

PLANNING COMMISSION MINUTES
July 28, 2021
CITY OF PALM SPRINGS, CALIFORNIA
3200 East Tahquitz Canyon Way, Palm Springs, California
(Meeting held via Zoom)

CALL TO ORDER:

Chair Weremiuk called the meeting to order at 5:54 pm.

ROLL CALL:

Present: Aylaian, Hirschbein, Roberts, Song, Vice Chair Moruzzi, Chair Weremiuk

Excused Absence: Ervin

Staff Present: Development Services Director Fagg, Assistant Planning Director Newell, Attorney Priest, Administrative Coordinator Hintz, Associate Planner Kikuchi, Engineering Associate Minjares, Director of Special Program Compliance Goedhart

REPORT OF POSTING OF AGENDA: The agenda was available for public access at the City Hall exterior bulletin board (west side of Council Chamber) by 6:00 pm on Thursday, July 22, 2021, and posted on the City's website as required by established policies and procedures.

ACCEPTANCE OF THE AGENDA:

Roberts, seconded by Aylaian to accept the agenda as presented.

AYES: AYLAIAN, HIRSCHBEIN, ROBERTS, SONG, MORUZZI, WEREMIUK
ABSENT: ERVIN

PUBLIC COMMENTS:

JAYMES GREEN, Gene Autry Neighborhood Organization, vice-chairman, in reference to Serena Park DA, urged the Commission to mandate the third access point previously identified as the ideal location for optimum traffic flow. He said the residents are anxious to see this long-awaited project move forward while ensuring smart traffic management, appropriate housing density and quality land development are achieved.

HOWARD HYMEN, in reference to Item 5A, spoke in opposition of the rooftop deck and the underground parking in the middle of the street. He thinks the large free-standing canopy and lights will create a visual nuisance and noise at this height will reverberate against the mountain.

ROB HAWLEY, adjacent resident, in reference to Item 5A, has similar concerns about rooftop deck with previous testimony. He said the proposed rooftop would add a shallow angle that would look directly into his master bedroom and does not believe that it's appropriate for the neighborhood.

LANCE O'DONNELL, o2 Architecture, Item 5, discussed with Planning and confirmed the heights were acceptable with Engineering and found the elevation is approvable in the hillside area. They proceeded to look at the existing conditions and chose a pad height that is consistent with existing topography that is currently on-site. To minimize the bulk on the site, they decided to tuck the parking and the garage underneath the house. He explained the garage is 12" inches above the curb height and if they were to lower the finished floor of the garage, they may have high water conditions and discussed several measures to remediate the problem.

MICHAEL LYLE, commercial realtor, in reference to Item 3A, spoke in favor of the proposed project. He explained this property has had vacancy problems due to the loud airplane noises which attracted homelessness encampments and illegal dumping. He said the applicant has paid extra attention to the new odor control standards and thinks this use makes sense at this location.

MARK ALLEN, representing the developer for Serena Park, clarified that Serena Park is not asking that the development agreement be amended. The developer has valid reasons for asking for the proposed changes under the terms of the development agreement and the City can approve these changes without amending the development agreement.

**1. ELECTION OF OFFICERS:
1A. ELECTION OF CHAIR AND VICE-CHAIR**

Commissioner Roberts nominated Ms. Weremiuk as Chair.

By unanimous consent Ms. Weremiuk was elected Chair through June 2022.

AYES: AYLAIAN, HIRSCHBEIN, ROBERTS, SONG, MORUZZI, WEREMIUK
ABSENT: ERVIN

Chair Weremiuk nominated Mr. Roberts as Vice Chair.

By unanimous consent Mr. Roberts was elected Vice-Chair through June 2022.

AYES: AYLAIAN, HIRSCHBEIN, ROBERTS, SONG, MORUZZI, WEREMIUK
ABSENT: ERVIN

2. CONSENT CALENDAR:

Hirschbein, seconded by Song to approve Consent Calendar.

