

RESOLUTION NO. PC 2024-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF INDIAN WELLS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE MODIFICATION TO CONDITIONAL USE PERMIT NO. 2-90-5 TO CONSTRUCT AND OPERATE UP TO SIX NEW PICKLEBALL COURTS WITH ASSOCIATED GOLF CART PARKING, LIGHTING, DRAINAGE, AND LANDSCAPING IMPROVEMENTS ADJACENT TO THE EXISTING INDIAN WELLS COUNTRY CLUB CLUBHOUSE LOCATED AT 46000 CLUB DRIVE (APN 623-160-050) AND FINDING THE PROJECT EXEMPT PURSUANT TO CEQA GUIDELINES SECTION 15303(c), NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES

WHEREAS, Delawie (the "Applicant"), on behalf of the Indian Wells Country Club, has filed an application with the City of Indian Wells (the "City") for a modification to Conditional Use Permit ("CUP") No. 2-90-05 to construct and operate up to six new pickleball courts with associated golf cart parking, lighting, drainage and landscaping improvements located adjacent to the Indian Wells Country Club Clubhouse at 46000 Club Drive (the "Project"); and

WHEREAS, notice of a public hearing of the Planning Commission of the City to consider the Applicant's request was given in accordance with applicable law; and

WHEREAS, on November 21, 2024, a duly noticed public hearing on the Project was held by the Planning Commission; and

WHEREAS, after careful consideration of the staff report and all the information, evidence, and testimony presented at its public hearing, the Planning Commission finds as follows:

Conditional Use Permit:

1. The proposed location of the modified conditional use is in accord with the objectives of the Zoning Code and the purpose of the General Plan and zoning land use category in which the site is located.

FACT: The proposed Project site is located within the Open Space designation and zoned Residential Very Low Density with a Golf Course Overlay, which governs the use and development of established and future golf courses. The Golf Course Overlay Zone permits uses directly related to the operation and maintenance of the subject golf course. The new pickleball facilities and associated improvements will be developed within a portion of the existing driving range, and will serve as additional amenities to the existing Country Club, which currently offers 36-holes of golf, a driving range and practice area, bocce ball courts, a fitness center and dining options. The Project remains in accordance with the existing General Plan Open Space and Recreation Plan (Policies IIIA-1.1 and IIIA-2.4) by preserving the golf course open space resources and providing additional recreational opportunities for the members of the Indian Wells Country Club. The proposed expansion of recreational amenities within the clubhouse area of the Indian Wells Country Club is consistent with the intended use under the original approval.

2. The proposed conditional use will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity.

FACT: The proposed Project will not adversely affect public health, safety or welfare, nor will it materially injure surrounding properties or improvements. The Project will adhere to all applicable sections of the California Building Code, California Fire Code and Municipal Code, thereby preventing adverse impacts resulting from the facility's development and operation. The new facility has been designed to complement the surrounding uses and has been approved by the City's Design Review Committee ("DRC"), which determined the Project and associated improvements are compatible with the existing clubhouse and surrounding community.

3. The proposed conditional use will comply with each of the applicable provisions of the Zoning Code except for approved Variances.

FACT: As conditioned, the modification to CUP No. 2-90-05 complies with all applicable provisions of the City's Zoning Code. Modifications to established golf courses exceeding \$5,000 may be authorized pursuant to a CUP or CUP modification, if the proposed changes, as provided on a detailed site plan, are consistent with the operations and maintenance of the subject golf course. The proposed Project provides additional amenities to the members of the Indian Wells Country Club and conforms with the applicable provisions of the City's Zoning Code.

California Environmental Quality Act (CEQA):

1. Modification to CUP No. 2-90-05 has been reviewed in compliance with CEQA.

FACT: This Project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State and local CEQA Guidelines, and the environmental regulations of the City. The City, acting as Lead Agency, has determined the modification to CUP No. 2-90-05 qualifies as being Categorically Exempt from CEQA pursuant to Section 15303, Construction or Conversion of Small Structures.

