

PLANNING COMMISSION RESOLUTION NO. 2870

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM DESERT, CALIFORNIA, REVOKING, IN ITS ENTIRETY, CONDITIONAL USE PERMIT NO. 17-0033 FOR THE OPERATION OF A CANNABIS BUSINESS ON THE PROPERTY LOCATED AT 73818 DINAH SHORE DRIVE (ASSESSORS PARCLE NUMBER: 694080007)
CASE NO. CUP17-0033 REVOCATION

WHEREAS, the City of Palm Desert has gathered a significant amount of evidence regarding the subject establishment's repeated violations of the terms and conditions of CUP 17-0033, as well as violations of other ordinances and various provisions of law, as presented to the Planning Commission in the administrative record, including but not limited to, staff and public testimony, and other evidence as referenced in this Resolution as if fully set forth herein; and

WHEREAS, on July 17, 2018, the City of Palm Desert Planning Commission ("Planning Commission") adopted Resolution No. 2730, approving a Conditional Use Permit ("CUP") to operate a Cannabis business with twenty-five (25) conditions of approval at 73818 Dinah Shore Drive, Palm Desert, California ("Property"); and

WHEREAS, on January 24, 2023, the California Department of Cannabis Control ("DCC") issued a Commercial Distributor license (License No. Number C11-0001786-LIC) to Thinc Cubed at the subject property; and

WHEREAS, on March 8, 2023, the California DCC issued a Manufacturer Type 7 license (License No. CDPH-10004878) to Thinc Cubed at the subject Property; and

WHEREAS, pursuant to Palm Desert Municipal Code ("PDMC") § 25.72.050(J) the Planning Commission is authorized to make findings to modify, discontinue, suspend, or revoke any Conditional Use Permit issued pursuant to Title 25 of the PDMC; and

WHEREAS, on May 8, 2024, written notice of a hearing to consider revocation of CUP17-0033 scheduled for May 21, 2024, at 6:00 p.m. with the Planning Commission in the Council Chamber located at 73510 Fred Waring Drive, Palm Desert, was provided to Thinc Cubed; and

WHEREAS, the Planning Commission finds and determines that this project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), per State CEQA Guidelines, Section 15321 – Enforcement Actions by Regulatory Agencies; and

WHEREAS, the Planning Commission did on May 21, 2024, hold a duly noticed public hearing to consider this revocation; and

WHEREAS, at the said public hearing, upon hearing and considering all testimony and arguments, if any, of all interested persons desiring to be heard, the Planning Commission did find that the following facts and reasons, which are outlined in the staff report, exist to justify revocation of the Conditional Use Permit.

PLANNING COMMISSION RESOLUTION NO. 2870

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Palm Desert, California, as follows:

SECTION 1. Recitals. The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. Supporting Evidence. The staff report and attachments and all the information, evidence, and testimony presented at the May 21, 2024, public hearing are incorporated hereto by reference.

SECTION 3. Findings. Based on the Supporting Evidence presented to the Planning Commission at the Public Hearing on May 21, 2024, including the staff report with attachments and all information presented at the hearing in support of and in opposition to the revocation, the Planning Commission makes the following findings in accordance with Palm Desert Municipal Code (PDMC) Section 25.72.050(J):

Finding 1) the Permittee has failed to comply with any applicable provision of the Palm Desert Municipal Code, including but not limited to the City's building, zoning, and health regulations.

Findings of Fact

- A. Thinc Cubed (Permittee) has not paid required cannabis taxes to the City of Palm Desert since October 2023 (PDMC 3.50.030; PDMC 3.50.040)
- B. The Permittee has not maintained the required state licenses for operation of the cannabis business, as required under PDMC 5.101.030(A). DCC has confirmed that the Permittee's Commercial Distributor license and Manufacturer Type 7 license have both expired. The licenses have both expired for more than sixty (60) days.
- C. Every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding sixty (60) consecutive calendar days after a certificate of occupancy is issued, shall, within sixty (60) calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the City Manager (PDMC 5.101.100). The DCC issued licenses were not renewed 61 days after the expiration. Additionally, the Permittee has not operated at the building since November 28, 2023 and there have been no construction permits issued to repair the building.

Finding 2) The Permittee has failed to comply with multiple conditions of approval imposed by CUP 17-0033.

