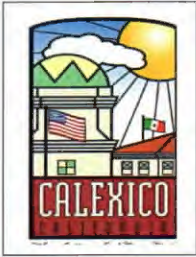


AGENDA
ITEM

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AGENDA STAFF REPORT

DATE: June 17, 2020

TO: Mayor and City Council

APPROVED BY: David B. Dale, City Manager *UF for D.D.*

PREPARED BY: Christopher Velasco, Contract Planner *W*

SUBJECT: Adoption of a Resolution Approving a Conditional Use Permit (UA 2020-05) for a Cannabis Microbusiness Facility, located at 2403 Van De Graaf Avenue, Calexico, CA 92231

=====

Recommendation:

Staff recommends that the City Council debate and vote on a Resolution of the City Council of the City of Calexico, California, Approving a Conditional Use Permit (UA 2020-05) for a cannabis microbusiness facility, located at 2403 Van De Graaf Avenue, Calexico, CA 92231.

Project Requests:

Conditional Use Permit No. UA 2020-05. Pursuant to Article V - Conditional Use Permit Regulations of the Calexico Municipal Code, the applicant is applying for a conditional use permit ("CUP") and commercial cannabis activity regulatory permit ("Regulatory Permit") allowing the applicant to conduct a cannabis Microbusiness facility in the City's Commercial Highway with in the Cannabis Overlay Zone at located at 2403 Van De Graaf Avenue, Calexico, CA 92231.

The project is exempt from formal environmental review pursuant to Section 15301 "Existing Facilities," of the CEQA guidelines. Please see the section titled "CEQA."

Background:

Staff reviewed the application to assure all the information had been submitted and at which time it was deemed complete. Application was accepted on March 4, 2020; however, due to the current pandemic this application was placed on hold until all members of the Project Review Committee (PRC) could devote their time to review the application. On May 11, the application was deemed complete. On May 12, 2020 the application was forwarded to the PRC members for review; at this time

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we have not received any comments on this application. A notice of public hearing was published in the Calexico Chronicle on Thursday, May 14, 2020 as was the notification of public hearing was also posted in front of City Hall and posted on the City's website informing the public of the scheduled hearing the same day.

On May 26, 2020 the Planning Commission of the City of Calexico opened the Public Hearing and debated the matter. The votes were as follows:

AYES: Zarate, Zamarripa
NOES: Salazar
ABSENT: Cota
ABSTAIN: Mayne

The resolution failed to receive enough votes to pass as a minimum of three (3) votes were needed for the measure to be successful.

On Wednesday, May 27, 2020 the applicant was notified via email and certified US mail that the measure failed to pass and that under section 17.01.240 Planning Commission decisions may be appealed to the City Council within ten (10) calendar days; or June 5th, 2020. Under section 17.01.250, the City Council may review the recommendations of the Planning Commission, the applicant and the public and vote to approve or deny the measure and make appropriate findings. The applicant was notified that a letter appealing the Planning Commission's decision would need to be sent to the City Clerk via email in PDF format and mail within the allotted time frame.

On Thursday, May 28, 2020, the applicants' legal counsel notified the City Clerk and the Planning Division of their intention to appeal the decision by the Planning Commission in writing via email in PDF format. The Planning Division notified the City Manager who accepted the letter and placed it on the June 17, 2020 City Council meeting agenda subject to the review of the City Attorney's Office.

Project Description:

Applicant has submitted an application for a Conditional Use Permit in order to allow the operation of a cannabis Microbusiness facility for Cultivation less than ten-thousand (10,000) square feet, Distribution outside the City Limits and Level 1 Manufacturing, below are the dimensions between the proposed uses:

Distribution: 520 SF

Manufacturing

- a. Extraction: 754 SF
- b. Tank Room: 534 SF

Cultivation

- a. Vegetation: 670 SF
- b. Flower Room: Room 1 - 670 SF Room 2 – 700 SF
- c. Trim Room 528 SF

- d. Dry Room: 315 SF
- e. Clone Room: 195 SF

General Use:

- a. Electric Room: 100SF
- b. Office: 175 SF

The property is in the Commercial Highway (CH) within the Cannabis Overlay Zone, where cannabis cultivation businesses are allowed with a CUP and a Commercial Cannabis Activity Regulatory Permit.

