

PLANNING COMMISSION MINUTES
CITY OF PALM SPRINGS, CALIFORNIA
October 10, 2019
Council Chamber, City Hall
3200 East Tahquitz Canyon Way, Palm Springs, California

CALL TO ORDER:

Chair Woods called the meeting to order at 1:31 pm.

ROLL CALL:

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

Absent: None

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

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, October 3, 2019.

ACCEPTANCE OF THE AGENDA: The agenda was unanimously accepted, moving Item 2D as the first public hearing of the afternoon.

Woods, seconded by Donenfeld, to accept the agenda, as amended.

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

PUBLIC COMMENTS:

Chair Woods opened the public hearing:

DAVID SMITH, architect, West Group Designs, Item 4B, said the medical office building is county designed for the Riverside University Hospital. They are available for questions from the Commission.

There being no further speakers, public comments was closed.

1. CONSENT CALENDAR:

Song, seconded by Garner to approve Consent Calendar, as amended.

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

1A. APPROVAL OF MINUTES: SEPTEMBER 11, 2019 STUDY SESSION MINUTES

2. PUBLIC HEARINGS:

(THIS ITEM WAS MOVED TO THE FIRST PUBLIC HEARING)

2D. 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 an overview on the proposed cannabis ordinance reflecting the recommendations proposed by the Planning Commission on September 11 and September 25, 2019.

Chair Woods opened the public hearing:

KYLE HUSFLOEN, Demuth Park Neighborhood, was shocked to see that three licenses were permitted this week in the Demuth Park area. He is concerned that these cannabis businesses were permitted when there is a moratorium in effect for this area.

SALIM ALAMA, Oasis Del Sol Neighborhood, have been part of cannabis workgroup with others, he would like to make sure these items are included as part of the ordinance: the green zone corridor and the adjacent trailer park and housing areas are a minimum of 1000 feet distance.

PAUL HINRICHSEN, said rumors about lack of water and sewer connection in the green zone are not accurate. He said he has studied the nasal ranger equipment that detects cannabis odors and there is no science to it and does not work. He said it does not have meters or sensors and is only a hose and a nosepiece. People do not breathe through a pinhole. He recommended that the nasal ranger equipment be permanently suspended.

CARINA ROMERO, on behalf of Highroad Consulting Group, she said the waiver criteria for the census tract requirement is great for retailers; however it does not apply to Type N or P licensees as these types of businesses cater to the State of California. She requested a one-year vacancy be taken into consideration for the waiver program.

(unidentified speaker) said that cannabis odors can be controlled and have to purchase the correct equipment. He said this is not a zoning issue but rather a code enforcement. He said the cannabis industry is growing and needs to be treated like other businesses.

STEVEN WIJATYK, cannabis applicant for manufacturing & dispensary, he was pleased to see small-scale cultivation and manufacturing facilities. He requested the Commission add alternative one or two as proposed to the ordinance.

STEVEN AGUILAR, pointed out the previous speaker's comment about a 2500 sq. ft. building after having bathrooms, hallways and all required equipment to cultivate you are down to about 1250 sq. ft. of actual space. He said most cannabis facilities are using typical standard carbon filters. He requested one-year vacancy for the waiver program and reiterated that you can have odor free buildings.

STEVEN ROSENBERG, said that the problem is odor control and until they have a response from code enforcement on what they can do to enforce it would not be wise. He said what is being proposed today only moves the odor and does not eliminate it.

There being no further speakers the public hearing was closed.

Commissioner Garner:

She expressed concern about the odor control problem and how it needs to be addressed.

Commissioner Song:

She spoke in favor of the small-scale businesses up to 2500 sq. ft. limit as long as cannabis cultivation and manufacturing is contained in smaller square footage. She said about the waiver program, one-year could be considered given that the previous business was not a cannabis facility.

Commissioner Hirschbein:

He said it is not very easy to enforce the odor issue and pointed-out that this amendment is a direct response to this problem. He thinks they should not be allowing a waiver outside of the I-10 corridor. He thinks they should not be allowing cultivation or manufacturing within the city core and maybe sometime in the future the issues associated with these uses will be cleaned-up.

