

REPORT TO THE PLANNING COMMISSION



DATE: August 14, 2018

TITLE: Variance No. 02-18; a request to reduce the front-yard setback from 20 feet to 15 feet for the property located at 65118 San Jacinto Lane, and in accordance with Desert Hot Springs Municipal Code Sections 17.140-010 - 17.140.110.

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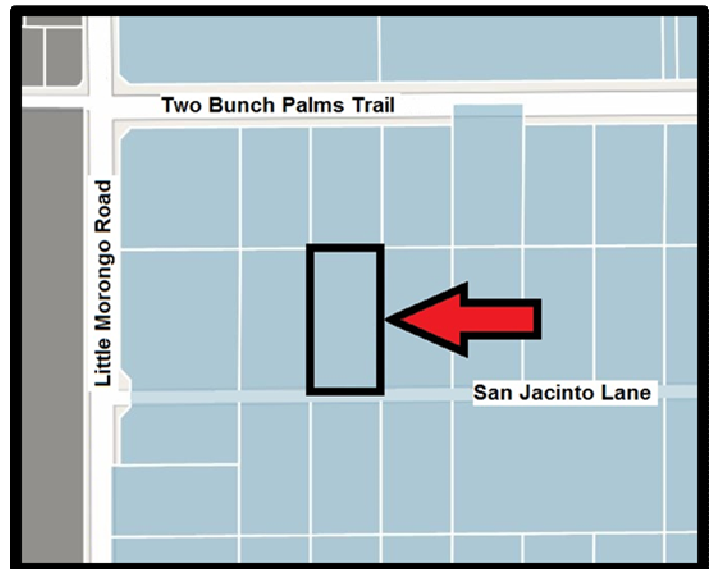
RECOMMENDATION

- 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) Approval of a Variance request (VAR No 02-18) to recude the front-yard setback from 20 feet to 15 feet, for the placement of a Southern California Edision required equipment shed.

BACKGROUND

The Applicant, Kamran Amirianfar, filed an Variance application (VAR 02-18) to reduce the front setback from 20 feet to 15 feet, in accordance with Desert Hot Springs Municipal Code Sections 17.140 (Variances)

The site is located at 65118 San Jacinto Lane, approximately 500 feet east of Little Morongo Road. The site is a rectangular shape and is generally, a flat parcel having an area of approximately 51,216 square feet (1.18 acres). Its width and street frontage along San Jacinto Lane is approximately 165 feet, and it has a depth of approximately 304 feet.



DISCUSSION

The applicant previously received entitlements for a Conditional Use Permit to occupy and renovate the existing industrial building. The placement and size of the building

limits the development of the rest of the site, especially in the front of the building which has seen major renovations to accommodate the American Disabilities Act (ADA) requirements, Southern California Edison (SCE) requirements, Gas Company requirements, etc. There is very little room left over for other necessary improvements and to bring the structure and uses into compliance with current codes.

The electrical room that was in front of the building was sized according to the previous use, and now with the change in use to Cultivation and ancillary uses, the power requirement is going to be much greater than previously needed. The Variance request is to accommodate a larger electrical room which will be located in the existing front-yard setback. The request is to reduce the setback just enough to accommodate the electrical room.

Because of all the wiring and gear that is already in that location SCE has recommended that the property owner keep the switch-gear and other components in the same location. That said, the room will have to be bigger for the increased capacity and will have to comply with updated requirements (interior switch gear 3 feet from buildings, must have enclosure with a roof). The electrical plans show the electrical room as it was built, which shows the electrical box encroaching into the front setback by 5 feet.

Surrounding Uses:

The site is zoned Light Industrial (I-L) District. Public Immediately surrounding properties are developed as follows:

	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	IL (Light Industrial) District	Industrial, Religious Institution and Vacant Lands
West	IL (Light Industrial) District	Industrial Lands
South	IL (Light Industrial) District	Industrial, Religious Institution and Vacant Lands
East	IL (Light Industrial) District	Industrial and Vacant Lands

CUP ANALYSIS

General Plan and Zoning Consistency: The project proposes to establish a Cannabis Marijuana Cultivation Facility in accordance with Section 17.180 of the DHSMC, which allows this use with approval of a CUP and Regulatory Permit.

Zoning Code & General Plan Consistency: The project is consistent with the development standards of the Zoning Code as well as the goals & policies of the General Plan with the exception of the front-yard setback which is being addressed in this report.

Building Setbacks: The minimum setbacks in the City's Light Industrial (I-L) Zone are 20 feet in front, 10 feet in the rear, and 10 feet on the side. The existing building is 20 feet

from the front and the rear setback is more than 25 feet from the property lines. With the addition of the electric room, the project no longer meets minimum setback standards.

ENVIRONMENTAL REVIEW

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 15301 (Existing Facilities). This project meets all the requirements of the Existing Facilities.