Findings of Fact:

The Permittee has violated three (3) conditions of approval of CUP 17-033 per Reso 2730. This includes Conditions of Approval numbers 6, 10, and 15. The following is a list of the aforementioned conditions of approval, and how the Permittee has failed to comply:

PLANNING COMMISSION RESOLUTION NO. 2870

Condition No. 6: The cannabis manufacturing use of this property shall not commence until the applicant can provide the City's Department of Community Development with proof of a license issued by the State Bureau of Cannabis Control. Continued use of the property for cannabis purposes is subject to the applicant maintaining a valid license from the State Bureau and demonstrating ongoing compliance with the City's cannabis regulatory permit.

Violation 1: The Permittee has not maintained the required state licenses for operation of the cannabis business, as required under PDMC 5.101.030(A). DCC has confirmed that the Permittee's Commercial Distributor license and Manufacturer Type 7 license have both expired and are no longer eligible to be renewed.

Violation 2: The Permittee has not paid required cannabis taxes to the City of Palm Desert for November 2023 (PDMC § 3.50.030).

Violation 3: The Permittee reported activity in February of 2024 in the Marijuana Enforcement Tracking Reporting Compliance (Metrc) track and trace software, which is a third-party vendor used by DCC, however the business was not in operation at this location.

Condition No. 10: The applicant shall comply with all applicable provisions of the PDMC Section 5.101 (Commercial Cannabis Regulatory Permits), 8.38 (Personal Use of Cannabis), and 25.34.120 (Commercial Cannabis Business and Personal Cultivation).

Per PDMC 5.101.100, every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding sixty (60) consecutive calendar days after a certificate of occupancy is used, shall, within sixty (60) calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the City Manager. The DCC issued licenses (License No. C11-0001786-LIC and License No. CDPH-10004878) were not renewed 61 days after the expiration. Additionally, the Permittee has not operated at the building since November 28, 2023 but is reporting activity.

Condition No. 15: Operation of the cannabis business outside of these approvals and conditions shall constitute a violation of the PDMC and shall be enforced pursuant to the provisions in the PDMC. Ongoing violations which are not remedied within a timeframe established by the Community Development Director may result in revocation of the CUP and Cannabis Regulatory Permit.

The Permittee, having expired DCC issued licenses and not paying the City's cannabis taxes, violates the PDMC and the conditions of approval listed out in Reso 2730. CUP 17-0033 approval requires continued compliance with the conditions of approval from Reso 2730, including maintaining active DCC licenses.

Finding 3: The Permittee has allowed the existence of or created a public nuisance in violation of the Palm Desert Municipal Code.

Findings of Fact:

PLANNING COMMISSION RESOLUTION NO. 2870

The November 28, 2023 explosion and fire at 73818 Dinah Shore Drive led to significant damage to the building, that has yet to be repaired and cannot be occupied. However, the Permittee has reported manufacturing activity in February 2024 under the license assigned to this property which has been referred to DCC for investigation. As a result, we deem it a public nuisance, as it poses a risk to the life, health, and safety of the public in accordance with the PDMC.

SECTION 4. Environmental Review. The action is categorically exempt from further environmental review and the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies).

SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at City Hall at 73510 Fred Waring Drive, Palm Desert, CA 92260. Richard D. Cannone, AICP, the Secretary to the Palm Desert Planning Commission, is the custodian of the record of proceedings.

SECTION 6. Execution of Resolution. The Chairperson of the Planning Commission signs this Resolution, and the Secretary to the Commission shall attest and certify the passage and adoption thereof.

SECTION 7. Recitals. The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

ADOPTED ON May 21, 2024.

JOSEPH PRADETTO
CHAIRPERSON

ATTEST:

RICHARD D. CANNONE, AICP
SECRETARY

I, Richard D. Cannone, AICP, Secretary of the City of Palm Desert Planning Commission, hereby certify that Resolution No. 2870 is a full, true, and correct copy, and was duly adopted at a regular meeting of the Planning Commission of the City of Palm Desert on May 21, 2024, by the following vote:

AYES:
NOES:
ABSENT:

PLANNING COMMISSION RESOLUTION NO. 2870

ABSTAIN:
RECUSED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Desert, California, on May___, 2024.

RICHARD D. CANNONE, AICP
SECRETARY