Commissioner Donenfeld:

He concurs with the Commissioners. He noted that cannabis is an industry that is a just starting out; and there is no guarantee, no matter how good the technology, that it can control the odors completely. The solution is physical separation from neighborhoods until they figure out a way to eliminate the odors. He does not think they should make an exception for small cultivation and manufacturing outside of the green zone. They are trying to be sensitive to the industry but also want to make sure Palm Springs stays a comfortable, lovely place that tourists like to visit.

Vice Chair Moruzzi:

Concurred with Commissioner Donenfeld. He requested clarification on the social equity of the waiver program.

Commissioner Garner:

She prefers two years of progressive experience in the industry for the social equity criteria.

Chair Woods:

He said the issue that is before them because of the odor. He said they need separation not only for the odor but also for the fabric of the community. He thinks the 1000 ft. separation addresses over-concentration and is very restrictive. He suggested allowing manufacturing that are not Type 6 and 7 in core industrial areas.

Commissioner Garner thinks the green zone should have a separation distance from residential (1000 feet).

Donenfeld, seconded by Song to recommend approval to City Council with the following changes:

1. Waiver Criteria: Broaden the experience from ownership to experience in the cannabis industry.
2. Allow small-scale cannabis businesses excluding cultivation and Types 6 and 7 manufacturing with a 2500 sq. ft. threshold.
3. Remove the 500 ft. separation distance in manufacturing zones and maintaining the 1000 sq. ft. distance separation from residential.
4. Waiver criteria for vacant building: Two years of experience for previous cannabis use or one-year for any other type of use.
5. Types 6 and 7 and cultivation are ineligible for waivers in the city core.

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

- 2A. LJ EDGCOMB ON BEHALF OF NEW VALLEY PS, LLC, FOR A PROPOSED TENTATIVE TRACT MAP 37706 (TTM 37706) TO SUBDIVIDE AN UNDEVELOPED 8.48-ACRE PARCEL INTO FORTY (40) SINGLE-FAMILY RESIDENTIAL LOTS, FOUR LETTERED LOTS, AND PRIVATE STREETS WITHIN THE ESCENA PLANNED DEVELOPMENT DISTRICT (PD-231) LOCATED AT 1000 NORTH GENE AUTRY TRAIL; ZONE PD-231; SECTION 07 (CASE TTM 37706). (ER)**

Principal Planner Robertson presented the proposed subdivision as outlined in the staff report.

Chair Woods opened the public hearing:

LJ EDGCOMB, on behalf of New Valley Realty, clarified that this site was part of the original first map and project was graded as part of the Phase I original development. He provided details on the CC&R requirements, conditions of approvals that have been met, and flood control and drainage.

KATHY WEREMIUK, Escena resident, spoke in favor of more development in Escena and having it built-out. She agrees with the cul-de-sac street because there is a lot of traffic in this area.

LJ EDGCOMB, applicant, agrees with the Planning Director to go over the conditions and clean them up with staff.

There being no further speakers the public hearing was closed.

Commissioner Song said that Escena is a beautiful project and we need to get some movement in there. This will create more options for this development.

Song, seconded by Garner to recommend approval to City Council.

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

**Recommendation: Staff to work with the applicant and clean up the conditions.*

2B. 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. (CASE NO. 5.1479 CUP). (GM)

Commissioner Garner recused herself and would not be participating in the discussion and vote on this project. She left the Council Chamber at 3:02 pm.

Associate Planner Mlaker presented the project and gave a brief staff report on the request.

Chair Woods opened the public hearing:

HEATHER TURNER, representing the Riviera Hotel ownership, explained the request including the time-share operation and discussed noise issues.

MAUREEN FITZGERALD, resident of Riviera Gardens, directed the Planning Commission to a letter written regarding on-going noise issues with mechanical equipment and special events at the hotel.

KAREN REAGER, resident of Riviera Gardens, spoke on noise issues.

MARK JEFFREY, Manager of the Riviera Hotel, addressed noise issues and stated that a new masonry wall is being built around the mechanical equipment.

There being no further speakers the public hearing was closed.

Commissioner Song asked about parking, signage and management of the time-shares.

Commissioner Donenfeld asked if someone from the time-share management would be available on-site, if problems arose. He thinks there should be an on-going dialogue between the residents and the hotel management. A neighborhood meeting should be arranged to discuss issues and find solutions.

Chair Woods asked about the CC&R's identifying a point of contact for noise issues.

