

**PLANNING COMMISSION MINUTES
NOVEMBER 17, 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 5:32 pm.

ROLL CALL:

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

Staff Present: Development Services Director Fagg, Attorney Priest, Assistant Planning Director Newell, Administrative Coordinator Hintz, Engineering Associate Minjares, Associate Planner Mlaker, 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) by 6:00 pm on Wednesday, November 10, 2021, and posted on the City's website as required by established policies and procedures.

ACCEPTANCE OF THE AGENDA:

Commissioner Hirschbein requested a correction to the minutes of September 22, 2021.

Commissioner Moruzzi noted he was not in attendance on October 27, 2021 and would be abstaining and voting on the minutes.

Aylaian, seconded by Roberts to accept the Agenda, as amended.

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

PUBLIC COMMENTS: None.

1. CONSENT CALENDAR:

1A. APPROVAL OF MINUTES: SEPTEMBER 22, 2021, AND OCTOBER 27, 2021

Hirschbein, seconded by Song to approve Item 1A with correction to the minutes of September 22, 2021. (Noting Commissioner Moruzzi's abstention on the minutes of October 27, 2021.)

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

2. PUBLIC HEARINGS:

2A SANBORN ARCHITECTURE ON BEHALF OF ALURE PALM SPRINGS, LLC, FOR AN AMENDMENT TO FINAL DEVELOPMENT PLANS FOR A PLANNED DEVELOPMENT DISTRICT 309 AND MAJOR ARCHITECTURAL APPROVAL FOR THE CONSTRUCTION OF TWENTY-SIX (26) SINGLE-FAMILY RESIDENCES ON A 4.1-ACRE PARCEL LOCATED AT THE SOUTHWEST CORNER OF ROSA PARKS ROAD AND EL DORADO BOULEVARD; ZONE PDD 309 (CASE NOS. 5.1037 PD 309 AMND & 3.4286-MAJ) (ER)

Roberts, seconded by Aylaian to continue to a date certain of December 8, 2021.

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

2B. GREEN ROCK INVESTMENTS, LLC (DBA: DESERT FLOWERS) SEEKING A CONDITIONAL USE PERMIT (CUP) FOR A CANNABIS CULTIVATION OPERATION WITHIN AN EXISTING BUILDING TO INCLUDE A TYPE 6 MANUFACTURING FACILITY OCCUPYING 369-SQUARE FEET; A CANNABIS CULTIVATION GROW OF 11,333-SQUARE FEET; AND DISTRIBUTION ACTIVITIES OF 323-SQUARE FEET LOCATED WITHIN AN EXISTING BUILDING AT 19160 MCLANE STREET, ZONE M-2 (CASE NO. 5.1531 CUP) (GM)

Associate Planner Mlaker provided a brief case history and presented the proposed project. He discussed the odor control plan and addressed the environmental review, site plan, floorplans, addition of a mezzanine level and roof plan.

JAY TAKACS, odor control consultant, confirmed that the odor control plan meets the City's current standards.

Commissioner Aylaian noted the building has been vacant for a while and is not being used productively, is not producing jobs, and is not generating tax revenue.

Associate Planner Mlaker clarified the CUP runs with the land. In terms of what happens to the CUP if the lease ends, Development Services Director Fagg reported the CUP runs

with the land but with the cannabis use, the permit runs with the applicant and described the process if there was a change in ownership of the business.

Chair Weremiuk asked about the water having to be hauled offsite. Associate Planner Mlaker reported it is waste from the cultivation activity. Environmental Consultant Thomas Strand reported there are byproducts in the water from cultivation activities and there is a requirement to haul it to a permitted hazardous waste site. Chair Weremiuk noted the Commission may reference, in the conditions, that there would be an administrative citation if compliance with Municipal Code Chapter 5.55 is not achieved and directed staff to add that condition to this project.

In response to Commissioner Hirschbein's inquiry, Environmental Consultant Thomas Strand reported the State agency requires the hauling of contaminated water from the site.

Chair Weremiuk opened the public hearing.

JEFF TIDWELL, applicant, introduced the business and their team; discussed ownership, their mission and core values; addressed energy and water conservation; spoke about building a box within a box and odor control and commented on landscaping and operation of the facility.

There being no further comments the public hearing was closed.

Chair Weremiuk referenced PLN 5 and recommended adding language that the applicant will report, annually, to the Department of Special Programs or other entity specified by staff.

