

REPORT TO THE PLANNING COMMISSION



DATE: July 11, 2017

TITLE: Conditional Use Permit No. 20-17 and Variance No. 01-17 A request for development of a single-story bed & breakfast establishment and a reduction in the required side yard setbacks on a vacant 7,743 square foot lot in the V-S-C (Visitor Serving Commercial) district. APN 642-143-005.
Applicant: Elyon Development

Prepared by: Scott Taschner, Senior Planner

Reviewed by: Daniel Porras, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take Testimony from Applicant;
- 5) Take Public Testimony;
- 6) Opportunity for Applicant Rebuttal;
- 7) Close the Public Hearing;
- 8) Planning Commission discussion and questions to Staff; and
- 9) That the Planning Commission consider a motion for approval of 1) Conditional Use Permit No 20-17; and, 2) Variance application No. 01-17, for the development of a single-story bed & breakfast facility at 12900 Inaja Street. APN 642-143-005

EXECUTIVE SUMMARY

The applicant (*Elyon Development*) has filed a Conditional Use Permit (CUP 20-17) and Variance Application (VAR 01-17) for the construction of a single-story bed & breakfast facility on a vacant 7,743 square foot lot located at 12900 Inaja Street in the V-S-C (Visitor Serving Commercial) zoning district.



SITE CONDITIONS

Existing Zoning/General Plan Land Use:

Existing Use:

Total Project Area:

Assessor's Parcel Number:

V-S-C (Visitor Serving Commercial)

Vacant Land

7,743 square feet

APN: 642-143-005

The vacant site is relatively flat with adjacent parcels that are slightly tiered from the north going slightly downhill to the south. Street curb, gutter and other site improvements area already in pace and the service to power, water, sewer, trash, etc. is available. Access will be provided

along Inaja Street and the developer will be required to install a sidewalk along the frontage of the property.

Surrounding properties consist of:

	<u>Jurisdiction</u>	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	City	V-S-C (Visitor Serving Commercial)	Existing Single-Family Residential (Legal Non-Conforming)
West	City	V-S-C (Visitor Serving Commercial)	Vacant
South	City	V-S-C (Visitor Serving Commercial)	Existing Apartment Building (Legal Non-Conforming)
East	City	V-S-C (Visitor Serving Commercial)	Vacant

CUP ANALYSIS

General Plan and Zoning Consistency

The project proposes to establish a bed & breakfast facility in accordance with Section 1712.010-.380 of the DHSMC, which allows this use with approval of a CUP. The proposed development is consistent with lot coverage, building height, front and rear setbacks, parking, etc. The proposed project is not consistent with the development standards for side-yard setbacks (the DHS Zoning Code requires 10 feet, and the applicant proposes 5 feet). While the development could be altered in such a manner to allow for development of the site while still meeting the 10 foot side yard setback requirement, the applicant is asking to share the privileges enjoyed by neighboring properties/development that currently have 5 foot side-yard setbacks. The average lot width of the property is only 55 feet and with 10 foot side yard setback the building envelope would only be 35 feet wide. Given the commercial zoning and the restrictions of the code, it would be difficult to develop the site with a permissible use with only a 35 foot wide building envelope. Hence, the applicants request for a Variance. Staff has provided a table, below, outlining the current setbacks of the adjacent properties compared to the required setbacks on the DHS Zoning Code.

NEIGHBORING PROPERTIES – CONFORMANCE TO SIDE YARD SETBACKS

	Required Side-Yard Setbacks	Current Setbacks (on site conditions)	Conforming
North	10 feet	5 feet	No
West	10 feet 10 feet	5 feet & Vacant	No & Vacant
South	10 feet		

		5 feet	No
East	10 feet	Vacant	Vacant

Architecture

The building has a Mediterranean architectural design with blended red and brown clay roof tiles, stucco and sand finished exterior walls with lantern style light fixtures and a color palette of light and medium browns for the exterior walls and fascia boards. The construction will be that of a traditional wood framed construction. A color building elevation has been attached as **Exhibit No. 4**. The applicant is showing a proposed monument sign for the business, but no application for the sign has been filed, nor has staff received the additional required materials. Signage will be reviewed under a separate permit.

