



STAFF REPORT
11/10/2021

TO: Honorable Mayor and City Council Members

FROM: Gabriel Perez, Development Services Director

SUBJECT: Kismet Coachella Dispensary – A request to consider an appeal of Planning Commission’s decision to deny a 12-month Time Extension for Conditional Use Permit No. 305 to convert an existing vacant commercial tenant space into a 3,050 square foot cannabis dispensary with 750 square feet for check-in and waiting area, 1800 square feet of retail display area and 500 square feet of rear storage, inventory control and packaging to be located in Building 1 located at 1639 and 1645 6th Street; and a 4,500 square foot coffee shop, art display and office/event space to be located in Building 2 located at 1657 and 1669 6th Street.
(Continued from October 13, 2021)

STAFF RECOMMENDATION:

Staff recommends that the City Council review the information contained in this staff report and affirm Planning Commission’s decision to deny the request for a time extension.

BACKGROUND:

On January 22, 2020 the Planning Commission recommend approval of Conditional Use Permit (CUP) 305 for the Kismet Coachella Project to convert four existing vacant tenant spaces on the north side of 6th Street into the following uses: a 3,050 square foot cannabis dispensary that includes the following uses: a 750 square feet area for check-in and waiting area; 1800 square feet of retail display area and 500 square feet of rear storage, inventory control and packaging that would be located in Building No. 1. A 4,500 square foot coffee shop, art display and office/event space is proposed to be located in Building No. 2.

Additionally, the City Council on February 26th, 2020 approved CUP 305 and Change of Zone No. 18-07 (1st reading), to add the RC (Retail Cannabis) overlay zone to the existing C-G (General Commercial) zone on Building 1 located at 1639 and 1645 6th Street.

The following exhibits illustrated the existing project site and proposed use of the site and building.

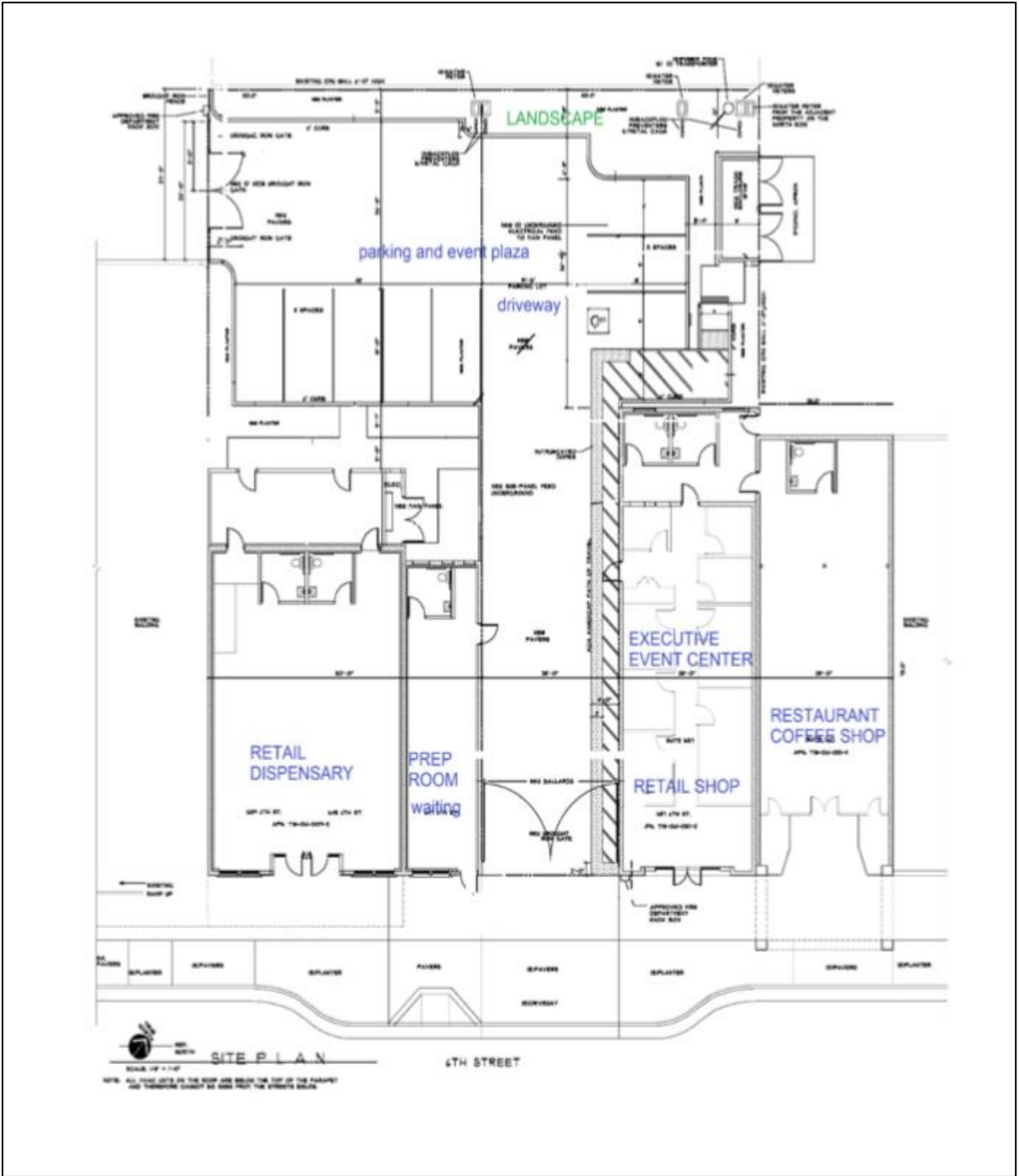


The photograph below is looking north at the existing buildings from Sixth Street. The retail cannabis business is proposed for this building.