The project is located at 2403 Van De Graaf Avenue consisting of a property with an existing building. Tenant Improvements are underway.

Discussion & Analysis:

The Applicant's business is proposed in the existing part of the city designated for industrial usage with cannabis overlay by the General Plan and zoned CH, Commercial Highway. The existing zoning would allow the proposed use subject to the issuance of a Conditional Use Permit (CUP) and a Commercial Cannabis Activity Regulatory Permit (CCARP). CUP's are approved by the Planning Commission whereas a CCARP is a discretionary permit administered by the Development Services Department and approved by the office of the City Manager. The standards for granting a Conditional Use Permit, however, must be consistent with the policies and objectives of the zoning ordinance of the City of Calexico and should not impair the integrity and character of the immediate area or neighborhood. In addition, the establishment of the use for which a conditional use permit is sought should not become a detriment or injurious to other property or improvements in a neighborhood

The Project Review Committee reviewed the project during the week following May 12, 2020 and has not yet commented on the proposal. The Project Review Committee members which reviewed the application included representatives from the Police Department, Fire Department, Utility Services, Planning, Engineering, Finance, Economic Development Building and Planning.

It is important to note that there is another Commercial Cannabis use on this parcel, Elemental Holistic Care Corp is in the process of opening a Retailer location in the same building. This other use has a separate entrance in compliance with Bureau of Cannabis Control regulations. Up to two cannabis permits may be issued for the same address. Per Calexico Municipal Code 17.11.1040, an applicant may only operate up to two commercial cannabis facilities. The Planning Division made public Information Bulletin 2019-002 to clarify when more than two facilities may operate on one legal parcel.

Staff is recommending that the Applicant commence their business operation their facility within six months of approval of the Conditional Use Permit. Failure to commence of work or submittal of construction plans may void the CUP.

CEQA Compliance:

The City has reviewed the proposed project and determined that the project is exempt under CEQA guidelines, Section 15301, Class 1 "Existing Facilities" based on the evidence found below. Specifically, the proposed project satisfies part a in Section 15301 of the State CEQA guidelines as follows:

1. (a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;

Evaluation of Other CEQA-related Criteria

1. **Cumulative Impact.** The City has determined that there is no "Cumulative Impact" between this project and other projects in the Cannabis Overlay Zone because each project will have commercial cannabis permits for different uses. The facility will be in commercial use with a similar amount of traffic being generated as other facilities adjacent to the site.
2. **Unusual Circumstances.** The City has documented that there exists several businesses in within 1 mile of the site that are retail projects that are similar in terms of size and the nature of vehicle trips. They include a large manufacturing facility, Clover Technologies with similar uses and traffic as the applicant's proposed facility.
3. **Scenic Highways.** The City has determined that the adjacent highway, State Route 111 is not designated a scenic highway.
4. **Hazardous Waste Sites.** The project site is not a "Hazardous Waste Site" pursuant to Section 65962.5 of the Government code; a search of the California Department of Environmental Protection's Cortese List Data Resources dataset was conducted to confirm this fact.
5. **Historical Resources.** This site, nor any parcel in the surrounding area is not considered to be a historical resource.

Summary and Recommendation:

The proposed Conditional Use Permit application has been reviewed by staff to allow the operation of Microbusiness Facility within an existing commercial building located at 2403 Van De Graaf Avenue, Calexico, CA. The project site is located in an area of the city designated for commercial usage within the Cannabis Overlay Zone. Staff recommends the City Council debate and vote on a Resolution Approving a Conditional Use Permit (UA 2020-05) for a cannabis microbusiness facility, located at 2403 Van De Graaf Avenue, Calexico, CA 92231.