Commissioner Hirschbein referenced PLN 14 and recommended the City inspector inspect the electrical bills and report back to the City. Development Services Director Fagg reported Special Programs would monitor compliance with that condition of approval.

Chair Weremiuk recommended the City inspector check that the shower is still operational and suggested adding language referencing Chapter 5.5 of the code under grounds for revocation.

Commissioner Hirschbein recommended that staff review the architectural details when they are submitted pertaining to the box within a box.

Commissioner Aylaian referenced Finding No. 2 and requested adding language that, "The use will occupy a vacant building providing for tax revenue and jobs and therefore, the proposed facility is desirable". Relative to Finding No. 4, she suggested a revision that, "The existing street map network surrounding the location adequately supported the previous use which generated a greater number of trips and higher vehicle miles travelled so that it will adequately carry the travel for the proposed project".

Regarding screening the mechanical equipment, Development Services Director Fagg reported staff will work with the applicant to find the best possible solution.

Hirschbein, seconded by Aylaian to approve with added conditions:

1. Add language to PLN 5 that the applicant will report, annually, to the Department of Special Programs or other entity specified by staff;
2. Add language to PLN 14, that the City inspector inspect the electrical bills and report back to the City;
3. City Inspector shall check that the shower is still operational;
4. Add language referencing Chapter 5.55 of the code under grounds for revocation;
5. Staff shall review the architectural details when they are submitted in terms of the "box within a box";
6. Relative to Finding 2, language be added that "The use will occupy a vacant building providing for tax revenue and jobs and therefore, the proposed facility is desirable";
7. Relative to Finding No. 4, that it be revised stating that, "The existing street map network surrounding the location adequately supported the previous use which generated a greater number of trips and higher vehicle miles travelled so that it will adequately carry the travel for the proposed project".

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

2C. DESERT AIDS PROJECT FOR A DEVELOPMENT AGREEMENT TO VEST CERTAIN DEVELOPMENT RIGHTS FOR A TERM OF TEN YEARS AND A TIMELINE FOR CONSTRUCTION ASSOCIATED WITH APPROVAL OF CASE 3.1047 MAJ FOR THE ADDITION OF A NEW 18,000-SQUARE FOOT MEDICAL OFFICE PAVILION LOCATED AT 1695 NORTH SUNRISE WAY, ZONE PD 281 (CASE NO. 5.0934 DA) (GM)

Commissioner Song was recused herself from this item and left the meeting.

Associate Planner Mlaker discussed the project history and presented the proposed project. He addressed the site plan, entitlements sought, the draft ordinance for consideration, timeline for the Pavilion Structure Project, findings, and recommendations.

In response to Commissioner Aylaian's question, regarding the obligations of the applicant being considered satisfied as soon as they pull building permits, Attorney Priest discussed annual review of the project to ensure good faith and substantial compliance with the agreement. Commissioner Aylaian expressed concern the agreement obligates the City, but the City does not have the ability to terminate the agreement for any reason.

In response to Chair Weremiuk's inquiry, Attorney Priest reported that under the language in the agreement, if the applicant has pulled permits, they are deemed to have made

reasonable progress and it is not a basis to terminate or amend the agreement if they pull permits and then cease construction.

In reply to Commissioner Hirschbein's question, Associate Planner Mlaker reported the development agreement ties the completion of the improvements along Sunrise to the completion of the Pavilion and noted the apartments will be completed before the Pavilion. Commissioner Hirschbein does not think it's a good idea because the potential for jaywalking exists when the apartments are completed, and the road work has not been finished.

In response to Commissioner Moruzzi's inquiry, Attorney Priest expressed concerns regarding turning the agreement into a fifteen-year agreement by adding five years; understood that ten years will be the outside envelope to complete the project and there is a provision stating that DAP will comply with the attached schedule. He added there will be a final schedule which will be the binding deadlines to complete the work.

In response to Commissioner Aylaian's question, Associate Planner Mlaker reported the City wanted to address the improvements along Sunrise to prevent jaywalking and to have a timeline.

Chair Weremiuk noted the agreement includes a provision where the City would pay \$80,000 for the crosswalk and suggested leaving room to allow DAP to raise funds with the Federal government considering the President's recent approval of the infrastructure agreement.

