

CONDITIONAL USE PERMIT FINDINGS

3850 E. Gilman St.

Application No. 1902-29 (CUP19-008)

May 16, 2019

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, a Conditional Use Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption, and incorporation into the record of proceedings:

- 1. THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;**

The applicant is requesting approval of an adult-use cannabis distribution facility.

The subject site is located in Land Use District No. (LUD) #7 –Mixed Uses and within the PD-7 (Business Center) Zoning District. The PD-7 zoning district is established to create, preserve and enhance the area for business and light industrial use. This district is characterized by business office activity, research and development activity and moderately sized industrial and warehousing operations with limited environmental impacts. Within the PD-7 zoning district, the operation of an adult-use cannabis distribution facility requires the approval of a Conditional Use Permit (CUP). A CUP is consistent when it carries out the intent of the land use district in which it is located and otherwise complies with the required findings of the Zoning Regulations. Approval of a CUP would allow for the establishment of an industrial use (crop cultivator) within a zoning district that permits light industrial uses, with conditions of approval required to ensure the use. Furthermore, the proposed use will be housed in an existing building and all applicable regulations of the PD-7 zoning district will be satisfied.

The Land Use Element designation of LUD #7 – Mixed Uses is established to benefit from the synergistic effects of blending of different types of land uses in large, vital activity centers. The proposed adult-use cannabis distribution facility will take place within an existing 10,780 square-foot building, on a parcel of 35,721 square-feet. The operation of such a facility is consistent with surrounding businesses that feature a variety of commercial uses. All adult-use cannabis facilities are subject to stringent rules and regulations governed by Long Beach Municipal Code Title 5 – Regulation of Businesses, Trades, and Professions. Also, several Conditions of Approval will establish parameters by which the approved use will operate. Therefore, the proposed use is consistent with LUD #7.

2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY, GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE; AND

In accordance with the California Environment Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE19-061) was prepared for this project and is attached for review. The project is exempt per Section 15301 – Existing Facilities.

The proposed use is not anticipated to be detrimental to the surrounding community as the project site is in a heavily industrialized area where intense industrial uses are common. The closest residential uses are located 60 feet to the south and separated by E. 23rd St. Conditions of Approval will address the operation, security requirements like digital surveillance systems, loitering, controlled access, and overall business functionality.

3. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR THE USE ENUMERATED IN CHAPTER 21.52; AND

Section 21.52.410 further requires the following findings:

a. The proposed use, and the siting and arrangement of that use on the property, will not adversely affect surrounding uses nor pose adverse health risks to persons working and living in the surrounding area.

The proposed use is not anticipated to be detrimental to the surrounding community as the project site is in an industrial area where light industrial uses are common. Conditions of Approval will address the operation, security requirements like digital surveillance systems, loitering, controlled access, and overall business functionality.

b. Adequate permitting and site design safeguards will be provided to ensure compliance with the performance standards for industrial uses contained in Section 21.33.090 (Performance Standards) of this Title.

Noise. The proposed use will be subject to the existing noise ordinance.

Hours. Between the hours of ten (10:00) p.m. and seven (7:00) a.m., the proposed use shall discontinue operations that produce noise levels at the nearest residential district or hospital property line higher than those permitted under Chapter 8.80 (Noise) of the Municipal Code.

Light and glare. The proposed use will be subject to the latest building and electrical construction codes which include provision curtailing light pollution onto neighboring properties.

On-site containment of materials and waste. The proposed use will be conditioned to not allow any material or waste to be deposited onsite in such a form or manner that it may be transferred off the property by natural causes or forces such as wind or rain. Additional conditions of approval

shall require that all materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible by or otherwise attractive to rodents or insects, shall be stored outdoors only in closed containers approved by the Director of Planning and Building.

c. Truck traffic and loading activities associated with the business will not adversely impact surrounding residential neighborhoods.

