

UNCODIFIED ORDINANCE NO. 741

AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE APPROVING AND ADOPTING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT NO. 733 [ALSO IDENTIFIED AS COMMERCIAL CANNABIS PERMIT I.D. NO. 18-023] BETWEEN THE CITY OF COMMERCE AND A & E INVESTMENT GROUP, LLC [A CALIFORNIA LIMITED LIABILITY COMPANY] FOR CHANGE OF MEMBERSHIP AND OWNERSHIP OF A & E INVESTMENT GROUP, LLC, PREVIOUSLY APPROVED TO OPERATE A COMMERCIAL CANNABIS BUSINESS; MAKING FINDINGS CONSISTENT WITH AND PURSUANT TO GOVERNMENT CODE SECTION 65867.5; AND MAKING FINDINGS OF A CEQA CATEGORICAL EXEMPTION

WHEREAS, the State of California enacted California Government Code Sections 65864 et seq. (“Development Agreement Statutes”) to authorize municipalities to enter into development agreements with those having an interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction;

WHEREAS, the purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the Applicant, and to meet certain public purposes of the local government;

WHEREAS, as authorized by the Development Agreement Statutes, the City has adopted Resolution No. 18-50 (“A Resolution of the City Council of the City of Commerce Approving Procedures and Requirements for the Processing of Development Agreements”) establishing the procedures and requirements for the consideration of development agreements with the City;

WHEREAS, on September 4 2018, City Council adopted Ordinance No. 700, concerning commercial cannabis regulations, which added new Chapter 5.61 “Commercial Cannabis Activities”, of Title 5, “Business Regulations and Licensing”, of the Commerce Municipal Code, and became effective October 4, 2018;

WHEREAS, the purpose and intent of Ordinance No. 700 is to regulate the cultivation, manufacturing, testing, distribution, non-storefront retailer-delivery only, and microbusinesses, of medicinal and adult-use cannabis and cannabis products, and the ancillary transportation and delivery of same, in a responsible manner to protect the health, safety, and welfare of the residents of the City of Commerce and to enforce rules and regulations consistent with the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), and related laws, regulations, and policies issued by the State of California;

WHEREAS, in October 2018, Owner A & E Investment Group, LLC, (a California limited liability company) applied to this City for a Commercial Cannabis Permit

(hereinafter "CCP") to conduct Commercial Cannabis Activities. No such activities are allowed or authorized without a Development Agreement, a Commercial Cannabis Permit, and all requirements pursuant to City Ordinance No. 700, including all requirements pursuant to Commerce Municipal Code Section 5.61.060, which includes all applicable local and State of California laws, regulations and policies;

WHEREAS, the definition of "Owner" hereunder shall mean and refer to the Development Agreement applicant, to the extent such person is a party to the Development Agreement, and will hold or be covered by a City of Commerce Commercial Cannabis Permit to operate a commercial cannabis business in the City of Commerce;

WHEREAS, Owner currently holds a legal or equitable interest in real property considered in the Development Agreement, located at 4234 E. Pacific Way, #B, City of Commerce, State of California (the "Site");

WHEREAS, Owner presently has duly approved and executed Development Agreement with the City which allows for the operation of a commercial cannabis business at the Site, consistent with all applicable local and State of California laws, regulations and policies;

WHEREAS, Article 21 of the Development Agreement prohibits the sale, assignment, or transfer by Owner of any portion of Owner's interests, rights, or titles described in Development Agreement to a third party without prior written approval by the City of Commerce;

WHEREAS, A&E Investment Group, LLC has changed ownership and membership, wherein Suren Vardikyan, former sole owner of A&E Investment Group, LLC ("Assignor"), has sold 100% of its interest of A&E Investment Group, LLC to Scott Kawasaki ("Assignee"), becoming 100% owner and member of A&E Investment Group, LLC;

WHEREAS, Assignor intends to assign, and Assignee intends to assume, all assignable rights under the Development Agreement;

WHEREAS, in accordance with the terms of the Development Agreement, including Article 21, Owner/Assignor and Assignee have provided to the City of Commerce a written request to a modification to the Development Agreement for City's consent to assignment and change of ownership. The City has received the application materials, information and requisite fees it deems sufficient, appropriate and complete for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement, and its First Amendment;