Development Services Director Fagg reported the City may want to determine how to contribute the \$80,000 and suggested indicating that use of grant funds would be appropriate for the City's contribution.

Chair Weremiuk opened the public hearing.

CARL BAKER, Director of Legal and Legislative Affairs, Desert Aids Project, thanked staff for moving the project along; discussed the project; noted the need to expand capacity and offered to respond to questions from the Commission.

NICOLE CRISTE, environmental consultant, stated the project has a two-year construction period and reported it is DAP's intent not to start without having the ability to finish. Ms. Criste reported CVHC is currently working on grant funds to do the improvements on Sunrise as part of the Vista Sunrise Phase 2 Project, including a crosswalk; noted everyone is aware that those improvements are important, and the applicant is working hard to get those installed as quickly as possible.

There being no further speakers the public hearing was closed.

Chair Weremiuk suggested including language that would add five years to complete the construction once activated within ten years and the applicant agreed.

Chair Weremiuk stated the obligation of the City should be tied to the completion of the residential building if the applicant has pulled together the rest of the funds.

Attorney Priest reported street improvements would be completed by the City on a mutually agreed upon schedule established prior to the issuance of grading permits. Chair Weremiuk asked for additional language to indicate "or the completion of the residential building, whichever is first". Attorney Priest reported that language is included in the approved, Vista Sunrise Phase 2 agreement and Chair Weremiuk withdrew her request.

Chair Weremiuk recommended adding language indicating the extension of entitlements and completion of the project will be within the ten-year timeframe. Attorney Priest responded the agreement already has a ten-year term and stated the schedule could be revised to reflect the appropriate ten-year date.

Discussion followed regarding keeping Provision 7.09, as stated, removing extra language in 7.10, and attaching the schedule to match the term of the agreement.

Weremiuk, seconded by Aylaian to recommend approval to City Council with revised conditions including removing extra language (last sentence) in Provision 7.10 and attaching a revised schedule to the agreement reflecting the appropriate ten-year date.

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

A recess was taken at 7:03 p.m. The meeting resumed at 7:13 p.m.

2D. CITY OF PALM SPRINGS FOR A ZONE TEXT AMENDMENT TO AMEND SECTION 93.23.01 OF THE PALM SPRINGS ZONING CODE RELATIVE TO THE DEVELOPMENT STANDARDS FOR AUTOMOBILE SERVICE STATIONS (CASE NO. 5.1546 ZTA) (FF)

Development Services Director Fagg summarized the changes as recommended by the Commission.

Chair Weremiuk opened the public hearing and there being no speakers the public hearing was closed.

Discussion followed regarding requiring electric charging stations at all future stations, requiring building space for charging and allowing the use of required parking for electric charging.

Development Services Director Fagg reported the City is underserved in terms of the number of electric charging stations.

Vice Chair Roberts questioned if Wal-Mart has existing electric vehicle charging stations.

Chair Weremiuk requested adding that "operations are limited to gasoline, oil, water, air and electric chargers".

Commissioner Hirschbein agreed the City could use more electric vehicle charging stations.

Commissioner Song noted there is plenty of space to add an electric vehicle charging station.

Vice Chair Roberts expressed concerns regarding impacts of adding electric vehicle charging stations and questioned if allowing charging stations will impact regular parking spaces.

Commissioner Ervin reported that Wal-Mart has no charging stations on their site.

Chair Weremiuk referenced Page 3 regarding restrooms; suggested at least two unisex restrooms and requiring that they be open during operation of the gas station and spoke about requiring an air-conditioned space for employees, with seating. Development Services Director Fagg requested allowing him to take the intent of what is desired in terms of seating and crafting the requirement to allow a certain degree of flexibility.

Discussion followed regarding alcohol being 50% of the dollar sales of the products offered. Chair Weremiuk suggested requiring 25% of dollar sales.

Ervin, seconded by Roberts to recommend approval to City Council with added changes:

1. Add language "operations are limited to gasoline, oil, water, air and electric chargers";
2. Requiring that at least two unisex restrooms be provided and that they be open during operation of the gas station;
3. Require an air-conditioned space for employees, with seating;
4. Require 25% of dollar sales for alcohol sales.