The subject site includes an off-street loading area located within the building to curtail any adverse truck traffic and loading impacts to the surrounding uses.

d. Businesses involved with hazardous waste treatment, hazardous waste disposal, or hazardous waste transfer shall comply with the following location requirements:

- i. The use shall not be located within two thousand feet (2,000') of any residential zone or use, any hotel or motel, any school or daycare facility, any hospital or convalescent home, any church or similar facility, or any public assembly use.**
- ii. The use shall not be located within one hundred feet (100') of any known earthquake fault, or within a fault hazard or flood hazard zone identified by the State of California.**
- iii. The use shall not be located on any land subject to liquefaction, as identified in the Seismic Safety Element of the General Plan, unless appropriate soils remediation occurs as required by the City Engineer.**

The proposed use will not be involved with any hazardous waste treatment, disposal, or transfer.

4. THE RELATED DEVELOPMENT APPROVAL, IF APPLICABLE, IS CONSISTENT WITH THE GREEN BUILDING STANDARDS FOR PUBLIC AND PRIVATE DEVELOPMENT, AS LISTED IN SECTION 21.45.400

This project consists of the permitting adult-use cannabis distribution within an existing building and would not be required to comply with the green building standards listed in Section 21.45.400 of the Municipal Code.

CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL

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1. The use permitted on the subject site, in addition to the other uses permitted in the Business Center (PD-7) District, shall be an adult-use cannabis distribution facility within an existing 10,780 square-foot building located at 3850 Gilman St. Any site development shall commence in accordance with plans submitted and filed under Application No. 1902-29.
2. This permit and all development rights hereunder shall terminate two years from the effective date of this permit unless construction is commenced, or a time extension is granted, based on a written and approved request submitted prior to the expiration of the two-year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
3. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the Conditions of Approval Acknowledgement Form supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date).

Special Conditions:

4. The applicant shall comply with all applicable standards of Chapter 5 of the Long Beach Municipal Code (LBMC).
5. Individuals under twenty-one (21) years of age shall not be allowed on the premises at any time.
6. No direct sales of any cannabis goods to the public may occur upon the premises at any time.
7. Advertisements and marketing may not be designed to appeal to children or encourage children to consume cannabis goods, contain any false or misleading statements, or make any misrepresentations.
8. Loitering shall be prohibited on or around the premises or any area under control of the adult-use cannabis business. The applicant shall be required to prevent individuals from remaining on the premises or site of the adult-use cannabis business if they are not engaging in an activity directly related to the permitted operations of the adult-use cannabis business.

9. Commercial cannabis activity shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, smoke, vibration, or other negative impacts, and shall not be hazardous due to use or storage of materials, processes, products, chemicals, or wastes.
10. All employees of the proposed business shall display or wear plastic-coated identification badges at all time while engaging in commercial cannabis activity, including during transport and delivery of cannabis goods. At a minimum, the identification badge shall include the following:
 - a. The adult-use cannabis business's "doing business as" name, City permit number, and State license number;
 - b. The first name of the individual;
 - c. Any employee number exclusively assigned to that individual for identification purposes; and
 - d. A color photograph of the individual that clearly shows the full front of the individual that clearly shows the full front of the individual's face that is at least one inch (1") in width and one and a half inches (1.5") in height.
11. The applicant shall be required to implement an operational digital video surveillance system at the site, in accordance with criteria set forth in Section 5.92.730 of the Municipal Code, including the following criteria:
 - a. The digital video surveillance system with a minimum video camera resolution of 1280 × 1024 pixels.
 - b. Each video surveillance camera shall record continuously twenty-four (24) hours per day, seven (7) days a week, and at a minimum of fifteen (15) frames per second (FPS).
 - c. The location and position of each camera shall be capable of recording images of the area under surveillance, in any light condition, to allow facial feature identification of persons in the following locations on the premises:
 - i. In the interior and exterior areas where cannabis goods or currency are present at any given time.
 - ii. In the immediate interior and exterior areas of doors, windows, or other avenues of potential access.
 - iii. Areas open to the public, including a full view of the public right-of-way and any parking lot under the control of the Adult-Use Cannabis Business.

