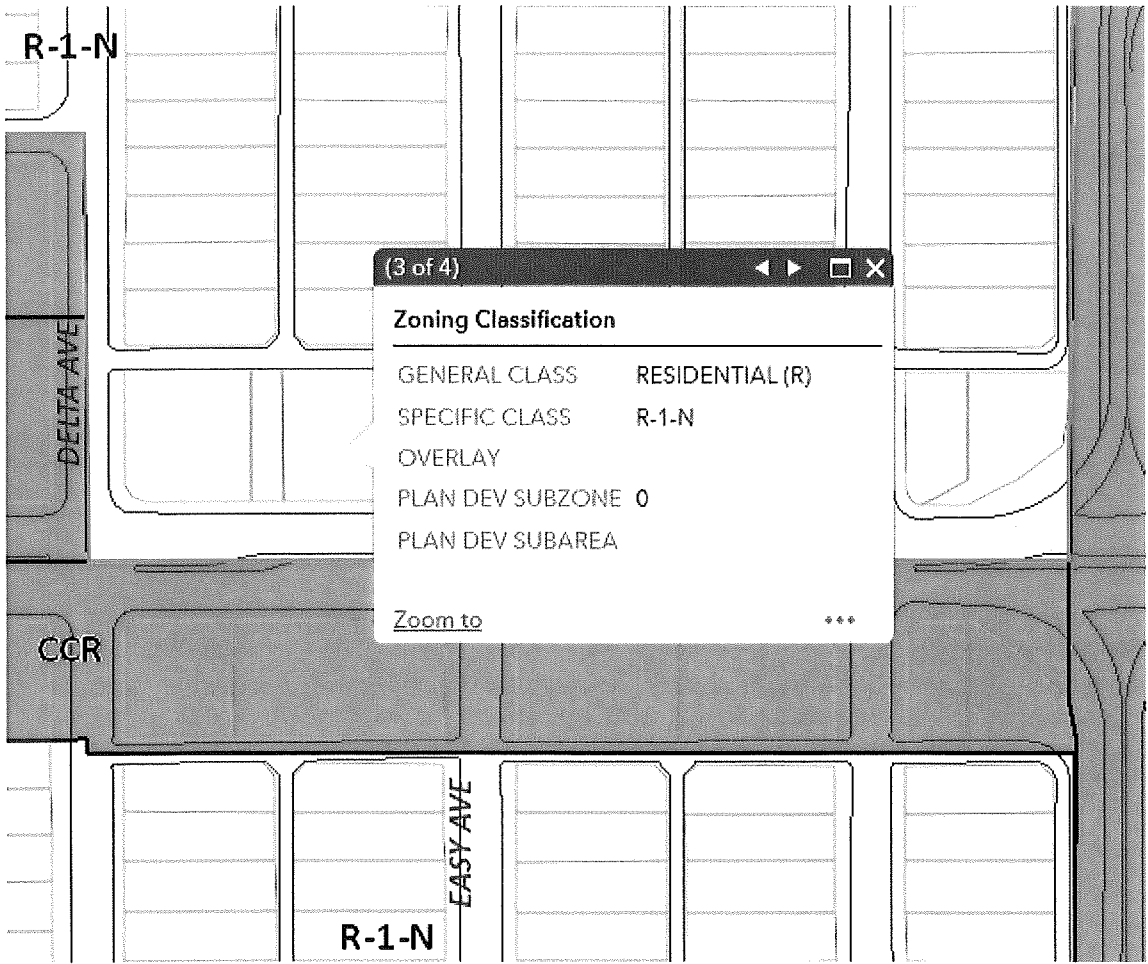
ATTACHMENT A

THE PROPOSED BUSINESS LOCATION IS LOCATED IN AN AREA ZONED EXCLUSIVELY FOR RESIDENTIAL USE:

R-1-N

THE R-1-N DISTRICT IS A SINGLE-FAMILY RESIDENTIAL DISTRICT WITH STANDARD LOTS. THIS DISTRICT RECOGNIZES THE OUTDOOR LIFESTYLE CHARACTERISTIC OF SOUTHERN CALIFORNIA AND IS ESTABLISHED TO PROTECT SUCH AREAS FROM OVERCROWDING AND CONVERSION TO HIGHER DENSITIES. THIS IMPLEMENTS LAND USE DISTRICT NO. 1 OF THE GENERAL PLAN. (LBMC 21.31.020)





3.80.421.6 - Appeals.

