

PLANNING COMMISSION MINUTES
CITY OF PALM SPRINGS, CALIFORNIA
September 25, 2019
Council Chamber, City Hall
3200 East Tahquitz Canyon Way, Palm Springs, California

CALL TO ORDER:

Chair Woods called the meeting to order at 1:33 pm.

ROLL CALL:

Present: Donenfeld, Garner, Hirschbein, Vice Chair Moruzzi, Chair Woods

Absent: Song

Staff Present: Planning Director Fagg, Attorney Priest, Administrative Coordinator Hintz, Engineering Associate Minjares, Principal Planner Newell, Principal Planner Robertson

REPORT OF POSTING OF AGENDA: The Agenda was available for public access at the City Hall exterior bulletin board (west side of Council Chamber) and the Planning Services counter by 6:00 pm, Thursday, September 19, 2019.

ACCEPTANCE OF THE AGENDA: The agenda was unanimously accepted as presented.

Chair Woods, seconded by Donenfeld to accept the agenda as presented.

AYES: DONENFELD, GARNER, HIRSCHBEIN, MORUZZI, WOODS

ABSENT: SONG

PUBLIC COMMENTS:

Chair Woods opened the Public Comments portion of the meeting:

PAULA AUBURN, Cannabis workgroup for ONE PS, co-chair, stated that the following feedback was received that came out of the meeting: 1. One-mile distance from manufacturing to residential 2. Supports the 1-10 Green Zone 3. 2-step notification process for neighborhood.

RODNEY GARCIA, Riviera Gardens resident, spoke in opposition to the Riviera Timeshare (Item 2A).

There being no further speakers public comments was closed.

1. CONSENT CALENDAR: NONE.

2. PUBLIC HEARINGS:

2A. AGRE DCP PALM SPRINGS, LLC (DBA: RIVIERA HOTEL) FOR A CONDITIONAL USE PERMIT (5.1479 CUP) FOR THE CONVERSION OF 163 ROOMS IN BUILDINGS 4 & 5 FOR TIME SHARE PURPOSES; AND A TENTATIVE TRACT MAP (37726 TTM) FOR TIME SHARE PURPOSES AS PART OF THE RIVIERA HOTEL AND RESORT LOCATED AT 1600 NORTH INDIAN CANYON DRIVE, ZONE R-3, SECTION 2. (GM)

Donenfeld, seconded by Hirschbein to continue to date certain of October 10, 2019.

AYES: DONENFELD, GARNER, HIRSCHBEIN, MORUZZI, WOODS
ABSENT: SONG

2B. NEW VALLEY PS, LLC FOR A TENTATIVE TRACT MAP (TTM 37706) TO SUBDIVIDE 8.48-ACRES OF LAND WITHIN PLANNING AREA 1 OF "ESCENA" INTO (40) SINGLE-FAMILY RESIDENTIAL LOTS, (4) COMMON LOTS AND PRIVATE STREETS, IN ACCORDANCE WITH THE APPROVED PLANNED DEVELOPMENT DISTRICT, PD-231, LOCATED AT 1000 NORTH GENE AUTRY TRAIL, APN 677-250-047 (TTM 37706). (ER)

Donenfeld, seconded by Hirschbein to continue to date certain of October 10, 2019.

AYES: DONENFELD, GARNER, HIRSCHBEIN, MORUZZI, WOODS
ABSENT: SONG

2. UNFINISHED BUSINESS: NONE.

3. NEW BUSINESS:

3A. FAR WEST INDUSTRIES FOR THE FINAL DEVELOPMENT PLAN AND A REVISED TENTATIVE TRACT MAP TO CONSTRUCT "ELAN" – A RESIDENTIAL PROJECT CONSISTING OF (56) SINGLE-FAMILY RESIDENCES, (25) MULTI-FAMILY RESIDENTIAL CONDOMINIUMS AND RELATED ON-/OFF-SITE IMPROVEMENTS ON A 12.38-ACRE SITE

LOCATED AT 777 SOUTH PALM CANYON DRIVE, ZONE PD-379 (CASE NOS. 5.1378 PD-379 & TTM 36914). (DN)

Principal Planner Newell presented the proposed final development as outlined in the staff report.

Engineering Associate Minjares explained the drainage issues on the site plan. He stated that resolving the draining issues on the site could be done by raising the pads and intercepting the water on Belardo Road. By raising these pads, it gives them better management of conveying the water that is generated on-site and taking it to an underground facility.

Commissioner Donenfeld said that he is not comfortable with this project because of the significant changes to the drainage and many of the other issues.