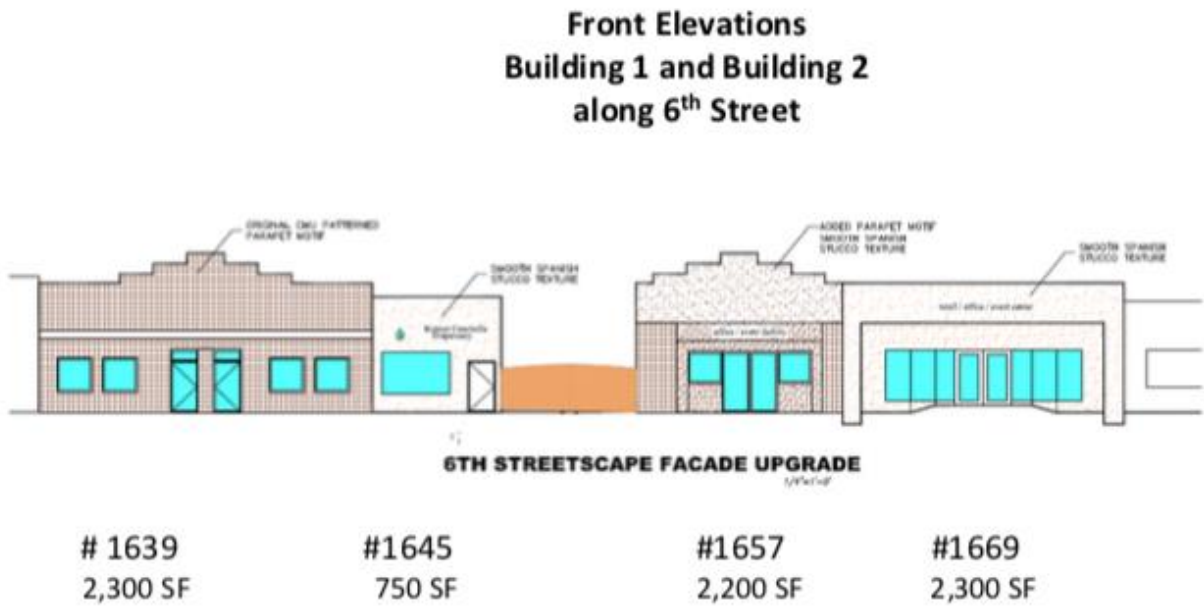


The photograph below is looking at Building #2 that is proposed for the coffee shop, art display and office/event space.



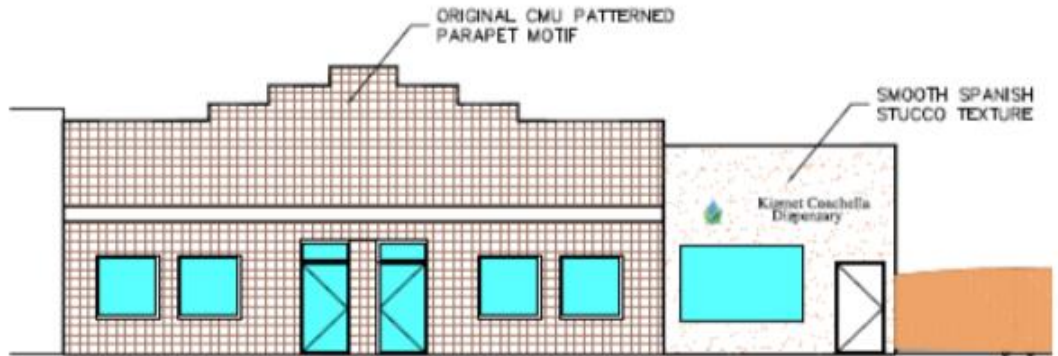


The overall project and streetscape including both buildings is illustrated below:



The dispensary is proposed for Building 1 as illustrated and described below:

Building 1 (Dispensary)