Fiscal Impact:

None.

Coordinated With:

Administration.
City Attorney's Office.

Attachments:

1. Draft City Council Resolution No. 2020-____ - Approving Conditional Use Permit No. UA 2020-05 for a Cannabis Microbusiness Facility, located at 2403 Van De Graaf Avenue, Calexico, CA 92231.
2. Letter sent to the applicant informing them of the decision not to approve the requested Conditional Use Permit dated May 27, 2020.
3. Letter from applicant's legal counsel appealing the decision by the Planning Commission to the City Council dated May 28, 2020.

RESOLUTION NO. 2020-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT (UA 2020-05) FOR A CANNABIS MICROBUSINESS FACILITY, LOCATED AT 2403 VAN DE GRAAF AVENUE, CALEXICO, CA 92231.

WHEREAS, the Planning Commission of the City of Calexico (“City Council”) did on the 26th day of May, 2020 hold a duly noticed public hearing to consider the request by the applicant, Calexico Distribution Company, LLC, for approval of the above-noted conditional use permit (“CUP”); and

WHEREAS, the Planning Commission failed to pass Resolution No UA 2020-07, a resolution approving a Conditional Use Permit for a commercial cannabis Microbusiness facility for Calexico Holistic Care Growth Corp at 2403 Van De Graaf Ave the following vote: AYES – 2 NOES – 1 ABSENT – 1 ABSTAIN – 1; and

WHEREAS, the applicant has provided a letter appealing the decision of the Planning Commission to the City Council of the City of Calexico for a final decision in accordance with section 17.01.240 of the Calexico Municipal Code; and

WHEREAS, the City Council of the City of Calexico (“City Council”) adopted Ordinance No. 1191 allowing commercial cannabis businesses, including cannabis manufacturing and distribution; and

WHEREAS, Calexico Holistic Care Growth Corp. has submitted one CUP and one commercial cannabis activity regulatory permit (“Regulatory Permit”) application for a cannabis Microbusiness Facility as a Cultivator of less than ten-thousand (10,000) square feet, a Distributor of cannabis outside City Limits and Level 1 Manufacturing (“Project”); and

WHEREAS, the proposed cannabis Microbusiness facility is located at 2403 Van De Graaf Avenue, Calexico, California 92231 (“Property”); and

WHEREAS, the Property is currently designated as Commercial Highway in the City’s General Plan and as Commercial Highway (CH) within in Cannabis Overlay Zone as described in the City Zoning Code; and

WHEREAS, the applicant has provided all required information, including a business plan, security plan, neighborhood and community outreach plans, and background information, in accordance with the City’s commercial cannabis business requirements; and

WHEREAS, nuisance issues, including, but not limited to, odor and security, are mitigated in accordance with the City’s cannabis regulations and the Project is conditioned to respond to any issues immediately or be subject to revocation of the CUP and/or Regulatory Permit; and

WHEREAS, the Project complies with the goals and polices contained in the City’s General Plan that promote a diverse, growing, and resilient local economy; and

WHEREAS, pursuant to California Public Resources Code section 21067, California Code of Regulations (“State California Environmental Quality Act (“CEQA”) Guidelines”), and the City of Calexico’s CEQA Guidelines, the City is the lead agency for the Project; and

WHEREAS, as the lead agency, the City has reviewed the proposed Project and determined that, the project qualifies for an exemption from formal environmental review under section 15301, Class 1 “Existing Facilities” due to the proposed use being located within an existing facility which has sufficient utility service and that the City Council can adopt a Notice of Exemption to environmental review; and

WHEREAS, the City agreed to consider a CUP for the Project to secure the Property Owner’s rights to develop the Property in accordance with the Project entitlements; and