Commissioner Hirschbein said as of today they are getting changes on the unit design and mix that has a significant impact on the view from the Tahquitz Creek Trail. He thinks the developer needs to comply with having the second floor mass on those units away from the creek, which was a very important part of the approvals. He said originally they had one-story units and then proposed two-story units. He said that another reason is the landscape buffer between the perimeter wall and the property line to mitigate the visual impact along that trail.

Vice Chair Moruzzi concurred with Commissioner Hirschbein that this small detail could be huge if the houses are too tall on Belardo Road. He requested view simulations of driving a car on Belardo Road looking eastward towards the houses.

Chair Woods disagreed with his fellow Commissioners. He pointed out that the wall that was approved as part of the PDD, compared to the proposed wall it has minimal visibility changes. He thinks this site has an enormous amount of challenges to it. Far West has proven to Palm Springs to complete developments. He thinks part of the reason the paseos are gone is because of the settlement agreement. He is in support of this project.

BRIAN BERKSON, Far West Industries, applicant, provided details on the existing site and grading; and noted that positive water flow is needed on the site to provide drainage. He clarified that the paseos have been omitted because of the settlement agreement. He stated that if the Commission desires, they could mix the solid wall with wrought iron material.

Chair Woods re-iterated that this site has had many constraints and has gone through an enormous amount of scrutiny.

Chair Woods made a motion to approve subject to adding trees along Tahquitz, as proposed. *MOTION DIED DUE TO A LACK OF A SECOND.*

Hirschbein, seconded by Moruzzi to continue the project to allow the applicant and staff to do the following:

1. To provide visual simulations exhibits to understand project changes. Simulations should be from the following vantage points:
 - a. Standing on Baristo Road looking east;
 - b. Standing inside homes adjacent to Belardo Road looking west; and
 - c. Standing inside homes in center of site looking towards rear of adjacent homes;
2. Consider previous wall design to allow views through the perimeter wall, particularly on the west side of the site.
3. Ensure buffer along north side is consistent with Preliminary Development Plan- (staff to verify).
4. Install pedestrian access gates on rear wall of homes abutting Tahquitz Creek.
5. Commission was generally opposed to 2nd-story units with bulk at rear of home abutting Tahquitz Creek.

AYES: DONENFELD, GARNER, HIRSCHBEIN, MORUZZI, WOODS

ABSENT: SONG

4. DISCUSSION ONLY:

4A. REQUEST BY THE CITY OF PALM SPRINGS TO AMEND THE CHAPTERS 91, 92, 93 AND 94 OF THE PALM SPRINGS ZONING CODE (PSZC) RELATIVE TO THE DEVELOPMENT STANDARDS FOR CANNABIS USES (CASE 5.1218-H ZTA). (FF)

Planning Director Fagg provided background information and outlined changes made from the Planning Commission Study Session held on September 11, 2019.

Chair Woods opened public comments:

TEMPE ESSELL, Cannabis workgroup member, believes that no one should be forced to stay indoors to avoid the smell of cannabis and children should not be exposed to the odor. She said that the neighbors feel better with a one-mile distance requirement and spoke in favor of the proposed changes.

STEVE AGUILAR, spoke in opposition to the staff report to the area near Vista Chino that backs into the Palm Springs Airport. He thinks the issues in regards to the density, setbacks and cultivation should continue to be allowed. He said they purchased a building on Montalvo and have done their due diligence; they will have a state-of-the-art odor control system. He spoke about the huge amount of money they have invested in this property.

KYLE HUSFLOEN, the Demuth Park area is highly saturated with dispensaries and growing facilities. He thinks the distance requirement should be more than 1000 feet or at

least one mile to eliminate the odors. He agrees restricting cultivation and manufacturing use to the I-10 corridor.

(Unidentified speaker), real estate investor, requested consideration to grandfather properties that have been purchased and people have invested money that would create an undue hardship for them.

RYAN MIERAU, operating manager, applicant for dispensary and consumption lounge, spoke in support of the amendment to the cannabis ordinance; noting that the new changes make sense.

CARINA ROMERO, on behalf of Highroad Consulting Group, said that the three-year vacancy and two year experience for the waiver program is too rigid. They suggest extending the land use entitlement applications that are pending review prior to the adoption of the draft ordinance to the end of the year.

STEVEN WIJATYK, cannabis applicant for manufacturing & dispensary, concerned that pending land use entitlement applications in the M-1 zone are not being addressed which could affect his small business. He requested consideration be given to allow Type 6 manufacturing in the M-1 zone for pending land use applications or definition of small scale buildings.