NOW, THEREFORE, the Planning Commission of the City of Indian Wells **RESOLVES** as follows:

SECTION 1. The Planning Commission **ADOPTS** Resolution No. PC 2024-09 recommending the City Council approve modification to CUP No. 2-90-05 subject to the Conditions of Approval listed on Exhibit "A" attached hereto and by this reference incorporated herein.

SECTION 2. The Community Development Director shall transmit this recommendation to the City Council, and the Planning Commission recommends that Resolution No. PC 2024-09 be reviewed and approved on the City Council consent agenda per Section 21.06.040 of the Indian Wells Municipal Code.

SECTION 3. The Planning Department shall certify to the adoption of this Resolution and shall mail by first class, prepaid, United States mail, a certified copy of this Resolution to Applicant.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Indian Wells, California, at a regular meeting held on this 21st day of November 2024.

JOHN SCHLEIMER
CHAIR

CERTIFICATION FOR RESOLUTION NO. PC 2024-09

I, Jon Berg, Community Development Director of the Planning Department of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the Planning Commission is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the Planning Commission of the City of Indian Wells on the 21st day of November, 2024, by the following vote:

AYES:
NOES:

ATTEST:

APPROVED AS TO FORM:

JON BERG
COMMUNITY DEVELOPMENT DIRECTOR

BEST, BEST & KRIEGER, LLP
CITY ATTORNEY **FOR**

EXHIBIT "A"

Conditions of Approval Modification to CUP No. 2-90-05

November 21, 2024

GENERAL:

1. The Applicant shall defend, indemnify, and hold harmless the City of Indian Wells and its officials, officers, employees, and agents from and against any claim, action, or proceeding against the City of Indian Wells, its officers, employees, or agents to attack (including any judicial proceedings or an referendum), set aside, void, or annul any approval or condition of approval of the City of Indian Wells concerning this project, including but not limited to, any alleged act or failure to act related to the California Environmental Quality Act ("CEQA"), any approval or condition of approval by the Planning Commission or City Council. The City shall promptly notify the Applicant of any such claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. Applicant shall defend, with counsel mutually chosen by City and Applicant Applicant's own cost, expense and risk, any and all such aforesaid suits, actions or other proceedings of every kind that may be brought or instituted against City, its officials, officers, employees and agents. Applicant shall pay and satisfy any judgment, award or decree that may be rendered against City, its officials, officers, employees or agents in any such suits, actions or other proceedings. Applicant shall also reimburse City for the cost of any settlement paid by City arising out of any such claims, demands, causes of action, costs, expenses, liabilities, loses, damages, injuries, suits, actions, or other proceedings. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Applicant shall reimburse City, its officials, officers, employees and agents for any and all legal expenses and costs, including expert witness fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Applicant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its officials, officers, employees or agents. In all cases, the City reserves the right, at its own option and cost, to choose its own attorney to represent the City, its officials, officers, employees, and agents in the defense of the matter.
2. In the event that any condition contained herein is determined to be invalid or legally unenforceable, then all remaining conditions shall remain in force.
3. This approval of modification to CUP No. 2-90-05 shall be used within one (1) year after final approval or it shall become null and void unless the time limit is extended by the City Council per Municipal Code Section 21.06.040(e). The phrase "be used" above shall mean the application by the Applicant for, and approval and issuance by the City of, applicable building permits to start construction of the phased project.
4. All relevant Conditions of Approval from CUP No. 2-90-05, including any subsequent modifications, shall remain in effect for this modified CUP.