Song, seconded by Moruzzi to approve with added conditions:

1. The Planning Commission shall hold a review of operations within 3 months of the approval. Staff to provide a report regarding noise issues from mechanical equipment and special events.
2. Riviera shall conduct one meeting with the neighborhood representatives.
3. The CC & R's for the time-share shall provide a single point of contact who can provide community outreach.
4. Time-shares are not permitted to operate as short-term rentals.
5. Provide a traffic management plan at three-month review.
6. All hotel and time-share operations must meet the City's noise ordinance.

AYES: DONENFELD, HIRSCHBEIN, SONG, MORUZZI, WOODS

ABSTAIN: GARNER

Commissioner Garner re-entered the Council Chamber at 4:09 pm.

A recess was taken at 4:09 pm. The meeting resumed at 4:18 pm.

2C. BY WILDCAT ENERGY STORAGE, LLC, FOR A CONDITIONAL USE PERMIT TO INSTALL, OPERATE AND MAINTAIN AN ENERGY STORAGE FACILITY CONSISTING OF A BATTERY ENERGY STORAGE SYSTEM (BESS), LOCATED ALONG SOUTH OF DINAH SHORE DRIVE BETWEEN GENE AUTRY TRAIL AND CROSSLEY ROAD; ZONE M-1; SECTION 20 (5.1462-CUP). (ER)

Principal Planner Robertson presented the proposed installation, operation and maintenance of an energy storage facility as outlined in the staff report.

NICOLE CRISTE, environmental consultant, (responded to questions from the Commission) stated that the City is responsible for assuring that the monitoring has

happened before construction starts. She addressed questions pertaining to the activity on the site and energy storage (battery technology).

Chair Woods opened the public hearing:

PHIL REEVES, applicant, esVOLTA, clarified that the battery is a dry cell and it does not leak and there is no combustion source. He said the project is used to balance the supply and demand of the electrical grid by charging during off-peak hours and discharging during on-peak hours. He provided information on the site location, State level support, safety practices and the battery's safety design.

There being no further speakers the public hearing was closed.

Donenfeld, seconded by Hirschbein to approve subject to conditions.

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

- 2E. CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE (PSZC) AMENDING CHAPTER 93.00 TO ADD SECTIONS 93.16.00 THROUGH 93.16.09 AND AMENDING SECTIONS 92.17.1.01, 92.17.2.01, 92.20.01, 92.21.01 AND 93.03.00 TO FACILITATE SOLAR ENERGY SYSTEMS (CASE 5.1470 ZTA). (GM)**

Hirschbein, seconded by Song to continue to date certain of October 23, 2019.

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

3. UNFINISHED BUSINESS: NONE.

4. NEW BUSINESS:

- 4A. PETER MAHLER, ON BEHALF OF OLD LAS PALMAS PARTNERS LLC, FOR APPROVAL OF A TEMPORARY FENCE ON THE PROPERTY AT 575 NORTH PALM CANYON DRIVE, ZONE CBD/R-2 (CASE 19-081 LUP). (FF)**

Planning Director Fagg presented the proposed temporary fence as outlined in the staff report.

ALICIA GOMEZ, on behalf of the applicant, said that they receive many calls about trespassing (unauthorized people and loitering) that include items such as lounge chairs, backpacks, blankets and trash. She said they also had a fire in the middle of the night and the fire department was dispatched.

Vice Chair Moruzzi verified if code enforcement had record of complaints- (staff was unable to verify). He thinks chain link fencing is not attractive and usually placed in areas that are not very attractive. He pointed-out that this location is extremely trafficked on Palm Canyon Drive.

Commissioner Garner noted that the community parks on this lot during the holiday parade.

Commissioner Donenfeld said that this is a very prominent site. He said that it is such an open exposed dirt lot and very difficult to hide in. He thinks the fencing will create an attractive nuisance by putting up the fence. He spoke in opposition of the fencing for this site.

Commissioner Hirschbein thinks the fencing will make the problem worse by giving people a place to hide.

Hirschbein, seconded by Donenfeld to deny the application.