Any applicant for a business license whose application for such license has been denied by the Director of Financial Management may, within ten (10) days after such denial, appeal therefrom to the City Council by filing with the Director a notice of such appeal setting forth the decision and the grounds upon which he deems himself aggrieved thereby. The applicant shall pay to the Director at the time of filing the notice of appeal the fee set by resolution of the City Council for appeals hereunder. The Director shall thereupon make a written report to the City Council reflecting such determination denying the business license. The City Council at its next regular meeting following the filing of said appeal, or within ten (10) days following the filing thereof, shall set said appeal for hearing to be held not less than ten (10) days nor more than thirty (30) days thereafter and such hearing may for good cause be continued by the order of the City Council. Upon the hearing of the appeal the City Council may overrule or modify the decision of the Director appealed from and enter any such order or orders as are in harmony with this Title and such disposition of the appeal shall be final.

(Ord. C-6325 § 8, 1986; Ord. C-6259 § 1 (part), 1986)

5.90.030 MEDICAL MARIJUANA BUSINESS LICENSE PERMIT

Except as otherwise set forth in this Chapter, it shall be unlawful for any person or entity to operate, in or upon any property, a Medical Marijuana Business without first obtaining all required State licenses and a business license or permits issued by the City. Each State license type available in the MMRSA is eligible to apply for a City Business License Permit. Medical Marijuana Business shall be considered a personal service type business in the City of Long Beach (as defined in section 21.15.2020) with respect to issuing a Business License Permit and setting application and license fees. Until the regulatory implementation of the MMRSA, the Medical Marijuana Business license permits shall be issued without regard to the fact the State license has not been issued. Failure to timely obtain required State licenses or permits shall be grounds for suspension or revocation of any permit or license issued by the City. Upon the regulatory implementation of the MMRSA, unless otherwise set forth in this Chapter, no person shall engage in commercial cannabis activity or in the activities of a Medical Marijuana Business without possessing all applicable State licenses and all applicable City permits and licenses. Revocation of a State license shall constitute grounds for the City to suspend or revoke any permit or license issued by the City.

A Medical Marijuana Business that is operating in compliance with this Chapter and other State and local laws on or before January 1, 2018, may continue its operations until its application for State licensure is approved or denied by the licensing authority.

A Medical Marijuana Business must at all times maintain liability insurance having aggregate policy limits in an amount not less than \$1,000,000.

The City may impose an annual business license fee no greater than one hundred fifty (150) percent of the average business license fee the city charges for non-cannabis related personal service business. Failure to timely pay the annual business license fee shall be grounds for suspension or revocation of the business license. Applicants that previously paid an application fee pursuant to former Chapter 5.87 may, at the applicant's discretion, have any un-refunded fee applied as credit against any fees applicable under this section. All Medical Marijuana Businesses shall be subject to an annual regulatory inspection by the City to insure compliance with all of the applicable provisions of this Chapter and to confirm compliance with the business license permit issued by the City.

It shall be unlawful for the owner of a building to allow the use of any portion of a building by a Medical Marijuana Business unless the tenant has a valid business license permit, or has applied for and not been denied, a business license permit. Each owner of a building whose tenant is a Medical Marijuana Business License Permit applicant shall execute an acknowledgement that the Applicant has the owner's permission and consent to operate a Medical Marijuana Business at the subject property.

Each Medical Marijuana Business shall designate a Community Relations Liaison (hereinafter, the "Liaison"), who shall be at least twenty-one (21) years of age; and shall provide the Liaison's name to the City Manager. The Liaison shall receive all complaints received by the City Manager regarding the Medical Marijuana Dispensary, and make good faith attempts to promptly resolve all complaints. To address community complaints and concerns, the name and telephone number for the Liaison shall be made publicly available. Each Medical Marijuana Business Liaison is required to respond by phone or email within three (3) business days of contact by a city official concerning the Medical Marijuana Business. The name and contact information for Liaison of the medical marijuana business shall be conspicuously posted on the main entry doors to the business.

No pesticides or insecticides prohibited by federal, State, or local law for fertilization or production of edible produce may be used on any marijuana cultivated, produced or distributed by a Medical Marijuana Business. A Medical Marijuana Business shall comply with all applicable federal, State, and local laws regarding use and disposal of pesticides and fertilizers.