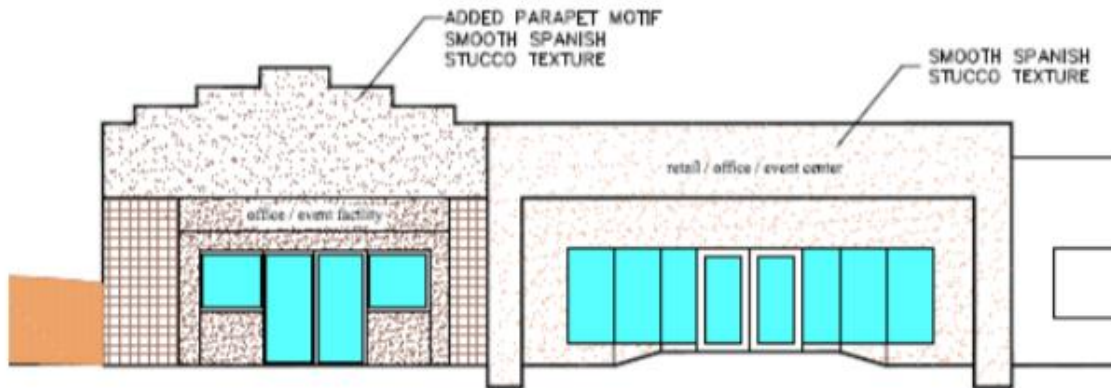


Building 1 -- Dispensary
 1639 6th Street – 2,300 SF
 1645 6th Street – 750 SF

These two addresses are adjoining and considered one building.
 Kismet has control of these two buildings in agreement with the property owner.

The proposed coffee shop, art displays and office/event space is illustrated and described below.

Building 2 (Coffee & Art)



Building 2 – Coffee Shop, Art Displays, & Office/Event Space

1657 6th Street – 2,200 SF

1669 6th Street – 2,300 SF

Artist renderings of the completed buildings are illustrated on the two exhibits below:





The exhibit below shows the view towards the rear of the building looking at the proposed parking lot.



The two exhibits below illustrate the interior of the cannabis dispensary.



The above exhibit illustrates the proposed coffee bar, check in reception and waiting area of the proposed cannabis dispensary.

REQUEST FOR TIME EXTENSION:

Pursuant to Zoning Ordinance Section 17.74.050, a conditional use that has been granted, but not exercised within one year may be renewed for three one-year time extension if an application stating reasons for renewal is filed prior to one year after the effective date of the conditional use approval. The applicant submitted a letter dated April 3, 2021 (attached) requesting a 12-month time extension for CUP 305 and Change of Zone No. 18-07, which approved the operation of Cannabis Dispensary facility. The applicants state that the time delay is in construction and correcting structural issues, lack of response from Imperial Irrigation District and have not been successful in finalizing any lease agreements.

The Planning Commission considered the time extension request on June 16, 2021 and denied the time extension for the CUP Permit and the Change of Zone. The Planning Commission has discretion to approve time extension requests for approved CUP's where there is a justification for the delay in construction activity, and where the project continues to be in keeping with City policies and the public interest. After the Planning Commission meeting, Planning staff communicated with the City Attorney to determine if a time extension can be granted to a Change of Zone since the Municipal Code does not identify that a Change of Zone expires. Since a Change of Zone does not expire the RC Overlay would remain on the property. Staff removed the Change of Zone from the time extension request. Retail cannabis businesses would not be able to operate at the site without receiving initial authorization to apply for a Conditional Use Permit after a successful ranking through a competitive cannabis retail round established by the City Council.

After further communication between Planning staff and the City Attorney subsequent to the June 16, 2021 Planning Commission, it was also determined that only Edward Sapigao could file for the time extension request due to the special nature of CUPs for storefront retail cannabis sales. These CUPs require initial review and authorization under selection criteria established by the City Council to apply for a CUP, which include submission of a complete application with business specific information such as a business plan and security plan. Mr, Sapigao's application was reviewed and ranked under selection criteria for Retail Round #1 which included:

1. Location and Neighborhood Compatibility
2. Security Plan
3. Qualification/Experience of Professionals
4. Building Façade and Interior Improvements
5. Community Benefits

Typically CUPs run with the land and cannot be used in another location. In the case of retail cannabis businesses in the City of Coachella, the authorization to submit for City Council approval of the CUP is based on the credentials of the original applicant and their ability to be successfully ranked by the ad-hoc committee according to selection criteria identified by the City Council.

Recently, the City Council directed staff to take a strict approach with the Retail Cannabis applicants that have not diligently pursued construction, or licensing of the approved dispensary. The compelling reason for this involves the City's loss of retail cannabis tax based due to the failure of the owners to execute the project.

CONCLUSIONS:

The applicants have had ample time to obtain permits and pursue construction diligently over the past 17 months. The justification for construction delays issues are not sufficient to allow a continued loss of taxation revenue. In fact retail cannabis businesses have been classified as “essential businesses” by the State of California in enforcing the temporary closures of public assembly and other businesses.

ALTERNATIVES:

1. Adopt Resolution No. 2021-61 to affirm the Planning Commission decision to deny a 12-month extension for Conditional Use Permit No. 305 with the findings and attached conditions of approval.
2. Take no action.
3. Continue this item as requested by the appellant and provide staff with direction.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1.

- Attachments:
1. Appellant Request for Continuance October 3, 2021
 2. Resolution No. 2021-61
 3. Appellant Letter
 4. City Council Staff Report CUP 305, CZ 18-06- February 26, 2020
 5. Retail Round #1 Selection Criteria (Reso 2020-23)