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

2E. CITY OF PALM SPRINGS FOR A ZONE TEXT AMENDMENT TO AMEND CHAPTER 92 AND CHAPTER 93 OF THE PALM SPRINGS ZONING CODE RELATIVE TO DEVELOPMENT STANDARDS FOR THE M-2 (MANUFACTURING) AND E-I (ENERGY INDUSTRIAL) ZONES (CASE NO. 5.1547 ZTA) (FF)

Development Services Director Fagg presented the report.

Chair Weremiuk opened the public hearing.

JERRY KELLER, Lulu California Bistro, commented on the potential for a distribution center in the area and spoke in support of the project.

There being no further speakers the public hearing was closed.

Commissioner Moruzzi opposed encouraging massive warehouses to be built and thinks the original height limit of thirty feet should be maintained.

Discussion followed regarding the economic benefits of warehouses/fulfillment centers, other than property taxes, job generation, considering diversification of the City's economy, conformance with the General Plan and such centers not impacting the City's resort area.

Vice Chair Roberts expressed concerns regarding environmental impacts, specifically to the aquifers related to semi-truck traffic and discussed possible mitigation efforts.

Commissioner Song commented on the possibility of considering the structures for Zone M-2 and leaving E-1, as is and asked about environmental issues in connection with the Fed Ex facility.

Discussion followed regarding the heights of warehouses/distribution centers and existing structures within 1,000 feet of the freeway.

Commissioner Ervin agreed with Commissioner Moruzzi's comments; and thinks the structures are eye sores and spoke about low-wage employment not being desirable.

Commissioner Hirschbein questioned if sales taxes were accrued to the City for warehouses and distribution center; and requested verification from the City Attorney's office. He spoke about avoiding oversaturation of these buildings and suggested requiring a CUP for buildings that exceed existing heights.

Chair Weremiuk understood that tax is generated out of the point of sale and agreed with Vice Chair Roberts that such structures should not be on the south side of the freeway.

Commissioner Moruzzi agreed but thinks it applies to the north side of the freeway, as well, and did not believe the City should sacrifice desert views.

Commissioner Aylaian commented on projects that will pay real wages and stated changes should be made for meaningful results rather than "quick and easy" results.

Commissioner Song spoke about proceeding with a base height of thirty feet, looking carefully at parking ratios, designing projects under current conditions, and requiring sustainable energy sources and the creation of a natural habitat to offset the impacts of the buildings.

Development Services Director Fagg reported the use is allowed but the height would prevent the development of these types of facilities.

Discussion followed regarding the need for more information on economic and environmental impacts and benefits, approving the height but locating structures further back from the freeway, determining mitigation measures, triggers for the request, and continuing the item to review all standards for these types of applications.

Roberts, seconded by Weremiuk to continue to date uncertain.

AYES: AYLAIAN, SONG, ROBERTS, WEREMIUK

NOES: ERVIN, HIRSCHBEIN, MORUZZI

3. UNFINISHED BUSINESS: NONE.

4. NEW BUSINESS: NONE.

5. DISCUSSION:

5A. DISCUSSION OF A ZONING ORDINANCE AMENDMENT TO ALLOW LIMITED KENNELING FUNCTIONS IN THE CBD (CENTRAL BUSINESS DISTRICT) ZONE (FF)

Development Services Director Fagg presented the report; discussed options for a zone text amendment and noted the use must be reviewed/approved by the Health District.

Discussion followed regarding a cat café, support for the concept, required separation between cats and food/beverage and the importance of being clear about operating hours.

Discussion only; no action was taken.

PLANNING COMMISSION REPORTS, REQUESTS AND COMMENTS:

- Development Services Director Fagg reported the December 8th Planning Commission agenda is full and suggested a second meeting, with a study session on December 15th.
- Chair Weremiuk suggested the Commission consider establishing an urban tree ordinance. Vice Chair Roberts suggested starting with a discussion on sustainability on the ARC. Development Services Director Fagg suggested
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establishing a subcommittee with a representative of the Sustainability Commission, a member of the ARC and a member of the Planning Commission.

- Staff outdoor holiday party.

PLANNING DIRECTOR'S REPORT:

- Development Services Director Fagg provided an update regarding City Council's review of an appeal of the Planning Commission's decision regarding Green Savant's cannabis facility.

ADJOURNMENT:

The Planning Commission adjourned at 9:15 p.m. to 5:30 p.m., Wednesday, December 8, 2021, 3200 East Tahquitz Canyon Way.



David Newell, AICP
Assistant Director of Planning