WHEREAS, the CUP will facilitate development of the Property in a manner which the Parties intend to be consistent with and beneficial to other approved adjacent land uses, thereby generating benefits to the City and its residents. Consequently, granting a CUP is acknowledged to be the mutual benefit of the Parties; and

WHEREAS, to strengthen the public planning process encourage private participation in comprehensive planning and reduce the economic risk of development, pursuant to Article V – Conditional Use Permit regulations of the Calexico Municipal Code and Zoning Ordinance, which authorize the City to enter into a CUP with any person or entity having a legal or equitable interest in real property, providing for the development of such property and establishing certain rights and obligations related to such development; and

WHEREAS, as contained herein, the City has endeavored in good faith to set forth the basis for its decision on the proposed cannabis Microbusiness facility; and

WHEREAS, all of the findings and conclusions made by the City pursuant to this Resolution are based upon the oral and written evidence before it as a whole; and

WHEREAS, at the public hearing considering the CUP, upon hearing and considering all testimony and arguments, if any, of all interested persons desiring to be heard, the City Council did make the findings below to justify the approval of said request; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, the City Council of the City of Calexico DOES HEREBY RESOLVE as follows:

SECTION 1. Recitals. The City Council of the City of Calexico hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. Compliance with CEQA. As the approving authority for the Project, the City Council has reviewed and considered the information contained in the applications and administrative record on file with the City and available for review at 608 Heber Avenue, Calexico, California 92231. The City Council finds that a Notice of Exemption can be adopted in compliance with CEQA. (Pub. Res. Code, § 2100 *et seq.* and the State CEQA Guidelines.)

SECTION 3. Findings for Conditional Use Permit. In approving this Project, the City Council makes the following findings in accordance with Calexico Municipal Code Section 17.01.540:

A. That the proposed location size, design, and operating characteristics of the proposed use is in accord with the title and purpose of this zoning title, the purpose of the zone in which the site is located, the Calexico general plan, and the development policies and standards of the city; and

The purpose of the IR Industrial Rail Served Zone, CH Commercial Highway Zone, and I Industrial Zone, which underlie the Cannabis Overlay Zone, is to allow the development of traditional business parks that allow for manufacturing, distribution, research, and distribution and commercial centers along Highway 86. The proposal to establish a cannabis Microbusiness facility at this location complies with the City's goals and the objectives of the zoning designation, and the City's Cannabis Zoning Ordinance and Commercial Cannabis Regulatory Permit Ordinance by providing a detailed business plan, security plan, odor control plan, neighborhood and community outreach plans, and background check information. The conditional allowance of this use at this site complies with the objectives and purpose of the IR, CH, and I zoning districts.

B. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources, with consideration given to:

1. Harmony in scale, bulk, coverage, and density,

The proposed conditional use is a part of the land use plan and has been located and designed to be compatible with scale, bulk, coverage and density of the proposed adjacent uses. The uses will be subject to the development standards of the same zone as the proposed conditional use.

2. The availability of public facilities, services and utilities,

The proposed conditional use is a part of the land use plan that will provide public facilities, services and utilities needed for this conditional use.

3. The harmful effect, if any, upon desirable neighborhood character,

The proposed conditional use is a part of the land use plan and has been designed and located to be compatible with the existing and proposed neighborhood character. All future buildings and uses will be subject to the development standards of the same zone as the proposed conditional use.

4. The generation of traffic and the capacity and physical character of surrounding streets,

The proposed conditional use is a part of the land use plan that will provide adequate streets and access for this conditional use.

5. The suitability of the site for the type and intensity of use or development which is proposed,

The project site is level and physically unconstrained by vegetation or topographic features.

6. The harmful effect, if any, upon environmental quality and natural resources, and to

The proposed conditional use will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment.

7. Any other relevant impact of the proposed use; and

Any other relevant impact of the proposed conditional use has been considered as a part of the larger project.