VARIANCE FINDINGS

The Planning Commission may approve and/or modify an application in whole or in part, with or without conditions, only if all of the following findings are made:

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 (51,216 square feet, 1.18 acres), the existing parking and the placement of existing building creates a situation in which there is little extra room to upgrade the site with necessary improvements to facilitate the new "Use" of the building and to bring the facility up to current code requirements and SCE regulations. Due to the location of the existing electrical gear and the need to increase capacity SCE has recommended the upgrades be constructed in the same place as the original gear. This will result in a structure (the electrical room) which will be located in the front-yard setback. Strict application of the Zoning Ordinance would require major expense and relocation of gear to another location and might result in other issues (loss in required parking spaces, for example) coming into play. In addition, other properties in the vicinity have their electrical gear located in the front-yard setback, so granting of this request, for a reduction in the front-yard setback from 20 feet to 15 feet, would not be a granting of special privilege. Staff recommends this finding.

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 (51,216 square feet, 1.18 acres), the existing parking and the placement of existing building creates a situation in which there is little extra room to upgrade the site with necessary improvements to facilitate the new "Use" of the building and to bring the facility up to current code requirements and SCE regulations. Due to the location of the existing electrical gear and the need to increase capacity SCE has recommended the upgrades be constructed in the same place as the original gear. This will result in a structure (the electrical room) which will be located in the front-yard setback. Strict application of the Zoning Ordinance would require major expense and relocation of gear to another location and might result in other issues (loss in required parking spaces, for example) coming into play. In addition, other

properties in the vicinity have their electrical gear located in the front-yard setback, so granting of this request, for a reduction in the front-yard setback from 20 feet to 15 feet, would not be a granting of special privilege. Staff recommends this finding.

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;

The limitations of the existing lot including but not limited to the lot size (51,216 square feet, 1.18 acres), the existing parking and the placement of existing building creates a situation in which there is little extra room to upgrade the site with necessary improvements to facilitate the new "Use" of the building and to bring the facility up to current code requirements and SCE regulations. Due to the location of the existing electrical gear and the need to increase capacity SCE has recommended the upgrades be constructed in the same place as the original gear. This will result in a structure (the electrical room) which will be located in the front-yard setback. Strict application of the Zoning Ordinance would require major expense and relocation of gear to another location and might result in other issues (loss in required parking spaces, for example) coming into play. In addition, other properties in the vicinity have their electrical gear located in the front-yard setback, so granting of this request, for a reduction in the front-yard setback from 20 feet to 15 feet, would not be a granting of special privilege. The granting of this request would not be materially detrimental to public safety, the general welfare of the public or be injurious to the property or improvements in the area. 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;

The limitations of the existing lot including but not limited to the lot size (51,216 square feet, 1.18 acres), the existing parking and the placement of existing building creates a situation in which there is little extra room to upgrade the site with necessary improvements to facilitate the new "Use" of the building and to bring the facility up to current code requirements and SCE regulations. Due to the location of the existing electrical gear and the need to increase capacity SCE has recommended the upgrades be constructed in the same place as the original gear. This will result in a structure (the electrical room) which will be located in the front-yard setback. Strict application of the Zoning Ordinance would require major expense and relocation of gear to another location and might result in other issues (loss in required parking spaces, for example) coming into play. In addition, other properties in the vicinity have their electrical gear located in the front-yard setback, so granting of this request, for a reduction in the front-yard setback from 20 feet to 15 feet, would not be a granting of special privilege. 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 proposed electrical box is regulated under the Southern California Edison and Under Federal Law. The limitations of the existing lot including but not limited to the lot size (51,216 square feet, 1.18 acres), the existing parking and the placement of existing building creates a situation in which there is little extra room to upgrade the site with necessary improvements to facilitate the new "Use" of the building and to bring the facility up to current code requirements and SCE regulations. Due to the location of the existing electrical gear and the need to increase capacity SCE has recommended the upgrades be constructed in the same place as the original gear. This will result in a structure (the electrical room) which will be located in the front-yard setback. Strict application of the Zoning Ordinance would require major expense and relocation of gear to another location and might result in other issues (loss in required parking spaces, for example) coming into play. In addition, other properties in the vicinity have their electrical gear located in the front-yard setback, so granting of this request, for a reduction in the front-yard setback from 20 feet to 15 feet, would not be a granting of special privilege. The granting of this variance does not allow for a use or activity which would otherwise not be allowed. Staff recommends this finding.

F. That granting the variance will not be inconsistent with the General Plan

The proposed electrical box is not inconsistent with the goals and policies of the general plan. Staff has outlined, above, some of the relative goals and policies of the general plan and provided responses addressing each of those sections of the City's General Plan. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. Staff recommends this finding.

In reviewing this application, plans, documents and other supporting information, staff has determined that the Planning Commission can make these findings.

CONDITIONS

Staff has added several conditions to require a review of the architecture, color, materials of the electrical room and other structures, tanks, etc. and a condition requiring submittal of a revised landscape plan showing additional landscaping that Planning will require to be installed to help screen the electrical room and tanks.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and recommends that the Planning Commission 1) Certify the CEQA exemption and, 2) Approve Variance No. 02-18, subject to the attached Conditions of Approval (Exhibit 1).

EXHIBIT(S)

- No. 1 Draft Conditions of Approval
- No. 2 Site Plan
- No. 3 Southern California Plans
- No. 4 Explanation for the request, from applicant