JOY BROWN MEREDITH, there needs to be balance between the needs of the residents and the separation distance requirements. She agreed with previous testimony regarding consideration of smaller cannabis facility, which will have fewer problems than a larger one.

SHANE CANBY, cannabis cultivation, cultivation & manufacturing in Demuth Park area, concerned that they are grandfathered in because they purchased the building in the M-1 zone since there were no distance requirements.

HAROLD IVAN SMITH, spoke about the risks associated with buying a property and going into business. He cannot "just trust" the technology that claims to remove the cannabis odors- he urged the Commission not to rush making a decision.

ARDINE THOMPSON, Escena Neighborhood Organization, chairperson, said that the Commission has addressed their concerns and they agree with the recommended modifications. They request that the modifications include the pending applications. In addition, they suggest adding more language that all cannabis businesses be required to use the latest odor control technology.

KATHY WEREMIUK, requested that all the waiver requirements be inclusive- with a two-year or equity for people who have been impacted or excluded from cannabis businesses. She recommends no waivers be allowed for Type 6 and 7 cannabis manufacturing facilities and notification be given to neighborhoods within one mile when application is filed and hearing date.

PAUL HINRICHSON, Upper Westside Neighborhood Organization, chair, said that their neighborhood has been strongly impacted by the odor of grow facilities that had mitigation and odor control plans in effect. He said that there are major gaps with the mitigation of monitoring and requested that new equipment be required. He said that the I-10 corridor has strong support of the neighborhoods.

ROBERT HEINBAUGH, Upper Westside resident, spoke about citizens losing hope and patience because they feel that their voices are not being heard or make a difference. He stated that the issues are not about revenues or cannabis but rather about listening and working with all the people of this city.

Commission Comments:

Commissioner Garner:

She noted that beyond the M-2 location on the map (green zone) there is a mobile home park (with lots of children) and urged the Commission to be mindful of this. She suggested staff could also provide distance recommendations within this zone. Commissioner Garner noted that at the previous meeting she commented on the social equity portion (in the minutes of Sept. 11th study session) and thinks it should be included in the waiver process. She would like to see more information about the size of the grow facilities and the impact of mitigating the odor in a small space compared to a larger space and use of the latest technology. She would like to see more flexibility on the distance requirement waiver to allow considerations for renting of spaces. She questioned if the Commission may want to look at dispensaries with lounges vs. dispensaries only- she does not think there is enough of businesses to cater to this type community.

Commissioner Hirschbein:

He said pertaining to the rules changing for the pending applications they should look at a minimum of refunding the application fees.

Commissioner Donenfeld:

He thinks one of the most important things they have done is mandating Types 6 & 7 manufacturing and cultivation zones in the green zone. He is in favor of the waivers because the City Council should have discretion in extraordinary cases and they are the governing body of our city. He thinks the waiver criteria should be relatively stringent-cumulative, not separate and individual. He also thinks that the equity position is also important because the operation license does not give you the investment of being an owner. He does think waivers for Types 6 and 7 are not necessary because they affect where people live. He thinks that they need to be careful about proper notification and not doing it so extensively geographically and numerically that they make notification more important than regulating the substance of the cannabis industry.

Vice Chair Moruzzi:

He said that his colleagues have raised the issues he has and does not have any further comments.

Chair Woods:

He noted that one issue they have not considered (from public testimony) is the effect of the requirements on small businesses vs. large businesses. He concurs with the distance, notification and using the latest technology-, not only carbon filters for odor control. He likes the idea of the waiver that includes social criteria, which may shorten the time the building is vacant. He recommends architectural review in the industrial and commercial zones.

Commissioner Garner:

She thinks the AAC review of the signs and then forwarding to the City Council seems like a lot. She said that AAC review should be sufficient since they have been talking about streamlining the process.

Planning Director Fagg informed the public that the Planning Commission would hold a public hearing and make their final recommendations on October 10th.

No action taken- for discussion only.

PLANNING COMMISSION REPORTS, REQUESTS AND COMMENTS:

- Status of Tova Hotel, Bel Air Greens, Lawrence Real and Dream Hotel project.

CITY COUNCIL LIAISON REPORT: None.

PLANNING DIRECTOR'S REPORT:

- Initial Study distributed to the Commission that will be forthcoming.
- Schedule of the General Plan Update.

ADJOURNMENT: The Planning Commission adjourned at 4:22 pm to 1:30 pm, Thursday, October 10, 2019, City Hall, Council Chamber, 3200 East Tahquitz Canyon Way.


Flinn Fagg, AICP
Director of Planning Services