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

- 4B. SUNQUITZ EMC LLC, LESSEE, FOR A MAJOR ARCHITECTURAL APPLICATION TO CONSTRUCT A 35,000-SQUARE FOOT MEDICAL OFFICE BUILDING, PAD SITE FOR FUTURE BUILDING, AND OTHER RELATED ON- AND OFF-SITE IMPROVEMENTS ON A 3.76-ACRE SITE LOCATED AT THE NORTHWEST CORNER OF NORTH SUNRISE WAY AND EAST TAHQUITZ CANYON WAY, NC ZONE OF THE SECTION 14 SPECIFIC PLAN (3.4132 MAJ). (DN)**

Commissioner Garner noted that she would be abstaining on the discussion and vote on this Item. She left the Council Chamber at 5:05 pm.

Principal Planner Newell presented the proposed medical office building as outlined in the staff report. He provided details on the changes recommended by the Architectural Advisory Committee pertaining to the location of the trash enclosure, bus stop and elevations.

Commissioner Donenfeld noted that this is the gateway to Section 14 and verified the City's jurisdiction on tribal land. (The property is Tribal Allottee land and is subject to the City's land use contract.)

Planning Commission Comments:

Commissioner Song pointed-out that Section 14 describes Tahquitz Canyon as the boulevard- the connection between the airport and downtown. She thinks that the building is the right purpose and helps low-income residents. However, she thinks the building is mis-located and it should orient towards Tahquitz Canyon- and it should be reversed

flipped and turned 90 degrees. She indicated that Section 14 also states that the sidewalks on Tahquitz should be pedestrian friendly and the current proposal will reflect heat from parking lot asphalt. She thinks the restaurant will be equivalent to another fast-food restaurant on the corner of Tahquitz Canyon and does not think this should be the focal point.

Commissioner Hirschbein thinks as the building facing the parking lot it has a nice elevation as proposed. However, he thinks the Sunrise and Andreas building frontage looks institutionalized and not pedestrian friendly. He noted that the Eisenhower building to the south is a similar use and is nicely articulated with trellises and stonework and relates to the public right-of-way in a more sympathetic way. If the Commission votes to flip the building, he would like to see this public statement on Tahquitz Canyon, which is an even more important street.

Commissioner Donenfeld concurred with Commissioners Song and Hirschbein. He thinks the building is mis-placed with the parking lot facing Tahquitz Canyon and the nice elevation facing west.

Chair Woods thinks that the County prides itself on institutional buildings that are great and this particular building failed. He said the proposed lighting is very glary and institutionalized.

Vice Chair Moruzzi said that he is not happy with the idea of a fast food restaurant on this corner since there is an existing one on the other corner.

Planning Director Fagg asked the Commission to allow the applicant the opportunity to address the Commission's concerns before requiring major site and architectural changes.

HANK GORDON, applicant, stated that they developed the property at the Rite Aid and Eisenhower Medical Center about 13 years ago. He said they have been working very hard to get the County lease finalized and the land subject to the BIA's approval. The timing on this approval is of a great issue. He explained that the County has an existing medical office in Palm Springs whose lease expires in a couple of years- and this building must be built before the expiration of the lease. Mr. Gordon said they have worked with the site plan in many ways and pointed-out that the use of the corner pad is not to be considered by the Planning Commission today. He concluded that they do not think it is the best use to flip the building and put it on the corner.

Action: To deny the application based on:

1. Wrong location on the site- the building needs to be featured on the corner of Tahquitz Canyon and Sunrise Way.
2. Architecture needs to be of better quality.

3. Lack of scale giving elements on the exterior (Eisenhower Medical Center has pergola and vines) long façade, little differentiation, not enough change in materials, fenestration and little attention to public facades.
4. Could work in its current configuration if more attention is paid to the east façade.

Donenfeld, seconded by Moruzzi to deny the application.

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

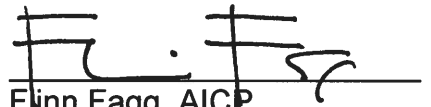
Commissioner Garner re-entered the Council Chamber at 5:30 pm.

PLANNING COMMISSION REPORTS, REQUESTS AND COMMENTS: None.

CITY COUNCIL LIAISON REPORT: None.

PLANNING DIRECTOR'S REPORT: None.

ADJOURNMENT: The Planning Commission adjourned at 5:31 pm to 1:30 pm, Wednesday, October 23, 2019, City Hall, Council Chamber, 3200 East Tahquitz Canyon Way.


Flinn Fagg, AICP
Director of Planning Services