

RESOLUTION NO. 6068

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA, TO DENY THE APPEAL OF THE PLANNING COMMISSION'S DECISION AND DENY CONDITIONAL USE PERMIT NO. 19-05 FOR A COMMERCIAL CANNABIS CULTIVATION FACILITY AT 3744 FRUITLAND AVENUE IN THE IN THE MANUFACTURING (M) ZONE

WHEREAS, Ms. Jennifer Michael for MJM Holdings, LLC ("Applicant") filed Application No. PC 19-05 for a Conditional Use Permit ("CUP") pursuant to the provisions of Appendix C of the Maywood Zoning Ordinance, as amended per Ordinance No. 18-12, and Section 5100 et. seq. of the Maywood Zoning Ordinance to allow for the establishment of a commercial cannabis cultivation facility ("Application" or "Proposed Use") on property located at 3744 Fruitland Avenue (APN 6311-001-004), Maywood CA 90270, ("Subject Site"); and

WHEREAS, the Planning Commission held a duly noticed public hearing on the Application on September 3, 2019 and the conditional use permit was denied on a 5-0 vote and the Planning Commission directed staff to bring back a resolution of denial;

WHEREAS, on September 9, 2019, the Planning Commission adopted Resolution PC 19-0457 denying Conditional Use Permit No. 19-05;

WHEREAS, the Applicant filed a timely appeal to the City Council of the Planning Commission's decision to deny Conditional Use Permit No. 19-05;

WHEREAS, the City Council held a duly noticed public hearing on the Application on September 25, 2019, where evidence, both written and oral, was presented at said hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MAYWOOD HEREBY DETERMINES, FINDS AND RESOLVES AS FOLLOWS:

Section 1. The recitals set forth in this Resolution are true and correct and incorporated herein as if set forth in full.

Section 2. Section 5100.40(C) of the Maywood Zoning Ordinance provides that the City Council shall deny a requested conditional use permit where the findings indicate that the applicant has failed to show: (i) that the requested use will not be materially detrimental to the property of other persons located in the vicinity, or a menace to the public health, safety, or general welfare; and (ii) that reasonable restrictions or conditions to permit the establishment of the proposed use would prevent [the] detriment, or menace as indicated.

Section 3. Based on the entire record before the City Council, all written and oral evidence presented to the City Council and the record before the Planning Commission, and pursuant Section 5100.40(C) of the Maywood Zoning Ordinance, the City Council finds as follows:

A. The Applicant has failed to show that the proposed commercial cannabis cultivation facility will not be materially detrimental to the property of other persons located in the vicinity, or a menace to the public health, safety, or general welfare. The Proposed Use is for the cultivation of cannabis which is defined as planting, growing, harvesting, drying, curing, grading and trimming of cannabis plants. The Applicant intends to utilize the entire building (7,930 square-feet) for this use. The building, however, is adjacent to sensitive residential uses located on the southern portion of the Subject Site. While there is a block wall that separates the building from the residential uses, testimony from residents revealed concerns with odors emanating from other cultivation and cannabis facilities in the City as well as additional crime in the evening hours because of the existence of cannabis facilities in the City. Coupled with the fact that there are existing multiple commercial cannabis facilities within the immediate vicinity of the Subject Site (along the Fruitland Avenue corridor), the addition of the Applicant's facilities will adversely impact and be materially detrimental to the residential uses to the South as well as be a menace to the public health, safety and general welfare of those residents and the area at large.

B. The Applicant has failed to show that reasonable restrictions or conditions to permit the proposed commercial cannabis cultivation facility would prevent the detriment and menace as described in paragraph A above. The City is approximately 1.5 square miles but yet there are 10.9 licensed facilities per square mile, including 4 existing cultivation facilities with the possibility of an additional cultivation facility. Accordingly, the City has a high concentration of commercial cannabis facilities in the City. The addition of another commercial cannabis facility adjacent to sensitive residential uses would exacerbate the issues of odor and crime being experienced by residents in the community that are near or adjacent to such uses. Accordingly, there are no reasonable conditions that can be placed on the Proposed Use to prevent the detriment and menace described in this Resolution.

C. The City Council finds that it is unable to make the findings required by Section 5100.40 of the Maywood Zoning to approve a conditional use permit. Specifically, for the reasons set forth in this Resolution the Proposed Use is: (i) inconsistent with the General Plan; (ii) will adversely affect and is materially detrimental to the adjacent uses and buildings in the vicinity, specifically the adjacent residential uses and the economic impact to the commercial uses; (iii) the site is not adequate in size and shape to accommodate the parking and loading facilities and the development features required to integrate the Proposed Use with uses in the neighborhood.

Section 4. Based on the findings set forth above in Section 3 and on all other evidence in the record, both oral and written, the City Council of the City of Maywood hereby denies the Application for a CUP to allow establishment of a commercial cannabis cultivation facility at 3744 Fruitland Avenue.

Section 5. CEQA. Staff has determined that the project proposed by this Application is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) because CEQA does not apply to a project that is rejected or disapproved. The City Council has reviewed Staff's determination of exemption, and based on its own independent judgment, concurs in staff's determination.

Section 6. This Resolution No. 6068 shall be effective immediately upon its passage and approval.

PASSED, APPROVED AND ADOPTED this 25th day of September 2019, by the following vote:

AYES: DeLaRiva, Lara, and Marquez

NOES:

ABSENT: Alvarez and Medina

ABSTAIN:


EDUARDO DE LA RIVA, MAYOR

ATTEST:


GERARDO MAYAGOITIA, CITY CLERK

APPROVED AS TO FORM:


ROXANNE DIAZ, CITY ATTORNEY