C. That the proposed location size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and

Voters of the State of California did in November 2016, vote and approve Proposition 64 – the Control, Regulate and Tax Adult Use of Marijuana Act, to allow the adult use of cannabis subject to local ordinances. The City of Calexico, in response to the voter-approved law, established a committee to evaluate cannabis business potential in the City and found that cannabis businesses are compatible with other general industrial and commercial uses subject to conditions to mitigate nuisances, such as odor and security. As designed, and as conditioned, the establishment of a cannabis Microbusiness facility at this location will not be detrimental to the public health, safety, or welfare, as the use is designed to include on-site security personnel, video surveillance, UV filtration, negative air pressure, and charcoal air filters, to mitigate security and odor nuisance concerns.

D. That the proposed conditional use will comply with each of the applicable provisions of this title, except for an approved variance.

The proposed use complies with the development and use standards of the IR, CH, and I zoning districts and the requirements listed in the City's comprehensive cannabis regulation. No adjustments of variances are proposed for this use.

SECTION 4. Approval. The City Council hereby approves the CUP and regulatory permit applications for the Project.

SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are location at Calexico City Hall at 608 Heber Avenue, Calexico, California 92231.

SECTION 6. Notice of Exemption. The City Council approves the Project and directs staff to file a Notice of Exemption with the County of Imperial and the State Clearinghouse within five (5) working days of any Project approval.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Calexico, California, at its special meeting held on the 17th day of June, 2020, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Bill Hodge, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

CONDITIONS OF APPROVAL

DEVELOPMENT SERVICES DEPARTMENT

Planning Division

1. The Project shall include the development of a cannabis Microbusiness facility located at the 2403 Van De Graaf Avenue, Calexico, California 92231.
2. The Project's development shall conform substantially with exhibits on file with the City's Development Services Department, as modified by the conditions, below.
3. The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees and costs incurred by the City and any claim for private attorney general fees and costs claimed by or awarded to any party, against the City or its agents, officers, or employees, relating to the approval of the Calexico Holistic Care Growth Corp. Project including, but not limited to, any action to attack, set aside, void, challenge, or annul the development approvals (including the Conditional Use Permit and plan review) and any related environmental document or decision (collectively "Development Approvals"). The City will promptly notify applicant of any claim, action or proceeding concerning the Conditional Use Permit. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs incurred by the City. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation-related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform a settlement unless such settlement is approved by Applicant. Within ten (10) days of the filing of any action against the City covered by this Condition 3, the Applicant shall submit a One Hundred Thousand Dollar (\$100,000) cash deposit or irrevocable letter of credit in favor of the City in a form acceptable to the City, to pay the City's fees and costs in connection with the potential defense of any such action, and the satisfaction of any judgment obtained therein, and shall thereafter replenish the funds in increments of Twenty Thousand Dollars (\$20,000) when requested by the City. Failure to provide funds sufficient to satisfy this indemnification obligation shall constitute grounds for the City to take action to nullify the Conditional Use Permit Approvals associated with the Calexico Holistic Care Growth Corp. Project. In the event that excess defense funds are in the possession of the City after any action is concluded, the City shall refund the excess funds to Applicant. In the event any action covered by this Condition 3 is filed after expiration of the applicable statute of limitations period and the City's refund or release of the letter of credit provided above, Applicant shall submit a Twenty Thousand Dollar (\$20,000) cash deposit, to pay the City's fees and costs in connection with defense of such action, within ten (10) days of the service of any petition or complaint on the City in such action and shall thereafter replenish the funds in increments of Ten Thousand Dollars (\$10,000)

within ten (10) days of the City's request for such replenishment. The City shall refund any remaining funds to Applicant within ten (10) days after such action is concluded.