Landscaping

Landscaping is proposed around the entire perimeter of the site, which includes substantial plantings in the front yard area. Landscaping has been designed to balance aesthetic, water use and security objectives. The proposed palette includes the use of Palo Verde and other drought-tolerant shrubs and ground cover such as bougainvillea, lantana, and Mexican bird of paradise. A final landscape plan, approved by the mission springs water district, and submitted for Planning Department final review, will be required prior to final inspection.

Parking

The project proposed two covered off-street parking spaces as well as two additional parking spaces in the drive. This is in conformance with the requirements of the DHS zoning code.

AGENCY & PUBLIC REVIEW

Public Agency Review

The proposed project was routed to all relevant public agencies and departments for review.

Public Hearing Notice (10 Day Requirement)

A public hearing notice was advertised in The Desert Star Weekly on Friday June 30, 2017, and was mailed to all property owners within a 300 foot radius of the subject property (on Thursday June 29th, 2017). As of this writing, staff has not received any comments.

CONDITIONAL USE PERMIT FINDINGS

Conditional Use Permits are regulated under Section 17.76 of the Desert Hot Springs Municipal Code and require that certain findings be made by the Planning Commission before granting a CUP request. Staff has developed recommendations for each finding, as follows:

1. *That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance.*

Pursuant to Section 17.12.01 of the DHS Zoning Code bed & breakfast establishments are allowed as a conditionally permitted uses in the V-S-C (Visitor Serving Commercial) zoning district. In addition, the project is in compliance with all other provisions of the zoning ordinance with the exception of the requested reduction in the required side yard setbacks. A variance application has been submitted and separate findings are required to grant the requested reduction in the required side-yard setbacks. Those findings are included in this report. Staff recommends this finding.

2. *That the proposed use would not impair the integrity and character of the land use district in which it is to be located.*

The proposed bed & breakfast would not impair the integrity and character of the land use district. In fact, the proposed use of the land will be one of the few land uses on the block that is consistent with the restrictions and intended uses within the V-S-C (Visitor Serving Commercial) zoning district. In addition, the building will be limited to one story and will be a similar structure (in massing, architecture, placement, etc.) to other structures and single-family residences, which are currently legal non-conforming, in the area. Staff recommends this finding.

3. *That the subject site is physically suitable for the type and intensity of land use being proposed.*

The proposed bed & breakfast is a relatively small establishment which is in keeping with the small lot size and the neighborhood characteristics, which are mostly low-density uses. The proposed project is consistent with the lot coverage, density and parking requirements of the zoning district and will be limited to one-story and only a few guest rooms. Therefore, staff finds that the project site is physically suitable for the type and intensity of the proposed development. Staff recommends this finding.

4. *That the proposed use is compatible with the land uses presently on the subject property.*

The proposed bed & breakfast and the ancillary uses such as parking, landscaping, rear yard, etc. are the only other lands uses being proposed on the site. No other uses are existing, nor are they being proposed. Therefore, staff finds that the proposed use is compatible with the land uses presently on the site (vacant). Staff recommends this finding.

5. *That the proposed use would be compatible with existing and future land uses within the general area in which the proposed use is to be located.*

The proposed bed & breakfast is allowed as a conditionally permitted use in the zone. There are currently single-family residences and an apartment building to the south which are both considered legal non-conforming uses. The proposed bed & breakfast establishment will be limited to one story and will be similar to low-density uses & structures in the neighborhood, such as single-family residences. The proposed bed & breakfast will have similar massing, architecture, will be restricted to one-story, and will appear very similar to some of the other uses and structures/residences in the neighborhood. The proposed use of a bed & breakfast is also compliant with the intended uses for the V-S-C zoning district, and will be compatible with future uses in the area. Staff recommends this finding.

6. *That the proposed use is compatible in scale, mass, coverage, density, and intensity with all adjacent land uses.*

The proposed bed & breakfast is allowed as a conditionally permitted use in the zone. There are currently single-family residences and an apartment building to the south which are both considered legal non-conforming uses. The proposed bed & breakfast establishment will be limited to one story and will be similar to low-density uses & structures in the neighborhood, such as single-family residences. The proposed bed & breakfast will have similar massing, architecture, will be restricted to one-story, and will appear very similar to some of the other uses and structures/residences in the neighborhood. The proposed use of a bed & breakfast is also compliant with the intended uses for the V-S-C zoning district, and will be compatible with future uses in the area. Staff recommends this finding.

