

ORDINANCE NO. 749

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, AMENDING CHAPTER 21.34 OF THE INDIAN WELLS MUNICIPAL CODE BY MODIFYING SECTION 21.34.040 TO ESTABLISH TEMPORARY USES INCLUDING UNPAVED PARKING LOTS, AGRICULTURAL USES, SOD FARMS AND SIMILAR FACILITIES AS CONDITIONALLY PERMITTED USES IN THE RESORT COMMERCIAL ZONE; FOR WHICH AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION WAS PREPARED FOR CEQA.

WHEREAS, the City of Indian Wells, California (the "City") is a municipal corporation and charter city, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the City has the authority under Article 11, Section 5 of the California Constitution and the City Charter to make, amend, and enforce all ordinances and regulations with respect to municipal affairs; and

WHEREAS, the City desires and intends to amend Section 21.34.040 to further allow temporary agriculture and special event parking uses within the City's Resort Commercial Zone through a conditional use permit process; and

WHEREAS, a duly noticed public hearing of the Planning Commission was conducted on November 16, 2022 at which time all persons wishing to be heard were afforded an opportunity to be heard; and

WHEREAS, notice of a public hearing of the City Council of the City of Indian Wells to consider this Ordinance was given in accordance with applicable law; and

WHEREAS, on November 28, 2022 a duly noticed public hearing on the Zone Text Amendment was held by the City Council; and

WHEREAS, on December 15th, 2022 a duly noticed hearing on the Zone Text Amendment was held by the City Council and a second reading of the Zone Text Amendment was conducted; and

WHEREAS, pursuant to the Indian Wells Municipal Code Section 21.06.020(d) for applications considering a zoning text amendment, findings shall be made by the City Council to ensure conformance with the City's Zoning Code, the public health, safety, or welfare, and the General Plan; and

WHEREAS, after careful consideration of the staff report, public testimony and all of the information presented at the hearing, including the draft IS/MND and associated documentation and exhibits, the City Council finds as follows:

Zoning Text Amendment:

1. The proposed Zoning Text Amendment is consistent with the City of Indian Wells General Plan or any amendment approved concurrently with the Zone Change.

FACT: The proposed Zoning Text Amendment is consistent with the General Plan in that it would allow temporary parking areas/sod farms in the Resort Commercial Zone, uses that support recreational facilities such as the Indian Wells Tennis Garden; and

2. The proposed Zoning Text Amendment is consistent with the intent and objectives of this Zoning Code.

FACT: The proposed Zoning Text Amendment is consistent with the intent and objectives of Municipal Code Title 21 and Chapter 21.34, as this amendment is deemed consistent with compatibility of use and intensity with adjacent and surrounding uses and promotes the quality image and character of the City. The City retains locational discretion over such uses, which require approval of a CUP; The proposed zoning text amendment will be consistent with the "resort experience" as described in City code.

3. The proposed Zoning Text Amendment is consistent with any applicable area Master Development Plan.

FACT: The proposed Zoning Text Amendment would allow temporary parking lots/sod farms, supporting uses, in the Resort Commercial Zone. As a conditionally permitted use, approval of any particular temporary parking lot or sod farm would be at the City's discretion and would not be granted unless it were consistent with any applicable area Master Development Plan or Specific Plan; and

4. The proposed Zoning Text Amendment is in the best interests of the health, safety and welfare of the community.

FACT: The proposed Zoning Text Amendment is in the best interests of the health, safety and welfare of the community as it will designate, regulate and restrict the such uses of land; promote the Indian Wells Tennis Garden as a world-class tennis facility providing economic benefit to the City and surrounding communities; and promote the orderly growth and development of the community which is consistent with the intent and objectives of Title 21 of the Indian Wells Municipal Zoning Code;

5. Adequate sewer and water lines, utilities, sewage treatment capacity, drainage facilities, police protection/emergency medical care, vehicular circulation and school facilities will be available to serve the area affected by the proposed Zone Change when development occurs.

FACT: Adequate utilities (sewer, water, etc), drainage facilities, police and fire protection and vehicular circulation are available to serve the Resort Commercial areas of the City. Because the inclusion of temporary parking lots as a conditional use involves no occupied permanent structures, impacts on City services and public facilities will be minor.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1 The Recitals above are true and correct and are hereby adopted as findings as if fully set forth herein.

SECTION 2 Chapter 21.34 of the Indian Wells Municipal Code is amended by modifying Section 21.34.040 to read as follows:

21.34.040 Uses Permitted

All development in this zone shall be in accordance with a Master Development Plan. This plan shall be submitted to the City by the developer and shall be considered in accordance with the procedures provided in Section 21.06.030, and Section 21.06.040.

The uses permitted in this zone are subject to a Conditional Use Permit and shall be:

- (a) Those uses which can be shown to make up the "resort experience"; which may include, but are not necessarily limited to hotels, conference and convention facilities, recreational facilities, restaurants, country clubs, and golf courses.
- (b) Sexually oriented businesses.
- (c) Temporary uses including unpaved parking lots, agricultural uses, sod farms and similar facilities as determined by the Community Development Director.

SECTION 3 The City of Indian Wells Municipal Code is hereby amended as set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 4. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and 15060(c)(3), the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. CUSTODIAN OF RECORDS. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 44950 Eldorado Drive, Indian Wells, CA 92210. The custodian of these records is the City Clerk.

SECTION 6. SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance and each section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect and be in force 30 days after City Council approval and adoption.

SECTION 8. PUBLICATION. The City Clerk is directed to publish this Ordinance within the manner and in the time prescribed by law.

PASSED APPROVED AND ADOPTED by the City Council of the City of Indian Wells, California, at a regular meeting held on the 15th day of December 2022.

DONNA J.H. GRIFFITH
MAYOR

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)

CERTIFICATION FOR ORDINANCE NO. 749

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No. 749, having been regularly introduced at the special meeting of November 28, 2022 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on December 15, 2022 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

and was thereafter on said day signed by the Mayor of said City of Indian Wells.

ATTEST:

APPROVED AS TO FORM:

ANGELICA AVILA
CITY CLERK

TODD LEISHMAN
CITY ATTORNEY

EXHIBIT "A"

Amendments to Municipal Code

Title 21 ZONING CODE

Chapter 21.34 RESORT COMMERCIAL ZONE DEVELOPMENT STANDARDS

21.34.040 Uses Permitted

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