- iv. Point-of-sale locations and areas where cannabis goods are displayed for sale at a Dispensary, including but not limited to, a retail area.
 - v. Any other areas as required by this Chapter, State law, or any regulations implemented and enforced by the State or any of its divisions or departments.
- 12. Before building permit issuance, the applicant shall contact Long Beach Energy Resources to coordinate natural gas load requirements and impacts.
- 13. Noise Standards. All activities shall comply with the noise regulations contained in Chapter 8.80 (Noise) of the City of Long Beach Municipal Code.
- 14. Hours of Operation. Between the hours of ten (10:00) p.m. and seven (7:00) a.m., all industrial businesses shall discontinue operations that produce noise levels at the nearest residential district or hospital property line higher than those permitted under Chapter 8.80 (Noise) of the Municipal Code.
- 15. On-Site Containment of Materials and Waste. No material or waste shall be deposited onsite in such a form or manner that it may be transferred off the property by natural causes or forces such as wind or rain. All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible by or otherwise attractive to rodents or insects, shall be stored outdoors only in closed containers approved by the Director of Planning and Building.

Standard Conditions – Plans, Permits, and Construction:

- 16. Prior to the issuance of a building permit, the applicant shall submit a revised set of plans reflecting all of the design changes, if any, that are impacted by these conditions of approval, to the satisfaction of the Director of Development Services.
- 17. All conditions of approval must be printed verbatim on a page or pages within all sets of plans submitted for plan review to the Department of Development Services. These conditions must be printed on the site plan or a subsequent reference page.
- 18. The plans submitted for plan review must explicitly call out and describe all materials, textures, accents, colors, window, door, planter, and paving details that were approved by the Site Plan Review Committee and/or the Planning Commission. No substantial changes shall be made without prior written approval of the Site Plan Review Committee or the Planning Commission.

19. Prior to the issuance of a building permit, the applicant must depict all utility apparatus, such as, but not limited to, backflow devices and Edison transformers, on both the site plan and the landscape plan. These devices shall not be located in prominent locations within any front, side, or rear yard area that is adjacent to a public street. Furthermore, these devices shall be screened by landscaping or another screening method approved by the Director of Development Services.
20. The Director of Development Services is authorized to approve minor modifications to the approved design plans or to any of the conditions of approval if such modifications shall not significantly change or alter the approved project. Any major modifications shall be reviewed by the Zoning Administrator, Site Plan Review Committee, or Planning Commission, respectively.
21. Upon plan approval and building permit issuance, the applicant shall submit a reduced-size set of final construction plans for the project file.
22. Any off-site improvements found to be damaged as a result of construction activities related to this project shall be replaced to the satisfaction of the Director of Public Works.
23. Separate building permits are required for signs, fences, retaining walls, flagpoles, and pole-mounted yard lighting foundations.
24. The applicant shall file a separate plan check submittal to the Long Beach Fire Department for review and approval prior to the issuance of a building permit.
25. All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured.
26. Site development, including landscaping, shall conform to the approved plans on file with the Department of Development Services. At least one set of approved plans containing Planning, Building, Fire, and, if applicable, Health Department stamps shall be maintained at the job site, at all times for reference purposes during construction and final inspection.
27. The landscaping plans shall include re-landscaping in the areas along the southside of the property. Evergreen, drought-tolerant, 24-inch box trees or shrubs shall be used. They shall be installed in continuous, hedge-like plantings.
28. All landscaping irrigation systems shall use high-efficiency sprinkler nozzles. The models used and flow rates shall be specified on the landscaping plan. For residential-type or small-scale sprinkler systems, sprinkler head flow rates shall not exceed 1.00 GPM and shall be of the rotating type. Where feasible, drip irrigation shall be used instead. If an in-ground irrigation system is to be installed, such system shall be controlled by an automatic self-adjusting weather-based irrigation controller.