7. *That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.*

The subject site has access to water, sewer, power and the street is already served by Desert Disposal. will be developed as a light industrial use with all public services and utilities installed prior to occupancy. The proposed bed & breakfast facility will not create an extraordinary demand for water, sanitation or other public utilities and services that would result in any detriment to public health and safety. Staff recommends this finding.

8. *That there will be adequate provisions for public access to serve the site.*

The proposed project will provide a driveway and four (4) off-street parking spaces (2 covered) with vehicular and pedestrian access, both from public rights-of-way as well as within and throughout the site. The project will also be conditioned to install a standard sidewalk across the frontage of the property. Staff recommends this finding.

9. *That there will not be an adverse effect upon desirable neighborhood characteristics.*

Desirable neighborhood characteristics include long-range views from existing properties and business of surrounding mountains, and the future development of commercial businesses and surrounding area. The proposed height of the buildings is consistent with the development standards of the zoning district and are designed and placed on the site in such a manner that they will not impede long-range views. Surrounding lands available for other businesses will not be limited in their future development by the proposed use. Staff recommends this finding.

10. *That the proposed use is necessary and essential to the community.*

The proposed use can be considered necessary and essential to the community to the extent that it provides a bed & breakfast establishment which is an intended use for the zone. The project will also provide visitors a different option for staying in our city than traditional businesses. Further, the proposed use must also operate under City regulations and conditions of approval so that only the necessary and essential elements of the business – as determined by the City – are expressed over the life of the business. Staff recommends this finding.

11. *That the proposed use is consistent with applicable goals and policies of the General Plan.*

Staff has identified the following General Plan goals and policies applicable to the application and provides responses to each.

Administration

Goal: Comprehensive and integrated administration and implementation of all elements of the Desert Hot Springs General Plan through consistent and effective policies and programs.

The City has adopted a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed project will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

Policy 7: The City shall encourage in-fill development within already urbanized areas of the corporate boundaries of the City, and expansion of new development shall be

logically phased and, as appropriate, guided by the development of existing and new Specific Plans.

The proposed project will be located on a vacant property within a partially-developed residential/commercial area, located in the V-S-C (Visitor Serving Commercial) zone. All public improvements are either in place or will be constructed prior to occupancy. No specific plan has been adopted for the subject property.

Policy 8: City shall provide opportunities for review and comment on development proposals through public hearing notices sent to owners of property located at least within 300 feet of development proposal sites.

The project was noticed to neighboring owners within 300 feet of the project (on June 29, 2017), and in the Desert Stat Weekly on Friday June 30 March 4, 2017 per state noticing requirements. No comments have been received and the Planning Commission will open the public hearing and take public comments and/or testimony on the dais and prior to any action or recommendation to the City Council.

Community Design

Goal 2: Variety of community design, architecture and landscaping compatible with the City's desert setting and surrounding development.

The proposed uses will be located in one new building with new associated site improvements, including parking, and landscaping. These improvements have been reviewed for adherence to applicable development standards and guidelines. The building exterior, site landscaping, fencing and other improvements are designed with appropriate materials, colors, plant types and other design elements to assure compatibility with the City's desert setting and surrounding development.

Policy 1: Private and public sector development projects shall equally apply City community design standards, thereby protecting the community's scenic viewsheds, providing community cohesion and enhancing the image of Desert Hot Springs as a resort residential community.

The site is presently vacant, but will be developed and used for commercial use. The proposed building exterior (including height), site landscaping, fencing and other improvements are designed with appropriate materials, colors, plant types and other design elements that protect scenic viewsheds, provide community cohesion and enhance the image of the City.

Policy 9: Signs shall be limited to the minimum size, scale and number needed to provide functional identification and exposure necessary to convey messages, while minimizing impacts on traffic safety, streetscape and scenic viewsheds.

All exterior signs shall be subject to approval under the Desert Hot Springs Zoning Code. The city sign regulations do not permit signs to exceed the height of building eave lines which will result in no impacts on scenic viewsheds. Signage will be reviewed under a separate permit.