AYES: AYLAIAN, HIRSCHBEIN, ROBERTS, SONG, MORUZZI, WEREMIUK
ABSENT: ERVIN

- 2A. SAN JACINTO HOLDINGS, LLC, FOR A MAJOR ARCHITECTURAL APPLICATION FOR THE CONSTRUCTION OF A 4,365-SQUARE FOOT HOUSE ON A HILLSIDE LOT LOCATED AT 502 LA MIRADA ROAD, ZONE R-1-A (CASE 3.4222 MAJ). (GM)**

3. PUBLIC HEARINGS:

- 3A. GREEN SAVANTS, LLC ON BEHALF OF DLY PACIFIC WEST HALL (OWNER) FOR A CONDITIONAL USE PERMIT TO OPERATE A CANNABIS CULTIVATION AND MANUFACTURING FACILITY WITHIN AN EXISTING 19,192-SQUARE FOOT BUILDING LOCATED AT 888 EAST RESEARCH DRIVE, ZONE M-1-P (CASE 5.1480 CUP). (DN)**

Assistant Director Newell presented the proposed project as outlined in the staff report. He noted that because this application was submitted under the prior ordinance it will be processed in accordance with the ordinance at the time.

NICOLE CRISTE, Terra Nova Planning & Research, environmental consultant, stated a Negative Declaration is proposed and no mitigation measures are required. She stated that the odor control plan and design, as it relates to odors is consistent with the City standards; therefore, the impacts will be less than significant.

JAY TAKACS, odor control consultant, responded to questions from the Commission relative to working with other jurisdictions in managing cannabis odors. Mr. Takacs said they've worked with many other jurisdictions and odors complaints are minimal. If the system is designed and installed correctly there are no issues with odors.

Commissioner Aylaian noted the Municipal Code identifies school or childcare as not appropriate within 600 feet of a cannabis facility. She questioned what makes this dance studio different from a youth center where children would come for several hours a day.

Attorney Priest responded the term youth center is not defined in the Code which leaves room for interpretation. If the Planning Commission determines that the dance facility is a youth center under the Code, the Commission would have the basis to deny this application because it's located within 600 feet of a youth center. If the Planning

Commission determines that the dance facility is not a youth center, they may be able to make the findings to approve the C.U.P.

Chair Weremiuk opened the public hearing:

MATTHEW RETTIG, applicant, has been part of the project since day one and is available for questions.

MATT FRY, co-owner of building where dance studio is located, voiced concern about children being driven to the dance studio and people driving "high" from the smoking lounge resulting in traffic accidents and fatalities.

MATTHEW RETTIG, addressed the previous testimony, said they will monitor consumption of the product, to the best of their ability, with trained staff to ensure that they do not have people intoxicated while leaving the facility similar to bars. He stated they will provide solar panels using 70% feasible roof area to make up the power difference and operate on a full hydroponic growing system.

The public hearing was closed.

Commission Comments:

Chair Weremiuk thinks the dance studio is a critical issue and questioned if staff missed this review in the staff report. (In response to review of the studio website, staff's response was they thought the classes were for both youth and adults. Also, they typically see the Boys and Girls Club and YMCA facilities as youth centers and the dance studio is a commercial operation that is not categorized the same.)

Chair Weremiuk said the matter is before the Commission with several issues, is it a dance studio or youth center; is this use necessary and can they make the findings. Or if the Commission determines it is a dance studio what requirements would be imposed.

Commissioner Hirschbein thinks the dance studio qualifies as a youth center.

Commissioner Moruzzi questioned if the applicant was advised that there is a dance studio located nearby and questioned if concerns could be remedied if the lounge is removed.

Commissioner Aylaian thinks the dance center fundamentally operates like the YMCA or a recreation district as they provide dance classes and activities. She thinks the applicant is responsible to do their own research pertaining to the nearby dance studio.

Attorney Priest addressed the question if this could this be remedied by removing the lounge facility, this application was grandfathered-in and the 600-foot distance from a youth center applies to any medical cannabis facility or adult use cannabis facility. He

doesn't believe removing the lounge will address the issue. The remedy under the old Code continues to be a City Council waiver of the distance requirement.

Commissioner Hirschbein considers this as a youth center. He questioned what would be the necessary motion that is needed if this is considered a youth center.

Attorney Priest stated if the Commission believes the dance center is a youth center and it does not comply with the 600-foot distance requirement; therefore, there is a distance restriction problem and Finding 1 cannot be met.

Commissioner Hirschbein said given legal counsel's previous comment he made a motion of denial. The motion was seconded by Aylaian.

Vice Chair Roberts said whether the dance studio can be considered a youth center or recreation center is unclear to him. He pointed-out the applicant went through a tremendous amount of process and thinks they need a clear direction or a policy if the dance studio is considered a youth center. He pointed-out the major concerns with cannabis facilities are odor-related problems; and he does not think the dance academy is located nearby because the studio is two full buildings and parking lots away.

