

## REPORT TO CITY COUNCIL

**DATE:** JANUARY 10, 2023

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** NATHAN HAMBURGER, CITY MANAGER

**BY:** DENICE THOMAS, COMMUNITY DEVELOPMENT DIRECTOR  
ROBBY NESOVIC, PRINCIPAL PLANNER

**REQUEST:** ADOPT ORDINANCE NO. 23-475, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING SECTION 9673.2 OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO REQUIRE ISSUANCE OF A CONDITIONAL USE PERMIT WITHIN A SPECIFIED TIME PERIOD IF DELINEATED FINDINGS CAN BE MADE AND CODIFYING FACTORS TO BE UTILIZED IN CONSIDERING REQUIRED FINDINGS, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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At the meeting held on December 13, 2023, the City Council, by a vote of 5-0, waived full reading and introduced Ordinance No. 23-475 requiring issuance of a conditional use permit within a specified time period if delineated findings can be made and codifying factors to be utilized in considering required findings, and making a determination of exemption under the California Environmental Quality Act (CEQA).

### **FISCAL IMPACT**

The only impact associated with this request is ordinance review by the City Attorney. The cost of this review, as with all other City Attorney reviews, is included in the adopted budget for Fiscal Year 2023-24. No budget adjustments are needed for this item and there are no additional impacts to the adopted budget.

### **RECOMMENDATION**

Staff respectfully recommends the City Council adopt Ordinance No. 23-475, an Ordinance of the City Council of the City of Agoura Hills, California, amending section 9673.2 of Article IX (zoning) of the Agoura Hills Municipal Code to require issuance of a conditional use permit within a specified time period if delineated findings can be made and codifying factors to be utilized in considering required findings, and making a determination of exemption under the California Environmental Quality Act.

Attachment: Ordinance No. 23-475

**ORDINANCE NO. 23-475**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING SECTION 9673.2 OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO REQUIRE ISSUANCE OF A CONDITIONAL USE PERMIT WITHIN A SPECIFIED TIME PERIOD IF DELINEATED FINDINGS CAN BE MADE AND CODIFYING FACTORS TO BE UTILIZED IN CONSIDERING REQUIRED FINDINGS, AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**WHEREAS**, Division 3 of Part 3 of Chapter 6 of Article IX of the Agoura Hills Municipal Code sets forth the process for obtaining a conditional use permit.

**WHEREAS**, Section 9673.2 of said Division 3 establishes the procedure for a public hearing before the Planning Commission to consider the granting of an application for a conditional use permit.

**WHEREAS**, Section 9673.2 further establishes that the Planning Commission must make certain findings in order to grant a conditional use permit.

**WHEREAS**, the City Council finds that this Ordinance establishes specific land use factors that provide additional guidance to the Planning Commission when considering if they can make the findings necessary to grant a conditional use permit.

**NOW, THEREFORE**, the City Council of the City of Agoura Hills hereby ordains as follows:

**Section 1.** The facts set forth in the recitals of this Ordinance are true and correct.

**Section 2.** Section 9673.2 (Hearing Procedures) of Division 3 (Conditional Use Permit) of Part 3 (Special Permit or Review) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code is amended to read as follows:

**9673.2 – Hearing Procedures.**

The following procedures shall be followed in considering a conditional use permit:

- A. *Investigation and report.* The department of planning and community development shall make an investigation of the application and shall prepare a report thereon which shall be submitted to the planning commission and made available to the applicant prior to the public hearing.
- B. *Hearing responsibility.* All conditional use permit applications required by the regulations of this article shall be heard and a determination made by the planning commission.

- C. *Hearings.* The planning commission shall hold at least one (1) public hearing on each application for a conditional use permit. The hearing shall be set and notice given as prescribed in section 9804.4 of this article. At the public hearing, the planning commission shall review the application and drawings submitted therewith and shall receive pertinent evidence concerning the proposed use and proposed conditions under which it would be operated or maintained.
- D. *Action of the planning commission.*
1. The planning commission may grant, deny, modify or impose conditions on a conditional use permit.
  2. The planning commission may impose reasonable conditions or restrictions deemed necessary to affirmatively make the findings set forth in subsection E of this section 9673.2. Such conditions may include, without limitation: requirements regarding development of the property, structures, yards, fences, walls, landscape, lighting, and signage; requirements concerning operation of the use, including hours of operation, parking, ingress and egress, noise mitigation, and security; requirements concerning ongoing maintenance of the property and the use, including any mitigation measures deemed necessary to prevent or deter nuisance conditions or activities; and such other conditions the commission determines will preserve public health, safety and welfare.
  3. Variances/modifications should be done by separate action but can be processed concurrently with the conditional use permit.
- E. *Required Findings.* The planning commission shall grant a conditional use permit if all the following findings are made:
1. That the proposed use is consistent with the intent and purpose of this Article IX, the goals and objectives of the general plan and any applicable specific plan, and the purposes of the district in which the use is located;
  2. That the proposed use is compatible with the surrounding properties, based on the following land use factors:
    - a. Whether the proposed use would generate offsite noise louder than ambient noise levels by considering (i) the volume and times of day such noise would be generated; (ii) the proximity to nearby residences, schools and other sensitive uses; (iii) the topography of the surrounding area likely to affect how noise travels; and (iv) the presence of other nearby uses likely to generate offsite noise at similar times;
    - b. Whether the proposed use would result in increased vehicular and/or pedestrian traffic;
    - c. Whether access and off-street parking, including parking for guests, can be adequately provided such that available on-street parking for neighboring properties is not negatively impacted;