No Medical Marijuana Business may be operated in an area zoned exclusively for residential use, or be located within a one-thousand (1,000) foot radius of a public or private school (as defined in Health and Safety Code § 11362.768(h)) or public beach, or within a six hundred (600) foot radius of a public park or public library. The distances specified in this subdivision shall be determined by the horizontal distance measured in a straight line from the property line of the school, park or library to the closest property line of the lot on which the Medical Marijuana Business is located, without regard to intervening structures.

All Medical Marijuana and Medical Marijuana Product intended for disposal shall be made unusable and unrecognizable prior to removal from the business, in compliance with all applicable laws. No Medical Marijuana Business may have a drive through lane or drive up window and no Medical Marijuana may be dispensed from a drive through lane or drive up window. No marijuana may be smoked, eaten, or otherwise consumed or ingested within the Medical Marijuana Business. All cultivation, production, distribution, possession, storage, display, sales or other distribution of marijuana shall occur only within an enclosed area of a medical marijuana business and shall not be visible from the exterior of the business. Consultations by medical professionals shall not be permitted at a Medical Marijuana Business nor as a permitted accessory use at a medical marijuana business. Each Medical Marijuana Business shall have an odor-absorbing ventilation and exhaust system to ensure that odor generated inside the premises is not detected outside the premises. Windows and roof hatches at the Medical Marijuana Business shall be secured so as to prevent unauthorized entry.

This Chapter shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with local, State, or federal law.

5.90.060 MEDICAL MARIJUANA DISPENSARY OPERATING CONDITIONS AND RESTRICTIONS

Every person and entity operating as a Medical Marijuana Dispensary in the City shall comply with the following operating conditions and restrictions. No Medical Marijuana Dispensary may operate within the City of Long Beach without meeting the following conditions:

A Medical Marijuana Dispensary shall not be located within a one thousand (1,000) foot radius of any other Medical Marijuana Dispensary.

A sign shall be posted in a conspicuous location inside each Property advising: (a) It is a violation of State Law to engage in the sale of marijuana or the diversion of marijuana for non- medical purposes; (b) The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery; (c) Loitering at the location of a Medical Marijuana Business for an illegal purpose is prohibited by Penal Code §647(h); (d) This Medical Marijuana Business is licensed in accordance with the laws of the City of Long Beach; (e) Your membership will be terminated if you engage in the illegal sale or diversion of Medical Marijuana.

Representative samples of Medical Marijuana distributed by the Business shall be analyzed by an independent laboratory to ensure that they are free of harmful pesticides and other contaminants regulated under local, state or federal law.

No person, other than a patient, caregiver, licensee, employee, or a contractor shall be in the medical marijuana dispensary room. No patient shall be allowed entry into the medical marijuana dispensary room without showing a valid State issued picture Driver's License or Identification. A Medical Marijuana Dispensary may distribute, dispense, deliver or transport medical marijuana only in accordance with this Chapter and State law.

The number of licensed and permitted Medical Marijuana Dispensaries shall be limited to not less than one (1) Medical Marijuana Dispensary business for every eighteen thousand (18,000) residents in the City of Long Beach or not more than one (1) Medical Marijuana Dispensary business for every fifteen thousand (15,000) residents in the City of Long Beach. The population of the city shall be based on the official census population estimate as periodically updated by the US Department of Commerce, United States Census Bureau. The City Council may increase the number of licensed and permitted medical marijuana dispensaries pursuant to this Chapter but may not reduce them below the thresholds set forth herein. The City Manager shall issue the maximum number of licenses permitted by this section unless otherwise directed by the City Council.

5.90.030 - Medical marijuana business license permit.

Except as otherwise set forth in this Chapter, it shall be unlawful for any person or entity to operate, in or upon any property, a Medical Marijuana Business without first obtaining all required State licenses and a business license or permits issued by the City. Each State license type available in the MMRSA is eligible to apply for a City Business License Permit. Medical Marijuana Business shall be considered a personal service type business in the City of Long Beach (as defined in section 21.15.2020) with respect to issuing a Business License Permit and setting application and license fees. Until the regulatory implementation of the MMRSA, the Medical Marijuana Business license permits shall be issued without regard to the fact the State license has not been issued. Failure to timely obtain required State licenses or permits shall be grounds for suspension or revocation of any permit or license issued by the City. Upon the regulatory implementation of the MMRSA, unless otherwise set forth in this Chapter, no person shall engage in commercial cannabis activity or in the activities of a Medical Marijuana Business without possessing all applicable State licenses and all applicable City permits and licenses. Revocation of a State license shall constitute grounds for the City to suspend or revoke any permit or license issued by the City.