5. The pickleball courts shall be used exclusively by members of the Indian Wells Country Club and their guests. Any changes in usage shall require approval from the City.
6. The Applicant shall implement all noise mitigation measures recommended in the approved Noise Study conducted by Salas O'Brien on file with the City. Specifically, the Applicant shall install a continuous 12-foot-high noise barrier along the east and south sides of the pickleball courts. The noise barrier shall be designed and constructed using materials and specifications detailed in the Noise Study to reduce noise levels to approximately 50dBA at the nearest residential property lines consistent with existing ambient noise levels.
7. The Applicant shall maintain the facilities, including but not limited to the noise barriers, waiting area, lighting, drainage area, parking and landscaping, in an acceptable and safe condition to the satisfaction of the City of Indian Wells, for the life of the Project.
8. As determined by the Community Development Director, if the City receives substantive noise complaints caused by the operation of the new pickleball courts, the Director or designee shall have the authority to require additional noise attenuating measures as recommended in the Noise Study, including but not limited to, adding additional noise barriers, the use of quieter paddles and balls, and limiting operational hours to ensure associated noise levels do not exceed the pre-existing ambient conditions at the nearest residential homes.
9. The pickleball courts shall only be allowed to operate between the hours of 8:00 a.m. and 8:00 p.m., seven days a week.
10. A minimum of 198 vehicle parking spaces and 147 golf cart parking spaces shall be maintained on-site in accordance with the approved Parking Study conducted by Urban Crossroads.
11. The project shall be developed in accordance with the approved plans, and failure to comply with any conditions of approval shall be deemed just cause for revocation of project approval by the City Council. However, the Community Development Director or designee shall have the authority to approve minor deviations in the conditions of approval, and all plans including the construction drawings, if deemed necessary by both the Applicant and the City to implement the Project as conditionally approved.
12. Upon submittal of construction drawings to the Building Department for plan check review, all departmental conditions of approval for the project shall be included on the sheet following the title sheet, or the first sheet of the plans. A site plan shall also be attached to all sets of construction drawings. This condition shall be a minimum requirement for acceptance of construction drawings for the Building plan check review.
13. All plans shall be coordinated for consistency.

14. The Applicant shall pay development impact fees at the established rates. Such fees may include, but not be limited to, new construction fee, park or open space fees, school fees, drainage fees, sewer fees, TUMF fee, local CVMSHP development impact fee, building permit and plan check fees.
15. All signage must be in compliance with Indian Wells Municipal Code Title 17 and all other applicable Code sections. Proposed deviations from the Title 17 of the Indian Wells Municipal Code shall be submitted for consideration as an application in compliance with Indian Wells Municipal Code Section 21.06.050.
16. Approval of this modified conditional use permit shall not waive compliance with all applicable sections of the Indian Wells Municipal Code, all other applicable City ordinances, and applicable specific plans.
17. Construction shall occur between the hours of 7:00 am and 5:00 pm, Monday through Friday, 8:00 am and 5:00 pm, Saturday and no construction on Sunday or national holidays per Municipal Code Section 9.06.047. The Community Development Director may grant a temporary waiver from these hours in limited circumstances where a special need is demonstrated.
18. Within fifteen (15) days of final approval by the City Council, the Applicant shall submit in writing, a statement indicating that the Applicant has read and agrees to the conditions imposed herein. Approvals of land use and related applications hereunder shall become void, and any privilege, permit, or other authorization granted shall be deemed to have terminated if compliance with this condition has not been completed within the specified time limits.

LANDSCAPING:

19. Detailed landscaping and irrigation plans shall be submitted for approval by either the Community Development Director and/or the Coachella Valley Water District.
20. Above ground-mounted utility locations shall require approval by the Community Development Director. All detector check and backflow assemblies shall be located in planting areas.
21. Any exposed detector check/backflow devices shall be painted a neutral/earth tone color and any pipes extending above ground shall be finished and painted to match the device.
22. All ground-mounted utility appurtenances shall be located out of public view and adequately screened through the use of a combination of concrete or masonry walls, berming and/or landscaping to the satisfaction of the Community Development Director.
23. All plant materials within landscaped areas shall be maintained in a viable growth condition throughout the life of this project.

LIGHTING:

24. All lighting shall be designed and installed to minimize on-site and off-site glare onto adjacent property. Lighting shall comply with the approved Photometric Plan, and any modifications require prior approval from the Community Development Director.
25. The maximum height of all light fixtures shall not exceed 20-feet above the court surface. All lighting shall be shielded and directed downward to minimize glare and light spillover onto adjacent residential areas.
26. Lighting shall operate only between 8:00 a.m. and 8:00 p.m., consistent with the hours of operation for the courts.