Policy 10: Lighting shall be limited to the minimum height, number and intensity of fixtures needed to provide security and identification in residential, commercial and industrial development, taking every reasonable measure to preserve the community's night skies.

All exterior lighting shall comply with Section 17.40.170 (Outdoor Lighting) to assure that only the minimum level of lighting necessary to provide the needed security and safety is installed. All proposed exterior lighting shall be reviewed by staff for conformance to the applicable standards. Therefore, the proposed bed & breakfast establishment is taking reasonable steps to preserve the night skies.

Economic Development:

Goal 1: A broadly based, healthy and balanced economy that provides a full range of economic and employment opportunities.

The proposed bed & breakfast establishment will provide opportunities for new employment and business support services.

Goal 2: Continued growth, which assures the maintenance of revenue, base adequate to support present and future public services and facilities needs.

The establishment of a bed & breakfast facility will provide additional revenues to the City to support present and future public needs.

Policy 11: Make every effort to expedite the processing of development proposals, which address the economic development goals of the community and take the initiative to incubate new programs and projects.

The application for a Conditional Use Permit is required by the Desert Hot Springs zoning code to assure compatibility with surrounding land uses and to develop project-specific conditions to assure successful operation in concert with the City's development goals. The application has been processed expeditiously.

Fire and Police Protection

Goal: A high level of police and fire protection and service.

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under fire codes and regulations. The project is not expected to have much demand for fire and police services due to the fact that there are only two units for rent and the applicant developer will be responsible for paying all diff fees and paying into the public safety (PTAX) fund when obtaining building permit .

Policy 1: All new and improved developments shall be reviewed for their impact on safety and the provision of police and fire protection services.

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under fire codes and regulations.

Policy 2

Enforce fire standards and regulations in the course of reviewing building plans and conducting building inspections.

All plans and improvements for interior or exterior building improvements will be subject to review and enforcement under fire codes and regulations.

Staff recommends this finding.

12. That there will not be significant harmful effects upon environmental quality and natural resources.

The proposed medical marijuana cultivation facility will be sited on vacant property currently zoned for light industry. Further, the cultivation facility will operate in accordance with the City's regulations and conditions of approval. Based on the draft environmental document, no significant adverse or harmful effects on the environment or on any natural resources are anticipated, subject to the implementation of specific mitigation measures and conditions of approval. Staff recommends this finding.

- 13. That the negative impacts of the proposed use are mitigated and/or a mitigated negative declaration may be filed.*

The proposed project will be operated in accordance with all applicable regulations and conditions of approval. A review of the proposed project has identified no negative impacts, subject to the implementation of specific mitigation measures and conditions of approval. Staff recommends this finding.

- 14. That the proposed location, size, design, and operating characteristics of the proposed use would not be detrimental to the public interests, health, safety, convenience, or welfare of the City.*

The proposed project has been reviewed by City departments and other public agencies for any potential detrimental effects on public interests, health, safety, convenience or welfare of the City. Any potential concerns have been addressed by recommended conditions of approval, and no unresolved concerns remain. Staff recommends this finding.

VARIANCE FINDINGS

Variances are regulated under Section 17.140 of the Desert Hot Springs Municipal Code and require that certain findings be made by the Planning Commission before granting a Variance request. Staff has developed recommendations for each finding, as follows:

- A. That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical land use district classification;*

The limitations of the existing lot including but not limited to the lot size (7,743 square feet), average lot width (55 feet) combined with the land use designation of V-S-C (Visitor Serving Commercial) makes development of the site with an approvable use, extremely difficult. Pursuant to Section 17.12.01 of the DHS Zoning Code, only a handful of uses are permitted, and nearly all of those, by Conditional Use Permit. Development of the site with a use that can be approved by the Planning Commission are not only limited by this section of the code but by the average buildable lot width of only 35 feet. In addition, other neighboring developments (the existing single family home to the north, and the existing apartment complex to the south, already enjoy reduced setbacks of 5-6 feet) Strict application of the zoning ordinance would deprive the property owner of reasonable development of the site with a conforming use and the potential to have a successful business operation on this site.