4. In accepting this Conditional Use Permit and operating a business pursuant thereto, the applicant acknowledges that the regulation of the sale of cannabis remains in flux due to the relative novelty of these uses and conflicts with federal law. Applicant agrees that the applicant remains at risk and subject to all changes in federal, state, and Calexico regulations, including the possibility of the discontinuance of such uses or the imposition of additional requirements that render continuing operations infeasible, and does not gain a vested right to continue to operate in any particular manner, in any particular place, or at all.
5. The cannabis Microbusiness use is limited to this location and the use described herein shall be subject to the restrictions and limitations set forth herein which are in addition to the approved use standards listed in the Calexico Municipal Code, and state statutes now in force, or which hereafter may be in force.
6. Continued use of the Property for cannabis purposes is subject to the Applicant maintaining a valid license from the State Bureau of Cannabis Control and providing a copy of same to the City upon issuance and renewal and a valid regulatory permit from the City as provided in Calexico Municipal Code Chapter 5.96.
7. The premises shall be equipped with an odor absorbing ventilation and exhaust system so that odors generated inside the cannabis business are not detected outside of the business, anywhere on adjacent properties, public right-of-way, or in any exterior or interior common areas or tenant spaces. As such, the applicant shall install odor mitigation equipment in accordance with the plans on file as part of this application, and to the satisfaction of the Building Official. Should odor issues arise, the Development Services Department may require additional odor control measures to be employed. At a minimum the Applicant shall install the following:
 - a. Air filtration system with odor control that prevents internal odors from being emitted externally.
 - b. Air systems that create negative air pressure between the cannabis business and the exterior.
8. Security features shall be installed within the Project in accordance with the plans on file as part of this application. All security features shall be installed and maintained as specified in the City's Commercial Cannabis Activity Regulatory Permit Chapter 5.96.
9. The Applicant is required to have on-site security personnel during business hours. Security personnel shall be licensed with the State Bureau of Security and Investigative Services.
10. The Applicant shall comply with all applicable provisions of Chapter 5.96 *Commercial Cannabis Activity Regulatory Permit*.
11. From the public right-of-way, no exterior evidence, other than a building sign to identify the operations, of cannabis products is permitted.

12. All mechanical equipment, either roof or ground mounted, shall be screened from public view. All such equipment shall be fully screened by the roof structure, parapet wall, ground mounted walls, berming and/or landscape.
13. Any window and door security devices such as metal bars, gates, and shutters, shall be installed within the interior of the building and screened from public view.
14. The Applicant shall comply with and pay all applicable fees associated with the attached Conditional Use Permit.
15. The Applicant shall pay a cannabis business tax to the City quarterly in the amount of three (3) cents for each \$1.00 of gross receipts for its cannabis manufacturing business AND sixteen dollars (\$16.00) for each square foot involved in the cultivation of mature canopy in accordance with the rate set by the Calexico City Council.
16. Prior to issuance of any building permits, the Applicant shall sign and complete an "Acknowledgement of Conditions" form and shall return the executed original to the Planning Division for inclusion in the case records.
17. The Project shall be approved for only the uses described and agreed upon within the Conditional Use Permit.
18. The Project shall be developed in accordance with the development standards, design guidelines and land uses, as provided for under the adopted Calexico Municipal Code.
19. Operation of the cannabis business outside of these approvals and conditions shall constitute a violation of the Calexico Municipal Code and shall be enforced pursuant to the provisions in the Calexico Municipal Code. On-going violations, which are not remedied within a timeframe established by the Community Development Director, may result in revocation of the CUP and Commercial Cannabis Regulatory Permit.

Building Division

20. The Project shall comply with the latest adopted edition of the following codes:
 - a. 2019 California Building Code and its appendices and standards.
 - b. 2019 California Plumbing Code and its appendices and standards.
 - c. 2019 California Mechanical Code and its appendices and standards.
 - d. 2019 California Electrical Code.
 - e. 2019 California Energy Code.
 - f. 2019 California Green Building Standards Code.
 - g. 2019 California Administrative Code.
 - h. 2019 California Fire Code and its appendices and standards.