WHEREAS, this First Amendment is intended to meet the requirements of Article 21 of the Development Agreement and Ordinance No. 700 for an assignment and assumption agreement, and is executed with the consent of City of Commerce as contemplated in the Development Agreement;

WHEREAS, this First Amendment is entered into pursuant to Government Code sections 65868 and 65867.5, which require that this Amendment be approved by City

ordinance;

WHEREAS, all procedures of the California Environmental Quality Act (“CEQA”), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied;

WHEREAS, the City has found that the proposed Project is Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines Section 15301 – Existing Facilities. This exemption applies to projects characterized as alterations to existing facilities meeting the conditions described in Section 15301;

WHEREAS, the City has given public notice of its intention to adopt this Development Agreement and has conducted a public hearing thereon pursuant to California Government Code §65867;

WHEREAS, the Planning Commission considered the provisions of the First Amendment to the Development Agreement at a duly noticed public hearings on November 26, 2019 wherein all interested parties were given an opportunity to be heard regarding the Agreement, and recommended approval of the First Amendment to the Development Agreement to the City Council, pursuant to an adopted Resolution, which is incorporated herein by this reference;

WHEREAS, Sections 65864-65869.5 of the California Government Code authorize the City to enter into development agreements and requires the planning agency of the City to find the proposed Development Agreement to be consistent with the policies and programs of the General Plan and any applicable specific plan. Government Code Section 65865 authorizes the City to enter into development agreements with any person having a legal or equitable interest in real property, which interest Owner has in the Site, as evidenced by the information within the Development Agreement, and attachments thereto. Government Code Sections 65867.5 and 65868 further allow for amendments to a Development Agreement;

WHEREAS, after conducting a duly noticed hearing on December 17, 2019, in conjunction with the City’s applicable ordinances and resolutions, and after independent review, consideration, analysis of staff’s recommendations, oral and written testimony, and the record as a whole, the City Council approved the execution of this First Amendment to the Development Agreement, and made findings after due study, deliberation, and public hearing, the City Council found the Project: consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan and any applicable special plan; compatible with the uses authorized in the City’s standards, codes, and zoning laws; in conformity with the public necessity, public convenience, general welfare and good land use practices; in accordance with the Development Agreement Statutes, including Government Code Section 65864 through 65869.5; will not be detrimental to the health, safety and general welfare of the City; will not adversely affect the orderly development of property or the preservation of property values; will have a positive fiscal impact on the City; and is in the best interest of the City of Commerce and its residents;

WHEREAS, the City has given public notice of its intention to adopt this First Amendment to the Development Agreement and has conducted a public hearing thereon pursuant to California Government Code §65867; specifically, pursuant to California Government Code Sections 65867 and 65090, the City of Commerce, on December 5, 2019, published legal notice in the Los Angeles Wave News of City Council's consideration of this proposed First Amendment to the Development Agreement and mailed out notice to property owners located within 500 feet of the Site, indicating the public hearing to be held by the City of Commerce City of Council on December 17, 2019;

WHEREAS, all other legal prerequisites to the approval and adoption of this Ordinance approving and adopting this First Amendment to the Development Agreement have occurred.

NOW, THEREFORE, the City Council of the City of Commerce does ORDAIN as follows:

SECTION 1: RECITALS. That based upon staff reports, presentations, public testimony, and all other matters presented during the public hearing on this item, the City Council hereby finds and declares that the foregoing recitals are true and correct and incorporates them herein as findings and as a substantive part of this Ordinance.

SECTION 2: ADDITIONAL FINDINGS. Pursuant to the Government Section Code 65864 through 65869.5 and in light of the record before it including the staff report (and all attachments), and all evidence and testimony heard at the public hearing for this item, and in light of all evidence and testimony provided in connection with this Project, the City Council makes the following FINDINGS pertaining to the First Amendment to the Development Agreement as related to the proposed disposition of the Site for purposes of the Project:

FINDING 1: The proposed First Amendment to the Development Agreement is consistent with the goals and policies of the General Plan, its purposes and applicable Specific Plan(s).