29. Permeable pavement shall be utilized where feasible, to the satisfaction of the Director of Development Services. Public right-of-way improvements shall be exempt from this requirement. If the feasibility of using permeable pavement is uncertain, it shall be the developer's responsibility to demonstrate that a given application of permeable pavement is not feasible, to the satisfaction of the Director of Development Services.
30. Demolition, site preparation, and construction activities are limited to the following (except for the pouring of concrete which may occur as needed) unless a modification is granted by the City's Noise Control Officer:
 - a. Weekdays and federal holidays: 7:00 a.m. to 7:00 p.m.;
 - b. Saturday: 9:00 a.m. - 6:00 p.m.; and
 - c. Sundays: not allowed

Standard Conditions – General:

31. If, for any reason, there is a violation of any of the conditions of this permit or if the uses/operations are found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
32. This approval is required to comply with these conditions of approval as long as the uses are on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of City officials, to verify compliance. The property owner shall reimburse the City for inspection costs.
33. In the event of a transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These development conditions must be recorded with all title conveyance documents at the time of closing escrow.
34. Approval of this development project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
35. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants.
36. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.

37. Any graffiti found on site must be removed within 24 hours of its appearance.
38. All required utility easements shall be provided to the satisfaction of the concerned department, agency, or utility company.
39. All trash and refuse containers shall be fully screened from public view to the satisfaction of the Director of Development Services.
40. As a condition of any City approval, the applicant shall defend, indemnify, and hold harmless City and its agents, officers, and employees from any claim, action, or proceeding against City or its agents, officers, and employees to attack, set aside, void, or annul the approval of City, concerning the processing of the proposal/entitlement or any action relating to, or arising out of, such approval. At the discretion of the City and with the approval of the City Attorney, a deposit of funds by the applicant may be required in an amount sufficient to cover the anticipated litigation costs.
41. The Department of Public Works submits the following requirements for the proposed development referenced in the above subject line. The applicant must comply with all requirements noted below.

GENERAL REQUIREMENTS

- a. Prior to the start of any demolition, excavation, or construction, the applicant shall submit all applicable plans and drawings for review and approval by the Department of Public Works (e.g. plans for pedestrian protection, grading, street lane closures, construction staging, traffic control, utilities, shoring, excavations, etc.). This is in addition to any plan check required by the Department of Development Services. Work, including hauling soils or other debris, is not allowed within the right-of-way without a valid Public Works permit.
- b. The applicant shall comply with all requirements outlined within the latest version of the Public Works Development Guideline and all referenced standards at the time of application submittal.
- c. The applicant shall comply with all standards and guidelines in effect at the time of application submittal. The City's Public Works Engineering Standard Plans are available online at www.longbeach.gov/pw/resources/engineering/standard-plans.
- d. The applicant shall construct all off-site improvements needed to provide full Americans with Disabilities Act (ADA) accessibility compliance within the public right-of-way adjacent to the project site. At this stage in the entitlement process the plans are conceptual in nature, and Public Works plan check is required for in-depth review of ADA compliancy. As determined during the plan check process, the applicant shall dedicate and improve additional right-of-way necessary to satisfy unfulfilled ADA requirements.

- e. All conditions of approval, including cover letter signed by the Planning Officer and Case Planner, must be printed verbatim on all plans submitted for plan review.

CIVIL IMPROVEMENTS

- f. The applicant shall be responsible for the maintenance, repair and replacement of existing off-site improvements abutting the project boundary during construction of the on-site improvements, until final inspection of the on-site improvements by the City. All off-site improvements found damaged as a result of construction activities shall be reconstructed or replaced.

TRAFFIC AND TRANSPORTATION

- g. The applicant shall protect or replace/repaint all traffic signage, markings and colored curb within the public right-of-way adjacent to the project site.
- h. All traffic control device installations, including pavement markings within the private parking lot, shall be installed in accordance with the current edition of the California Manual on Uniform Traffic Control Devices (CA MUTCD). The on-site accessible parking space shall be reconfigured so that backing onto Paramount Boulevard is limited. The number of parking spaces required shall be striped.