21. All site improvements approved with this request shall be constructed as indicated on the approved site plan. Revisions to approved site plans shall be subject to the review of the Development Services Department. All plans submitted for Building Division Plan Check shall conform to the submitted plans as modified by Conditions of Approval, or the City Council through subsequent action.
22. Prior to the commencement of grading operations, the Applicant shall provide a map of all proposed haul routes to be used for movement of dirt material. Such routes shall be subject to the review and approval of the City Engineer. A bond may be required to pay for damages to the public right-of-way, subject to the approval of the City Engineer.
23. Applicant shall comply with the requirements of the Imperial Irrigation District (“IID”) for any work proposed within the IID’s jurisdiction. Proof of compliance shall be submitted to the Development Services Department prior to issuance of building permits and final approval.
24. Prior to issuance of building permits, Applicant shall provide assurance that all requirements of the City of Calexico Fire, Police, Community Services/Recreation, Utility Services and Administrations Services Departments have been met.

Engineering Division

General

25. The Applicant shall dedicate all required rights-of-way and easements for the Project.
26. Utilities shall be provided in accordance with the City’s Master Water/Sewer Plan.

Street Improvements and Traffic Circulation

27. The Applicant shall be responsible for any costs associated with right-of-way acquisition, if necessary. In the event the acquisition of right-of-way is needed, Applicant shall enter into an agreement with the City prior to the approval of the certificate of occupancy to pay for the costs of acquiring off-site real property interests and to complete the improvements required herein at such time as the City acquires an interest in the real property that will permit the improvements to be made by the Applicant.
28. The Applicant shall retain a qualified California registered civil engineer for design services in accordance with the City Standards.

Other Pertinent Conditions

29. The Applicant shall be responsible for procuring any necessary permits or approvals from regulatory and/or resource agencies.
30. The Conditional Use Permit and Regulatory Agreement shall be deemed void if the developer fails to submit construction plans for review and approval or commence construction within six (6) months of the execution of this Resolution.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Calexico, California, at its special meeting held on the 17th day of June, 2020, by the following roll call vote:

AYES:

NOES:

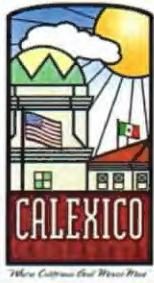
ABSENT:

ABSTAIN:

Bill Hodge, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk



City of Calexico
Development Services Department - Planning Division

IMPORTANT NOTICE - 05/27/2020

Via Email and Certified US Mail

608 Heber Avenue, Calexico, CA 92231

• Phone: (760) 768-2105 • Fax: (760) 357-7862 • Email: planning@calexico.ca.gov

www.calexico.ca.gov

Calexico Holistic Care Growth Corporation
Attention: Mr. Alejandro Calleres and Ms. Julie Le
14347 De Alcala Drive
La Mirada, CA 90638

CC: City Clerk and City Manager

Re: Conditional Use Permit No. UA 2020-05 Application for a Commercial Cannabis Microbusiness Facility

Dear Mr. Calleres and Ms. Julie Le,

Your application for a Conditional Use Permit to establish a Commercial Cannabis Microbusiness Facility **failed to pass** by the following vote:

Ayes:	Zarate, Zamarripa	Absent:	Cota
Noes:	Salazaar	Abstain:	Mayne

"Section 17.01.240 - Action by the Planning Commission states that action by the Planning Commission is deemed final within 10 calendar days unless an appeal is filed with the City Clerk..." If you wish to appeal this decision, please let this notice serve as notice that you have until **June 5th, 2020** to file an appeal with the City Council.

"Section 17.01.250 - Action by the City Council states that the City Council shall review and consider Planning Commission recommendation(s), comments by the applicant and the public. The Council shall act to approve or deny the application and make the appropriate findings, all actions by the City Council are final..."