Evidence: The proposed use is consistent with the objectives, policies, general, uses, and programs of the Commerce General Plan. This project is consistent with the General Plan in that it contributes to help establish an orderly pattern of development, economic development, and a wide range of activities. The project will also improve an existing building that has been underutilized. It will improve upon that use and help compliment the general vicinity. As determined by staff, the use will promote the improvement of a location where reinvestment and revitalization is needed. Furthermore, the project will provide needed economic development to the community.

Evidence: The proposed use is one compatible and consistent within the subject zone and complies with the intent of all applicable provisions of this Title 19.

Evidence: The proposed use would not impair the integrity and character of the zone in which it is to be located. As proposed, the use will be complimentary to

other uses in the immediate vicinity. As such, the proposed use will not impair the integrity of the area or its character. Appropriate conditions of approval have also been crafted in order to ensure the use operates in a manner so as not to impact the area in which it is located.

Evidence: The subject site is physically suitable for the type of land use being proposed. All proposals to accommodate the commercial cannabis use will occur within the existing footprint of the building.

Evidence: The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare. The proposed operation of the use will be conditioned to comply with all the applicable standards of the Zoning Ordinance, and with the conditions of approval, the project will not adversely impact the general welfare of the City. To the contrary, the proposed use will be complimentary to the existing operations currently occurring in the general vicinity and operated by the ownership group. Further, the proposed use will be maintained in a safe and efficient manner in accordance with the imposed conditions. The conditions imposed will serve the public interest, health, safety, convenience, and welfare. Therefore, the proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

FINDING 2. All procedures of the California Environmental Quality Act (“CEQA”), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied and the City Council has found that the proposed Project is Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines Section 15301 – Existing Facilities. This exemption applies to projects characterized as alterations to existing facilities meeting the conditions described in Section 15301;

Evidence: After a thorough examination of the Project application for the proposed Project and proposed Site, including, but not limited to, standard operating procedures (“SOPs”), security plan, site plan and environmental data form, staff determined that the approval of this First Amendment to the Development Agreement and the related commercial cannabis uses pursuant to this Project meet the provisions of CEQA categorical exemptions.

Evidence: Pursuant to CEQA, the City Council finds and determines there is no substantial evidence that the Project could have a significant effect on the environment. The Project is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (CEQA Guidelines 15061(b)(3).). The City Council in its independent judgment finds that there is no possible significant effect directly related to the Project because the Project consists of a small addition, expansion or alteration to an existing structure where there is negligible or no expansion of the use. The City Council finds that commercial cannabis uses will have similar impacts as the uses that have already been evaluated and are permitted by right in the applicable zone. The City Council finds that the Project will not cause any physical change in

the environment, that the project is categorically exempt from CEQA under Administrative Code, Title 14, Chapter 3, § 15301(a), Class 1, Existing Facilities, and therefore no further action is required under CEQA.

SECTION 3: INCORPORATION, APPROVAL AND EXECUTION OF FIRST AMENDMENT TO DEVELOPMENT AGREEMENT. Based upon the findings outlined hereinabove, the City Council of the City of Commerce hereby approves a First Amendment to Development Agreement, and inclusive of exhibits thereof, [also identified as Commercial Cannabis Permit I.D. No. 18-023] between the City of Commerce and A & E Investment Group, LLC (a California limited liability company), under new ownership and membership, incorporated herein by this reference, and authorizes the Mayor to execute the Development Agreement subject to final and technical revisions as required and approved by the City Attorney.

SECTION 4: SEVERABILITY. If any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Ordinance, or its application to any individual, entity, or circumstance, for any reason, is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and shall continue in full force and effect. To this end, any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion of this Ordinance is severable. The City Council of the City of Commerce declares that this Ordinance would have been adopted by the City Council of the fact that any section, subsection, line, sentence, clause, phrase, word, part, provision, or portion thereof, might be declared to be invalid or unconstitutional.

SECTION 5: EFFECTIVE DATE. This Ordinance shall take effect on the thirty-first (31st) day after its adoption.

PASSED, APPROVED AND ADOPTED this 7th day of January, 2020.


John Soria
Mayor

ATTEST:


City Clerk