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(Measure MM § 4, 11-8-2016)

RYAN & ASSOCIATES
ATTORNEYS AT LAW

800 WEST SIXTH STREET, SUITE 320
LOS ANGELES, CALIFORNIA 90017-2706

TELEPHONE (213) 689-0899
FACSIMILE (213) 689-0881

WRITER'S EMAIL:



June 8, 2017

By U.S. Mail and Hand Delivery

City of Long Beach
Business Services Bureau
Attn: Emily Armstrong
333 W. Ocean Blvd., 7th Floor
Long Beach, CA 90802

**Re: Notice of Appeal – Medical Marijuana Dispensary Business License Application
EZ Greens LLC**

Dear Ms. Armstrong:

EZ Greens, LLC is in receipt of your letter dated May 31, 2017. Therein, the grounds for denial indicate “Area zoned exclusively for residential use.” EZ Greens, LLC sought to operate a Medical Marijuana Business at the address commonly known as 1355 W. Willow Street, Long Beach CA 90819 (hereinafter the “Subject Property”). EZ Greens, LLC hereby appeals the denial and requests a hearing in order to establish its desire and right to obtain a Medical Marijuana Dispensary Business License for operation at the Subject Property.

Under Chapter 5.90, specifically 5.90.030 of the Long Beach Municipal Code, “No Medical Marijuana Business may be operated in an area zoned *exclusively* for residential use...” (Emphasis added). Per the aforementioned code, the Medical Marijuana Business cannot be operated where zoning is for residential purposes only. Here, the Subject Property is located on Region 26 and Cluster 26630 (please see Attachment “A” from the LA County Assessors website). In prepare for the appeal, I investigated this property and the City of Long Beach’s General Plan. The City of Long Beach indicates on its General Plan page of its website that the Land Use / Zoning for the area encompassing the Subject Property will be changed to Mixed Retail / Residential (please see Attachment “B” from the City of Long Beach website). This General Plan change establishes and evidences that the Subject Property is not a zone *exclusively* used for residential purposes.

Additionally, the Subject Property currently, and has been for over 30 years, used for the operation of a convenience store. In fact, the current owner obtained a beer and wine license for the property, despite its R-1 (residential) Zoning at the time. The owner actually sought to correct the zoning issue by requesting a change in use, however the City of Long Beach indicated that it was already in the process of updating the area through a General Plan, and as a result, the owner cannot move forward with his request to change the zoning because the City already was doing so.

Business Services Bureau
Emily Armstrong
June 8, 2016
Page 2

The Subject Property, and the blocks east and west of it, particularly from the corner of Fashion and Willow; Early and Willow, to Delta and Willow are all businesses, engaged in commerce. EZ Greens, LLC seeks to share in this commercial corridor and operate its Medical Marijuana Business.

Lastly, EZ Greens, LLC can appreciate the reasoning behind precluding such businesses from operating in a strictly residential zone; however the Subject Premises are clearly being used for commercial purposes. A significant stretch of Willow Street is for the operation of small businesses, EZ Greens, LLC seeks to operate its own small business.

We are hopeful that an examination of (1) the current use of the area encompassing the Subject Property, (2) the General Plan and (3) the history of the area's use for commercial businesses will result in the application for the Medical Marijuana Business License being granted and/or approved. EZ Greens, LLC would like to reserve its right to supplement this Notice of Appeal with additional information and evidence it may discover prior to any hearing date.

On behalf of EZ Greens, LLC, thank you for your time and consideration in reviewing this matter. Should you have any questions or concerns, please feel free to contact me through e-mail or telephone, at the above-referenced e-mail address and telephone number.

Very truly yours,

A handwritten signature in black ink, appearing to read 'BAHIJ J. JOSEPH', written over a horizontal line.

BAHIJ J. JOSEPH



Los Angeles County Office of the Assessor
Valuing People and Property

Property Assessment Information System

Parcel Details

- Property records are kept at the South District Office
- How frequently is this site updated?
(and other FAQs)

Property Information

Assessor's ID No: 7313-030-029
Address: 1355 W WILLOW ST
 LONG BEACH CA
 90810

Property Type: Commercial /
 Industrial

Region / Cluster: 26 / 26630

Tax Rate Area (TRA): 11934

- View Assessor Map
- View Index map

Recent Sales Information

Latest Sale Date:

Indicated Sale Price:

[Search for Recent Sales](#)