- B. That granting the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and land use district and denied to the property for which the variance is sought:*

The limitations of the existing lot including but not limited to the lot size (7,743 square feet), average lot width (55 feet) combined with the land use designation of V-S-C (Visitor Serving Commercial) makes development of the site with an approvable use, extremely difficult.

Pursuant to Section 17.12.01 of the DHS Zoning Code, only a handful of uses are permitted, and nearly all of those, by Conditional Use Permit. Development of the site with a use that can be approved by the Planning Commission are not only limited by this section of the code but by the average buildable lot width of only 35 feet. In addition, other neighboring developments (the existing single family home to the north, and the existing apartment complex to the south, already enjoy reduced setbacks of 5-6 feet) Strict application of the zoning ordinance would deprive the property owner of reasonable development of the site with a conforming use and the potential to have a successful business operation on this site.

C. That granting the variance will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvements in such vicinity and land use district in which the property is located;

A reduction in the required side yard setback from 10 feet to 5 feet will not have a detrimental impact to the public health, safety and welfare of the community, nor will it pose an injurious situation to the property or other improvements in the vicinity or in the V-S-C land use district. The proposed 5 foot side yard setback are setback that are enjoyed by other neighboring properties and structures in the area and the single-story bed & breakfast will limit any impacts to neighboring properties. Staff recommends this finding.

D. That granting the variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which such property is located;

Many of the properties and structures on the block and in the area have side yard setbacks which are less than 10 feet and the properties directly to the north and to the south appear to have 5 foot setbacks. Due to the fact that many neighboring properties are enjoying the benefits of having reduced side yard building setbacks, granting of a reduction in required yard setback from 10 feet to 5 feet would not constitute a granting of special privilege for the development of this site for a conforming use (through approval of a conditional use permit). Staff recommends this finding.

E. That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel; and

The granting of the request for a variance to reduce the required side yard setbacks from 10 feet to 5 feet would not allow a use that would otherwise not be allowed through the same permitting process (conditional use permit). Staff recommends this finding.

F. That granting the variance will not be inconsistent with the General Plan. (Prior code § 159.72.050)

The granting of this variance request for a reduction in the required side yard setback from 10 feet to 5 feet is not inconsistent with the goals and policies of the City's general Plan. Staff recommends this finding.

ENVIRONMENTAL ANALYSIS

The Applicant proposes construction of a 2,053 square foot Bed & Breakfast facility within a largely developed neighborhood which has existing infrastructure (street, water, sewer, etc.) The development and operation of a small Bed & Breakfast will result in no significant environmental impacts.

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq*, and the CEQA Guidelines, Title 14, Chapter 3 of California Code of Regulations, the project may be found to be Categorically Exempt from further environmental review as a Class 32 (In-Fill Development Projects) Categorical Exemption of Section 15332 of CEQA.

FISCAL IMPACT

Improvements to the existing building will generate one-time revenues to the City in the form of building permit fees to defray plan check and inspection costs as well as Transit Oriented Taxes from short-term rentals of the two units.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the V-S-C (Visitor Serving Commercial) zoning district. Staff recommends that the Planning Commission approve Conditional Use Permit No. 20-17 and Variance Application No. 01-17 subject to the Conditions of Approval and the adoption of the following Minute Motions:

APPROVAL OF AN EXEMPTION TO CEQA based on the finding that the project qualifies as Categorically Exempt under Section 15332 Class 32 (In-Fill Development Project). The Desert Hot Springs Planning Department is custodian of the documents or other material which constitute the record of proceedings upon which this decision is based.

APPROVAL OF CONDITIONAL USE PERMIT NO. 20-17 to allow a bed & breakfast establishment at 12900 Inaja Road based on the findings contained within this report and subject to the attached Conditions of Approval.

APPROVAL OF VARIANCE NO. 01-17 for a reduction in the required side-yard setbacks from 10 feet to 5 feet,

EXHIBITS:

- Exhibit No. 1 – Draft Conditions of Approval
- Exhibit No. 2 – Proposed Site & Landscaping Plan (Color)
- Exhibit No. 3 – Proposed Front Elevation (Color)
- Exhibit No. 4 – Proposed Side & Rear Elevations (Color)
- Exhibit No. 5 – Black & White Site Plan, Floor Plan, Building Elevations