RESOLUTION NO. 2020-30

A RESOLUTION OF THE CITY OF COACHELLA CITY COUNCIL AFFIRMING PLANNING COMMISSION'S DECISION AND REVOKING CONDITIONAL USE PERMIT NO. 312, A CONDITIONAL USE PERMIT TO ALLOW A 3,250 SQUARE FOOT RETAIL CANNABIS MICROBUSINESS ON 0.29 ACRES OF LAND IN THE CG-RC (GENERAL COMMERCIAL – RETAIL CANNABIS OVERLAY) ZONE AT 84-161 AVENUE 48, AND MAKING FINDINGS IN SUPPORT THEREOF. THE COACHELLA LIGHTHOUSE, APPELLANT.

WHEREAS, on February 27, 2019, the City of Coachella Planning Commission ("Planning Commission") issued Conditional Use Permit No. 312 ("CUP 312") to allow a 3,250 square foot retail cannabis microbusiness with parking and security fencing to be located on 0.29 acres of land at 84-161 Avenue 48 within a commercial center located at the southeast corner of Avenue 48 and Van Buren Street (Assessor Parcel Numbers 603-220-063 and portions of 603-220-066); and,

WHEREAS, pursuant to Condition No. 3 of CUP 312, the Development Services Director conducted a 12-month review of CUP 312 and determined that the permittee failed to comply with the Conditions of Approval of CUP 312; and,

WHEREAS, the Development Services Director determined that the interested parties failed to comply with Conditions of Approval Nos. 2(a) – (c), 5, 6, and 14 – 16; and,

WHEREAS, pursuant to California Constitution Article XI, § 7, the California Zoning and Planning Law (Government Code sections 65800–65912), Chapters 17.70, 17.74, and 17.84 of the Coachella Municipal Code ("CMC"), the City of Coachella ("City"), through the Planning Commission and City Council, is authorized to revoke CUP 312; and,

WHEREAS, CMC section 17.74.050 and 17.84.070(D) authorize the revocation of a conditional use permit upon a finding that one or more conditions of the conditional use permit were not complied with; and,

WHEREAS, an application was initiated by the City for the revocation of CUP 312; and,

WHEREAS, on April 15, 2020, the Planning Commission conducted a duly noticed regular public hearing at which time all interested parties were provided the opportunity to give testimony for or against the revocation of CUP 312; and,

WHEREAS, on April 15, 2020, the Planning Commission revoked CUP 312 at the conclusion of the public hearing; and,

WHEREAS, The Coachella Lighthouse, LLC timely appealed the decision of the Planning Commission to the City Council; and,

WHEREAS, interested parties were properly notified of a public hearing held on May 13, 2020, regarding an appeal of the Planning Commission's decision to revoke CUP 312; and,

WHEREAS, on May 13, 2020, the City Council conducted a duly noticed public hearing on the appeal in the Council Chambers, 1515 Sixth Street, Coachella, California; and,

WHEREAS, all interested parties were afforded the opportunity to rebut the oral and written evidence that the applicant, City staff, presented in support of its position that revocation of CUP 312 was appropriate; and,

WHEREAS, members of the public were afforded an opportunity to testify regarding the revocation; and,

WHEREAS, the City Council finds that the Planning Commission carefully considered all information pertaining to the revocation, including the staff report and attachments, and all of the information, evidence, and testimony presented at its public hearing on April 15, 2020, after which it exercised its independent judgment to revoke CUP 312; and,

WHEREAS, the City Council, on May 13, 2020, affirmed the Planning Commission decision; and,

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred; and,

WHEREAS, revocation is categorically exempt from environmental review pursuant to Title 14, California Code of Regulations, section 15321(a).

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Coachella, California does hereby resolve as follows:

SECTION 1. The recitals set forth above are true and correct and are incorporated herein by reference.

SECTION 2. Based on the preponderance of the evidence presented to this City Council at the above-referenced public hearing on May 13, 2020, including the staff report with attachments and all information presented at the hearing in support of and in opposition to the revocation, after having reviewed the matter de novo on appeal, the City Council makes its own findings as following in accordance with Sections 17.70.080, 17.74.050, and Section 17.84.070 of the Coachella Municipal Code.

Finding Number 1: One or more conditions of CUP 312 was violated.

1. Pursuant to Condition No. 3 of CUP 312, the Development Services Director conducted a 12-month review of CUP 312 and determined that the permittee failed to comply with the Conditions of Approval of CUP 312, which led to the Planning Commission's revocation of CUP 312 and subsequent appeal to the City Council.