2016 Roll Values

Recording Date: 11/07/2008

Land: \$176,788

Improvements: \$70,653

Personal Property: \$0

Fixtures: \$0

Homeowners' Exemption: \$0

Real Estate Exemption: \$0

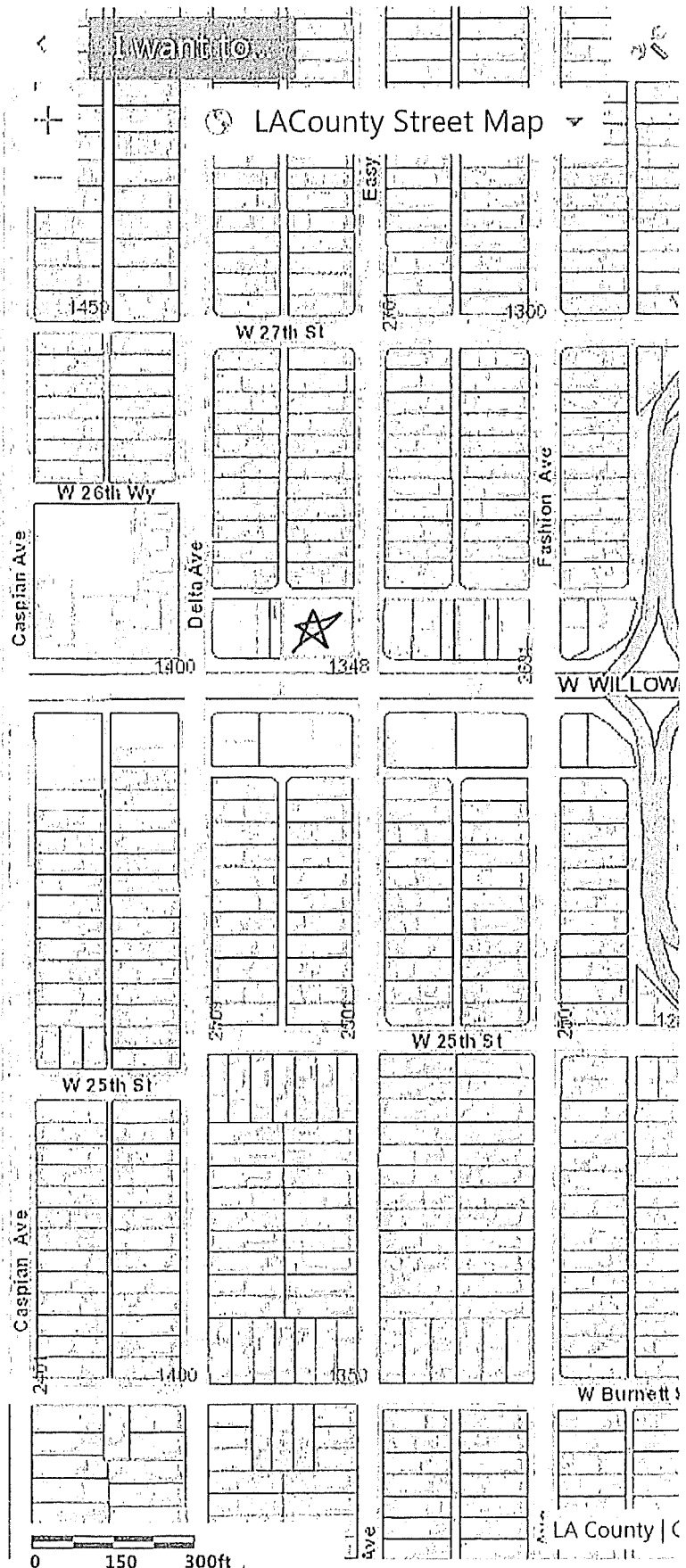
Personal Property Exemption: \$0

Fixture Exemptions: \$0

- 2016 Annual taxes
- Property tax payment FAQs
- Estimate supplemental taxes

Property Boundary Description

TRACT NO 10643 LOTS 28,29,30,31 AND
LOT 32 BLK H



Search for open data



< City of Long Beach General Plan

Comments (0)

Share

Download Dataset

Open In ArcGIS (/www.Arcgis.com/Home/Webmap/Viewer.html?)

Url=Http%3A%2F%2Ft.dgis.Longbeach.Gov%2Fwebgis%2Frest%2Fservices%2FCLBDataCatalog%2FMapServer%2F8&Panel=Gallery&SuggestFie
Details Table Charts

DESCRIPTION

more

Attachment C