BUILDING AND SAFETY

27. A pre-construction meeting, scheduled with the Building Division, shall be held with all applicable City staff members, Applicant, contractor, superintendent, and all subcontractors prior to start of construction.
28. Prior to the issuance of a building permit for construction, the Applicant shall first obtain and present to the Building Department permits and/or clearances from the following agencies/individuals as applicable:
 - a. City Fire Marshal
 - b. City Public Works Director
 - c. Community Development Director
 - d. Coachella Valley Water District (CVWD)
29. Seismic design consideration shall be in accordance with the provisions of the current California Building Code and the seismic design parameters of the Structural Engineers Association of California.
30. Building construction will be designed in accordance with the energy conservation requirements imposed by the California Energy Commission and Title 24 of the California Administrative Code.
31. The Project shall comply with all applicable provisions of the Americans with Disabilities Act (ADA).
32. The Project is to be built according to Building and Safety Standards and comply with any applicable City of Indian Wells Municipal Code Regulation.
33. The Project site shall be clean and free of trash and construction debris, and all construction equipment shall be removed from the site prior to issuance of a certificate of occupancy.

34. The developer or contractor is responsible for construction parking. To the extent feasible, all construction, visitor, and worker vehicles shall be parked on-site. Any construction, visitor, or worker vehicles not parked on-site, must be parked legally on the street within a 150-foot radius of the construction site.

PUBLIC WORKS/ENGINEERING:

35. A Preliminary Geotechnical Investigation and Report shall be prepared by a competent Geotechnical Engineer, and submitted to and reviewed by the City, prior to commencement of any precise grading activities. Said Report(s) shall be referenced on the Precise Grading Plans. Said Report shall comply with the City of Indian Wells Geotechnical Policy Guidelines, including requirements for Subsidence. All grading shall conform to the recommendations contained in the Preliminary Geotechnical Investigation and Report and shall be observed by the Geotechnical Engineer of Record.
36. All projects disturbing less than one acre are not required to prepare a SWPPP or file an NOI, but shall manage storm water drainage during construction by complying with one or more of the measures described in the Green Building Standards Code (CGBC). Implementation of Best Management Practices (BMP's) in accordance with IWMC 16.52.020 shall satisfy CGBC requirements.
37. All projects disturbing 5,000 square feet or more shall be required to prepare and submit to the City for approval a Fugitive Dust Mitigation Application and Plan. Dust and vehicular track-out shall be controlled in accordance with an approved Plan, including but not limited to daily cleaning of dirt and debris from of all adjacent streets. Dirt and debris shall not be permitted to enter any storm drain system. During periods of high winds or wind gusts exceed 25 mph, all grading shall cease and the site shall be continuously watered to prevent fugitive dust.
38. Complete Checklist for Identifying Projects Requiring a Project-Specific Water Quality Management Plan (WQMP) within the Whitewater River Region prior to Grading Permit submittal.
39. Prior to issuance of a Building Permit, a Precise Grading Permit shall be obtained by the Applicant. Said permit may be issued after submittal, review, and approval of a Precise Grading Plan. The Precise Grading Plan shall comply with Chapter 18 of the Indian Wells Municipal Code and the Indian Wells Public Works Engineering Handbook.
40. Prior to issuance of a Precise Grading Permit, the Applicant shall submit and obtain approval of all of the following:
 - a. Precise Grading Plan that shall be prepared by a qualified Engineer and shall conform to the recommendations contained in a Preliminary Geotechnical Report(s).
 - b. Fugitive Dust Control Application and Plan.
 - c. Refundable dust deposit in the amount of \$2,000 per acre.

41. Construction in the 500 year, .2% Annual Chance Flood Hazard (X) shall be per Indian Wells Municipal Code 16.36 Flood Plain Management.
42. All compaction reports, grade certifications and as-built of the precise grading plan shall be submitted to the Engineering Division before final inspection of public works improvements will be scheduled and approved.

END OF CONDITIONS