- d. Whether the proposed building and site design elements, including without limitation, structures, fences, walls, lighting, landscaping, and signage, comport with the City's architectural design standards or otherwise achieve the City's goals in harmonizing development with the natural environment;
  3. That the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, based on the following land use factors:
    - a. Whether public and private roads and driveways used to access the property can safely accommodate all vehicular traffic associated with the proposed use, including emergency vehicles, and meet all applicable requirements of the Los Angeles County Fire Code;
    - b. Whether the proposed use could create harmful secondary nuisances that cannot be controlled through reasonable mitigation measures, including, without limitation: (i) littering on adjacent properties or public rights-of-way; (ii) public intoxication on adjacent properties or public rights-of-way; or (iii) increased risk of trespass, vandalism or other unlawful activity on adjacent properties or public rights-of-way;
    - c. Whether the proposed use will involve activities that would increase the likelihood, spread, or intensity of fire or other life-safety emergency;
    - d. Whether the proposed use involves or would result in the alteration or modification of existing drainage patterns, or increased erosion that cannot be controlled through reasonable mitigation measures;
  4. That the proposed use will comply with all applicable provisions of this Article IX, except for approved variances or modifications;
  5. That the proposed use shall not be in violation of applicable provisions of this Code or of federal, state or local law.
- F. *Specific use requirements.* In the event the proposed use is subject to specific operation or development standards set forth elsewhere in this Code, such requirements shall be deemed incorporated into the conditions approved by the planning commission. In the event of a conflict between conditions and specific standards, the most restrictive shall apply.
- G. *Adoption of findings.* Within sixty (60) days of the planning commission's decision, the planning commission shall adopt a Resolution memorializing its decision, unless this timeline is extended by the Director for good cause. The Resolution shall address each of the required findings identified in subsection E and provide the specific grounds why each finding was or was not made, referencing the Municipal Code, general plan, specific plan or other document where appropriate.

- H. *Effective date of an approved use permit.* A conditional use permit granted by the planning commission shall be effective sixteen (16) days from the date of the Resolution, provided that the applicant has accepted in writing all terms and conditions of the permit within that time period. In the event the applicant does not timely accept the conditions, the conditional use permit shall not become effective.
- I. *Finality of decision.* The decision of the planning commission shall be final within sixteen (16) days from the date of the adoption of the Resolution unless an appeal has been timely filed with the city council. If an appeal is timely filed, the decision of the city council shall be final upon the adoption of a Resolution upholding, reversing or modifying the decision of the planning commission.
- J. *Appeal; determination by city council.* The planning commission's decision on a conditional use permit application may be appealed in accordance with the procedures set forth in this Article IX at sections 9804 through 9804.9. An appeal of the decision of the planning commission shall be made within fifteen (15) days of the adoption of the Resolution. The appeal shall be de novo. Within sixty (60) days of the city council decision, the council shall adopt a Resolution memorializing its decision, unless this timeline is extended by the City Manager for good cause. The Resolution shall address each of the required findings identified in subsection E and provide the specific grounds why each finding was or was not made, referencing the Municipal Code, general plan, specific plan or other document where appropriate. The decision of the city council shall be final.
- K. *Lapse of conditional use permit; extension.*
  - 1. A conditional use permit shall lapse and shall become void two (2) years following the date on which the use permit became effective, unless prior to the expiration of one (1) year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the use permit application, or a certificate of occupancy is issued for the structure which was the subject of the use permit application, or the site is occupied for such use if no building permit or certificate of occupancy is required. Written notice of the determination by planning staff to void a lapsed conditional use permit shall be given to the applicant/permittee and/or the property owner and the determination may be appealed to the planning commission in accordance with the procedures set forth in this Article 9 at sections 9804 through 9804.9.
  - 2. Prior to the expiration of a conditional use permit, the applicant may request up to two (2) extensions for a period of time not exceeding twelve (12) months. Such request shall be considered by the planning commission after a public hearing.

**Section 3.** CEQA. Zoning Code text amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. As a Municipal Code text amendment,

there is no possibility that the proposed action may result in a significant effect on the environment, and the proposed revision to the Municipal Code is exempt from further review under CEQA. Consideration of a specific conditional use permit will include CEQA review when necessary.

**Section 4.** Severability Clause. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsections, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 5.** Effective Date. This Ordinance shall take effect thirty (30) days after passage.

**Section 6.** Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

**PASSED, APPROVED, AND ADOPTED** this 10<sup>th</sup> day of January, 2024, by the following vote to wit:

AYES: ( )  
NOES: ( )  
ABSENT: ( )  
ABSTAIN: ( )

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Illece Buckley Weber, Mayor

ATTEST:

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Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

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Candice K. Lee, City Attorney