Commissioner Moruzzi concurred with Vice Chair Roberts given there are no odor related issues and the distance from the academy is two parking lots away.

Attorney Priest clarified if the Commission concludes that the dance facility is a youth center then there would be a problem making the Finding 1 because it would be a distance restriction problem. If the Commission concludes that this is not a youth center, then this is not an issue. As he mentioned earlier there is no strict distance requirement for alcohol or liquor use, it is regulated differently.

Commissioner Aylaian said as the seconder of the motion, the information in front of them and presented testimony does not support Finding 2 given that the use should be desirable or necessary for the development of the community. She does not think this use is in the best interest of the community. Ms. Aylaian thinks this location for cannabis cultivation, manufacturing and retail business is not necessary and can be met by other businesses in the community.

Commissioner Moruzzi is not in agreement with not meeting Finding 2 as noted above, he does not think it's fair to this applicant to say there are so many other cannabis facilities around.

Hirschbein, seconded by seconded by Aylaian to deny the application based on the inability to make Finding 1 and Finding 2.

AYES: AYLAIAN
NOES: HIRSCHBEIN, MORUZZI, SONG, ROBERTS, WEREMIUK

ABSENT: ERVIN

Motion failed.

Hirschbein, seconded by Aylaian to deny the application based on inability to make Finding 1 (no youth centers within a 600-ft. radius) and the determination was made that the dance studio was a youth center.

AYES: AYLAIAN, HIRSCHBEIN, ROBERTS, SONG, MORUZZI, WEREMIUK
ABSENT: ERVIN

A recess was taken at 8:00 pm. The meeting reconvened at 8:07 pm.

3B. CITY OF PALM SPRINGS FOR A ZONE TEXT AMENDMENT TO AMEND CHAPTER 94.05 OF THE ZONING CODE TO ALLOW RESIDENTIAL DENSITIES ON PROPERTIES THAT HAVE HISTORICALLY BEEN PERMITTED ON HOTEL OR COMMERCIAL SITES (CASE 5.1539 ZTA). (DN)

Hirschbein, seconded by Aylaian to continue to date certain of September 1, 2021.

AYES: AYLAIAN, HIRSCHBEIN, ROBERTS, SONG, MORUZZI, WEREMIUK
ABSENT: ERVIN

4. UNFINISHED BUSINESS: NONE

5. NEW BUSINESS:

5A. CHAD AND TENAH DYER, OWNERS, A MAJOR ARCHITECTURAL APPLICATION AND ADMINISTRATIVE MINOR MODIFICATION APPLICATION FOR THE CONSTRUCTION OF A 5,846-SQUARE FOOT SINGLE FAMILY RESIDENCE AND A 576-SQUARE FOOT DETACHED CASITA ON A HILLSIDE LOT LOCATED AT 585 CAMINO CALIDAD, ZONE R-1-A (CASE 3.4224 MAJ & 7.1631 AMM). (AP)

Associate Planner Kikuchi presented the proposed project. Ms. Kikuchi reported the ARC reviewed the project on June 21st and they voted unanimously for approving subject to conditions.

Commissioner Hirschbein requested clarification on pad height reduction for casita and visibility into adjoining property.

Vice Chair Roberts thinks it would be helpful to see an elevation of the front of this house with neighboring houses in relation to height. He noted this neighborhood has quite a variety of heights and setbacks because it's a much older neighborhood. There are

subterranean garages with a blend and no uniformity. It's difficult to gauge that this house would be a problem as opposed to the neighborhood.

Commissioner Hirschbein requested the elevation include with the proposed height and staff's recommendation to make a comparison of the two houses.

Commissioner Song requested the comparison to neighboring houses include properties to the east and west views.

Associate Engineer noted the Commission keep in mind that there is a 15-foot-wide equestrian easement at the rear of this property.

Roberts, seconded by Song to continue to date certain of September 1, 2021 with direction to applicant to submit the following:

1. South – North and West-East elevations depicting the proposed and adjacent houses (as currently proposed).
2. South – North and West-East elevations depicting proposed and adjacent houses with reduction of approximately 4 feet (per staff's recommendation).

