



CITY OF COACHELLA
DEVELOPMENT SERVICES DEPARTMENT
REQUEST FOR APPEAL

Date: 4/16/20

APPLICATION INFORMATION:

Project Address: 84-161 Avenue 48, Coachella, CA 92236
Case Type (CUP, TTM, etc) and Number: CUP No. 312
Hearing/Decision Date: 4/15/20 Appeal Deadline: 4/30/20

APPELLANT INFORMATION:

Appellant: The Coachella Lighthouse
Appellant Address: 84-161 Avenue 48, Coachella CA 92236

Appellant Phone: (310) 229-0326 Appellant Fax: (310) 229-9901
Appellant e-mail: jferguson@venable.com

Applicant (If Different):

I hereby appeal the decision of the:

- Planning Director Planning Commission

REASON FOR APPEAL:

The decision maker failed to comply with the provisions of the Zoning Code, General Plan or other applicable plans in the following manner (use additional sheets if necessary):
(see Attachment A - Reason for Appeal)

Office Use Only:

Date Received: 4-23-20
Received by: L. Lopez

Appeal Fees: \$2607.56

ATTACHMENTA – REASON FOR APPEAL

At its April 15, 2020 hearing the Planning Commission voted to revoke CUP No. 312 and functionally rescind the approvals for The Coachella Lighthouse (“The Lighthouse”) to operate at its location at 84-161 Avenue 48, Coachella CA 92236. This decision was not in compliance with the City of Coachella’s Zoning Code or General Plan, as well as an error and abuse of discretion on the part of the Planning Commission.

The Planning Commission’s decision, at its core, was to shutter an essential business during a global pandemic, to deprive the City of one of its largest revenue sources in the midst of an economic crisis, and to vote to put 30 employees, most of whom are Coachella residents, out of their jobs. This decision was made in open acknowledgement of ongoing negotiations with the City Council to resolve these outstanding issues. The City Council should vote to overturn the Planning Commission’s decision and to allow CUP No. 312 to remain active.

Throughout its history, The Lighthouse has been a model commercial cannabis business, providing critical services to the community and substantial tax revenue to the City. As you are surely aware, Governor Newsom has declared commercial cannabis businesses “essential” during the state-wide COVID-19 stay-at-home order, emphasizing that access to legal, regulated and safe cannabis is vital, especially for Californians who utilize cannabis for medical purposes.

This makes the timing of the Planning Commission’s revocation hearing unfortunate to say the least. In reality, the Planning Commission and staff have chosen the midst of a global health and economic crisis to demand compliance with elements of CUP No. 312 The Lighthouse is already working to accomplish. For the avoidance of doubt, The Lighthouse has every intention of complying with the conditions of its CUP. However, threatening the closure of an essential business during a global pandemic does not serve the best interests of the City or the community served by The Lighthouse. Any cessation of business would leave The Lighthouse’s loyal customers without access to cannabis during a period of widespread illness and growing mental health concerns based on the stresses imposed by self-isolation. This would by no means serve the public good, and in fact could result in direct harm to the citizens of the City and to the community as a whole.

Beyond that, shuttering one of the City’s highest taxpayers during an economic recession that already rivals the Great Depression cannot possibly be in the best interests of the City. The Lighthouse provides substantial tax revenue to the City which would be lost if the threatened revocation were to move forward, and at a time when the City should be welcoming what tax revenue it still receives during this period of social distancing in order to provide its citizens with essential services.

The Lighthouse is a thriving member of the City’s business community in a time of great economic uncertainty and a boon to the community in a period of widespread illness and social unease. ***At minimum, we request that the City Council delay any revocation proceedings under CUP No. 312 until 21 calendar days from the date the Governor’s stay-at-home order has been lifted and businesses have been allowed to resume full operation.*** We believe it would be a

grave error for the City to attempt to shutter an essential business during a global pandemic, and that such an extension is eminently reasonable under current circumstances.

However, The Lighthouse views itself as a committed partner to the City in good times as well as bad, and will make every effort to comply with the corrective actions demanded by Staff as soon as is practicable given current circumstances. We have assessed your requested corrective actions and have developed a plan to bring all operations into compliance with the CUP as quickly as possible, and to work with the City in the short- and medium-term to ensure we are communicating transparently and complying to the fullest extent possible during the stay-at-home order. We will address each of the purported violations in turn, laying out our proposed compliance and the errors the Planning Commission has made in revoking CUP No. 312.