2. The permittee failed to comply with Condition No. 2(a) of CUP 312, which states: "Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule… The first phase of the Glenroy Resort Hotel shall be completed and open for business within 90 days of January 1, 2019." According to a review of City records and inspections of the property by City staff, as of April 8, 2020, the first phase of the Glenroy Resort Hotel is not complete nor open for business.

3. The permittee failed to comply with Condition No. 2(b) of CUP 312, which states: "Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule… The perimeter landscaping and fencing improvements for the retail cannabis microbusiness shall be completed within 60 days of the effective date of Conditional Use Permit No. 296." According to inspections of the property by City staff, as of April 8, 2020, the fencing improvements for the retail cannabis microbusiness have not been completed.

4. The permittee failed to comply with Condition No. 2(c) of CUP 312, which states that "Approval of Conditional Use Permit No. 312 is contingent upon City Council approval of the attendant Second Amendment to the Glenroy Resort Development Agreement, or a separate Development Agreement, granting an entitlement for a retail cannabis microbusiness and subject to compliance with the following performance schedule… The improvements required under Condition #5 of CUP 312 for additional glazing on the façade of the retail cannabis microbusiness shall be completed within 60 days of the effective date of Conditional Use Permit No. 312." According to inspections of the property by City staff, as of April 8, 2020, additional glazing on the façade of the retail cannabis microbusiness was not completed.

5. The permittee failed to comply with Condition No. 5 of CUP 312, which states that "The applicant or successor in interest shall comply with all conditions of approval imposed upon Architectural Review No. 17-07. The front façade of the business shall incorporate additional glazing on the front façade, subject to review by the Development Services Director." According to inspections of the property by City staff, as of April 8, 2020, the front façade of the business did not incorporate additional glazing.

6. The permittee failed to comply with Condition No. 6 of CUP 312, which states: "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." According to a review of City records by City staff, as of April 8, 2020, no comprehensive sign program for the Glenroy Resort project was reviewed or approved by the Planning Commission.

7. The permittee failed to comply with Condition No. 14 of CUP 312, which states: "The owner shall install a conforming trash enclosure for solid waste and recyclables within 250 feet of the proposed cannabis retail microbusiness." According to inspections of the property by City staff, as of April 8, 2020, no conforming trash enclosure for solid waste and recyclables has been installed within 250 feet of the cannabis retail microbusiness.

8. The permittee failed to comply with Condition No. 15 of CUP 312, which states: "The owner shall install a minimum of five bicycle racks in front of the retail cannabis microbusiness, or adjacent to the parking lot serving the proposed business." According to inspections of the property by City staff, as of April 8, 2020, five bicycle racks were not installed in front of the retail cannabis microbusiness or adjacent to the parking lot serving the business.

9. The permittee failed to comply with Condition No. 16 of CUP 312, which states that "The fencing along Avenue 48 may consist of a decorative wrought iron fence with a maximum height of five feet. The parking lot security gates shall consist of low barrier, non-automated gates to remain open during all hours of business operation. All entry gates must be reviewed and approved by the Fire Marshal's Office and the Building Official." According to inspections of the property by City staff, as of April 8, 2020, no perimeter fencing was installed along the Avenue 48 frontage adjacent to the retail cannabis business and no perimeter fencing was installed adjacent to the parking area serving the retail cannabis business. [BS1][LL2]

10. Based on the foregoing, the City of Coachella City Council hereby finds that one or more Conditions of Approval of CUP 312 were violated, justifying the CUP 312's revocation.

SECTION 3. Based upon the findings set forth in Sections 1 and 2 of this Resolution, the City Council hereby affirms the Planning Commission's decision and revokes Conditional Use Permit No. 312.

SECTION 4. The City Council hereby finds and determines that the revocation is categorically exempt from the requirements of the California Environmental Quality Act, as amended, and the Guidelines promulgated thereunder, pursuant to Section 15321 of the State CEQA Guidelines.

SECTION 6. This decision of the City Council is final and binding upon approval of this Resolution. A copy of this certified Resolution will be transmitted to the interested parties by first class mail. Interested parties may seek judicial review of this decision. Pursuant to Code of Civil Procedure Section 1094.6, any petition to the court must be filed no later than the 90th day from the date on which this decision became final.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution.

PASSED APPROVED, and ADOPTED by the City Council of the City of Coachella, California, at a regular meeting held on this 13th day of May, 2020.

PASSED, **APPROVED**, and **ADOPTED** this 13th day of May 2020.

_____

Steven A. Hernandez
Mayor

ATTEST:

_____

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

_____

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2020-30 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on this 13th day of May 2020 by the following vote of the City Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Andrea J. Carranza, MMC
Deputy City Clerk