Should you choose to appeal this decision please send both an electronic copy in PDF format and mail in a hard copy to:

City of Calexico
City Clerk's Office
Attention: Gabriela Garcia
608 Heber Avenue, Calexico, CA 92331

Best,
**Christopher
Velasco**
Christopher Velasco
Contract Planner
City of Calexico

Digitally signed by Christopher Velasco
DN: cn=Christopher Velasco, o=City of Calexico,
ou=Planning Services,
email=planning@calexico.ca.gov, c=US
Date: 2020.05.27 10:30:42 -07'00'

May 28, 2020

VIA U.S. MAIL AND EMAIL

City of Calexico
Attention: Gabriela Garcia
608 Heber Avenue
Calexico, CA 92231
cityclerk@calexico.ca.gov

Re: **Appeal of Planning Commission's Action re: Conditional Use Permit No. UA 2020-05 Application for a Commercial Cannabis Microbusiness Facility**

Dear City of Calexico Officials:

By way of introduction, our firm represents Calexico Holistic Care Growth Corporation and its principals (the "**Applicant**"). Applicant submitted Conditional Use Permit No. UA 2020-05 to operate a commercial cannabis microbusiness facility in Calexico (the "**CUP Application**"). We are aware that, at the Planning Commission meeting on May 26, 2020, the CUP Application failed to secure majority approval from the Planning Commission (i.e., three out of five votes in favor). Specifically, the CUP Application received two (2) votes in favor from Commissioner Zarate and Commissioner Zamarripa and one (1) vote in opposition from Commissioner Salazar, with Commissioner Mayne abstaining from voting and Commissioner Cota absent for the vote.

The purpose of this letter is to formally appeal the Planning Commission's denial of the CUP Application. This letter is submitted pursuant to Section 17.01.240 of the Calexico Municipal Code requiring the applicant to file an appeal within ten (10) calendar days of the Planning Commission's Action. On behalf of Applicant, we are requesting that the Planning Commission reconsider its decision, and, for the reasons set forth herein, hold another meeting whereby all Commissioners participate in the vote regarding the CUP Application.

As outlined in the CUP Application, Applicant is comprised of experienced, responsible, professional, commercial cannabis operators. Applicant intends to be a long-standing community pillar in the City of Calexico that can provide numerous benefits to the City and its residents for years to come. Based on Applicant's track record, we are certain that if the CUP Application is granted Applicant's business will be profitable and successful, which in turn means substantial tax revenue for the City. Moreover, Applicant is committed to hiring Calexico residents to work at its facility, and to teach these residents valuable skills that can contribute to the resident's long-term earning potential. In addition, as it has done in numerous other jurisdictions, Applicant is committed to giving back to the local community. If the CUP Application is awarded, Applicant is willing to contribute a portion of its revenue to support local programs and initiatives at need. To the extent possible, Applicant will also agree to look local when it comes to hiring non-cannabis-related contractors and vendors.

In preparing its CUP Application, Applicant has worked diligently to respond to all requests, deadlines, and responses presented by the Planning Commission and other City officials. As you are likely aware, Applicant's location has already been approved for a retail license, which is in the tenant improvement process now. Applicant has spent significant time, funds, and resources securing a desirable, large, well-positioned facility, where Applicant, can also grow and process products that meet the City's market demand. If the CUP Application for Applicant's microbusiness facility is awarded, Applicant can provide the City's consumers with a true seed-to-sale locally-owned cannabis option, all while being a good, responsible and respectful neighbor.

Applicant knows the approval of its CUP Application is essential to its goals and objectives in the City of Calexico and takes the Planning Commission's approval seriously. In conclusion, Applicant respectfully requests that the Planning Commission hold another meeting to reconsider the CUP Application where all members of the Planning Commission are able to participate in the vote.

Thank you for time and consideration. If you have any questions or desire additional clarification, please do not hesitate to contact the firm at your convenience.

Very truly yours,



RIMÓN LAW

Cc: Client (via email
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