Complete the first phase of the Glenroy Resort Hotel and open for business

Conditioning the existence of an essential business on the operations of a resort hotel which could not legally be in business at the moment under the best of circumstances is an abuse of the City's discretion. Opening the Glenroy Resort Hotel at present is not only literally impossible, but would violate the current stay-at-home order, not to mention creating an entirely avoidable public health risk. The Glenroy Resort Hotel will not be a party to the spread of COVID-19, and the City's demand for the hotel to open during a global pandemic and while the state of California is practicing severe social distancing is frankly preposterous.

This request is shocking under current circumstances, and displays a complete disregard for the reality of this pandemic and the pervasive public safety risks posed by undertaking massive construction and *opening a resort hotel during the spread of a highly infectious disease*. Even if the Glenroy Resort Hotel could legally be opened within the City's timeline, my clients would refuse to do so out of basic concern for public safety. CUP No. 312 should not be revoked based on the City's desire for an operational resort at a time when no resort in California is open and operational.

That being said, progress is being made as quickly as possible to open the Glenroy Resort Hotel in a manner compliant with California's stay-at-home guidelines and on a timeline that will avoid opening while doing so would cause a massive public health risk. Ownership of the hotel is aiming to have its new loan closed by the end of June. Provided that occurs, ownership hopes to get back to work on construction in August, with an eye towards opening Phase I of the hotel in early 2021, provided government regulations and guidelines deem it safe to do so.

In recognition of the City's lost transient occupancy tax ("TOT") revenue due to the delayed opening of the Glenroy Resort Hotel, and as a partner to the City in these difficult times, ownership of the Glenroy Resort Hotel has already made an offer to pay some of the TOT the City would be receiving were the resort open and operating at this time. As you are aware, the ownership has proposed a payment of \$300,000 over the next 12 months, and ongoing payments pas that point until Phase I of the Glenroy Resort Hotel is open and operating.

This is \$300,000 of revenue the City will not receive should the City Council uphold the revocation. This is also a proposal that involves the Glenroy Resort Hotel paying the City TOT in a time where the City is unlikely to receive TOT from any other establishment due to the stay-

at-home order. The hotel industry is shuttered nationwide for an indefinite period, and it is impossible to say at present when revenues will return. Even if hotels were permitted to reopen tomorrow, it is highly unlikely they would have any customers to serve, given the current travel restrictions.

Were the Glenroy Resort Hotel open and operating, its doors would currently be closed under Governor Newsom's stay-at-home order, and it would currently be paying no TOT to the City based on the complete lack of occupancy it would be seeing during this period. The City is asking Glenroy Resort Hotel to do the impossible during trying times, and we believe the above proposal is more than generous in present circumstances. When most businesses are shuttering their doors, furloughing or laying off employees, and asking for rent reductions or government assistance, the Glenroy Resort Hotel is offering to pay the City hundreds of thousands of dollars in money it would not be receiving right now if the hotel were open and operating.

Perimeter Landscaping and Fencing Improvements

The City alleges a violation of CUP Condition of Approval 2(b) because the front portion of the business currently has no fencing, and has also alleged issues with the landscaping. The required perimeter landscaping and fencing improvements for The Lighthouse have been completed in full compliance with CUP Condition of Approval 2(b). This landscaping and fencing improvement was conducted within 60 days of the effective date of the CUP, pursuant to the instructions of the City.

The only possible issue here is fencing along the front of the property and at the parking lot, neither of which are feasible before the planned work on Avenue 48 is completed. If the City mandates compliance with Condition of Approval 2(b) in a manner that impedes access to the dispensary during this planned improvement work, The Lighthouse asks that this compliance be postponed until such work is complete and fencing can be installed without impeding patient access.

Despite the current stay-at-home order, The Lighthouse is confident it can complete any required corrective action. In either case, The Lighthouse believes it is currently in compliance here and that the Planning Commission erred in finding The Lighthouse in violation of Condition of Approval 2(b). The Lighthouse and will work to achieve any corrective action mandated by the City as soon as is practicable under present circumstances.