AYES: AYLAIAN, HIRSCHBEIN, ROBERTS, SONG, MORUZZI, WEREMIUK
ABSENT: ERVIN

6. DISCUSSION:

6A. PS COUNTRY CLUB, LLC FOR AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR SERENA PARK – AN APPROVED RESIDENTIAL DEVELOPMENT CONSISTING OF 386 ATTACHED AND DETACHED RESIDENTIAL UNITS LOCATED ON 126 ACRES OF LAND LOCATED NORTH OF VERONA ROAD, EAST OF SUNRISE WAY AND SOUTHWEST OF THE WHITEWATER RIVER WASH (CASE 5.1327 / PD-366 DA). (DN)

Assistant Director Newell provided an introduction for the Serena Park project.

Attorney Priest provided an overview on the amendment to the Development Agreement and was available for questions. Mr. Priest explained as is common is in addition to the developer paying the other development fees there is a \$3 million payment that is due on November 1, 2021. It does not provide for any extensions or contingencies that would alter that final payment date. As noted, the language is quite clear that failure to pay the fee by November 1, 2021 shall constitute a default.

Vice Chair Roberts questioned if the originally approved schedule that shows in October 2019, six months before the pandemic shutdown, was the improvement plan approved and recorded.

Staff responded the City received the request to review a portion of the tract map but there were no further responses to the plan check comments that were given.

Assistant Director Newell provided details on the timeframe for the performance schedule.

Commissioner Song questioned if the utility undergrounding could be done prior to the certificate of occupancy. She questioned if the fee could be accelerated and not wait another 18 months for the remaining fees. Does the Commission look at the project and make revisions or recommendations?

Associate Engineer Minjares clarified that utilities must go underground because there are too many logistics in the way of deferring that to a later time. Mr. Minjares clarified that the Engineering Department has not received any technical studies or improvement plans for review. All they've seen is the overall site map and a small portion of the tract map. It did not go into plan check and was not recorded.

Vice Chair Roberts thinks it's very important for that project to stay on schedule and to show them development is continuing. Based on Engineering and Planning very little work has occurred. These drawings go all the way back to the original approval. He's concerned about the viability of this project.

Commissioner Moruzzi noted that the Cody Place project has been under construction all the way through Covid. He heard a comment tonight that the ARC's recommendations were so off-putting to the builder that the builder just walked away.

Assistant Planning Director Newell said what staff has heard is that we need the history to process the project and the applicant's efforts to move it forward. Also, the Commission would like the history of the annual reviews that have been conducted since the agreement since executed. He requested if there is any additional materials staff can bring forward to provide clarification.

Commissioner Moruzzi:

1. Did they have a builder?
2. Identify a builder and show us how realistic this project is moving forward.
3. Does the builder have financing?

Chair Weremiuk:

1. When we see technical studies and what have they done?
2. Tentative drawings
3. House design plans
4. Landscape plans
5. Have they applied for a grading permit?
6. How well have they have maintained the property over the last five years?

Commissioner Hirschbein:

1. Is a third entryway required and part of the Development Agreement?

Commissioner Aylaian:

1. Can a third access point be renegotiated in the Development Agreement?

Commissioner Song:

1. Is density transfer fee still a part of the Development Agreement?

Chair Weremiuk would like to see how well the property has been maintained. Ms. Weremiuk noted that she and Vice Chair Roberts sent in two photos of the property. What have they agreed to do? Have they met all their obligations in the way of the maintaining the property in the last five years?

Vice Chair Roberts requested staff display the photos submitted relating to the condition and maintenance of the property. He requested the condition of this property be addressed in a future meeting.

Direction was provided to staff- no action taken.

PLANNING COMMISSION REPORTS, REQUESTS AND COMMENTS: None.

PLANNING DIRECTOR'S REPORT:

- Upcoming Study Session will be held on September 1, 2021 to discuss the solar energy ordinance and water conservation guidelines relative to the commercial cannabis grow facilities and other uses, and a training session on the Architectural Review process. The Commission agreed to a 4:00 pm Study Session.
- Director Fagg provided an overview on Planning Commission action items that went before the City Council for review. These two projects included: Kings Garden and Canyon View. The City Council also discussed the Housing Element. There were similar concerns that were raised, and staff is in the process of combining the Commission's comments and the comments from City Council which will be submitted to the State on Friday.

ADJOURNMENT: The Planning Commission adjourned at 9:20 pm to Wednesday, September 1, 2021 to a Study Session at 4:00 pm followed by their regular meeting at 5:30 pm, 3200 East Tahquitz Canyon Way.



David Newell, AICP
Assistant Director of Planning