Glazing of the Façade on The Coachella Lighthouse

As Staff made clear at the Planning Commission hearing, the original glazing of the façade required pursuant to Conditions of Approval Nos. 2(c) and 5 no longer reflects reality at The Lighthouse, given that most of the façade is currently not glass. We believe the Planning Commission erred in finding a violation here, but we would welcome Staff review and have no doubt The Lighthouse will be found in full compliance at that time.

Obtain Planning Commission Approval of a Sign Program for the Glenroy Resort Hotel

Condition of Approval No. 6 provides that "a comprehensive sign program for the Glenroy Resort project must be reviewed and approved by the Planning Commission *prior to the issuance of any sign permits for the retail cannabis microbusiness*. The front façade of the retail cannabis microbusiness may have one identification sign and one secondary 'logo sign' placed on the front façade" (Emphasis added). Given that The Lighthouse has not sought any sign permits to date, no violation of Condition of Approval No. 6 has occurred, the Planning Commission made a clear error in determining a violation of CUP No. 312 had occurred on these grounds.

Further, requiring the Glenroy Resort Hotel to apply for approval of a comprehensive sign program prior to completing construction is absurd, given that any sign program currently approved by the City would almost certainly need to be amended or entirely re-approved when construction is complete and the Glenroy Resort Hotel can reasonably prepare a comprehensive sign program application that will match with its proposed operations. We reiterate that this request is improper at this time and that the City should not force Glenroy Resort Hotel to prematurely adopt a sign program in order to be deemed compliant with a Condition of Approval it has not violated.

However, should the City Council decline to deem The Lighthouse in compliance with Condition of Approval No. 6, we request that the City immediately provide dates for a proposed Planning Commission hearing to approve a comprehensive sign program. If forced to do so, The Lighthouse and the Glenroy Resort Hotel are prepared to submit an application for a comprehensive sign program and to go forward with a Planning Commission hearing in order to avoid unnecessary and inappropriate formal enforcement measures.

Install a conforming trash enclosure within 250 feet of The Coachella Lighthouse

The Lighthouse is acting at present to ensure a conforming trash enclosure is installed at the site, as required by Condition of Approval No. 14. We would welcome your review once installation is complete and have no doubt The Lighthouse will be found in full compliance at that time.

Install a minimum of five bicycle racks in front of The Coachella Lighthouse

The Lighthouse is moving at present to install five bicycle racks as required by Condition of Approval No. 15. We would again welcome your review once installation is complete and have no doubt The Lighthouse will be found in full compliance at that time.

Conclusion

The Lighthouse remains committed to being a partner to the City during the ongoing COVID-19 crisis and is firmly committed to resolving all outstanding issues amicably. We reiterate our request that the City delay any revocation proceedings until 21 calendar days after the present stay-at-home order has been lifted and businesses are permitted to resume regular operations. These are difficult time for all businesses, and The Lighthouse provides an essential

service to the community and much needed tax revenue to the City at a moment when both are in high demand.

Should the City decline to grant this request for an extension of time to comply with the Conditions of Approval under the CUP, we request that the City respond in writing to the proposed corrective actions and confirm that the City will deem The Lighthouse in compliance if the above-referenced actions are taken in a timely fashion given the present circumstances. The Lighthouse believes this proposal is imminently reasonable given the current situation, and proffers this as a good faith effort at resolving these issues and continuing a business relationship that has been mutually beneficial to date.

It would be a grave error to shutter an essential business during the COVID-19 outbreak, and a disservice to members of the community who rely on The Lighthouse to meet their medical needs during a period when social distancing makes other forms of treatment difficult to obtain without creating additional health risks. Revoking the CUP would also deprive the City of substantial tax revenue at a time of great economic uncertainty, which would in all likelihood reduce the ability of the City to respond with agility to the ever-changing needs of its citizens during this ongoing crisis. Beginning revocation proceedings during this crisis would not simply be bad politics, but would result in a loss of a reliable revenue source for the City during times of great financial uncertainty. It would also be a disservice to the most vulnerable populations within the community, all in the name of enforcing compliance with the CUP in a period where full compliance based on the City's current corrective actions is per se impossible.

We respectfully request that the City Council overturn the Planning Commission's revocation of CUP No. 312 and allow The Lighthouse to continue its essential services to the desert community.