

**City Manager's Report**  
**October 9, 2018 City Council Meeting**  
**Prepared by: Andrew Painter, City Planner**  
**Item #: 11.1**



**Subject:** Conduct a public hearing and upon conclusion deny an appeal to the Planning Commission's approval of Conditional Use Permit (CUP) 18-02, a request to convert an existing, vacant commercial warehouse and commercial/retail building for use as a canine training facility at 7533A Green Valley Road.

**Purpose:** This agenda item is to consider an appeal of the approval of the subject CUP18-02 by the Planning Commission, pursuant to City Code Section 10-3-7(D).

**Background:** On August 21, 2018 the Planning Commission held a public hearing to consider the Conditional Use Permit (CUP) 18-02 request. After reviewing staff's written and verbal report, written public comment, taking public testimony, and discussing the project with the applicant, the Planning Commission made findings and conditionally approved the request upon the motion of Vice Chair Kiehne, second by Member List with a 5-0 vote. Kristen Lacey, Hannah Lacey, Ryan Lacey, Tiffani Lacey and others spoke regarding the project.

The Commission found the proposed use and its operating characteristics are deemed a desirable service to local residents, are in harmony with the General Plan, create a positive impact on the City through its use of an underutilized existing warehouse, office/retail building and paved parking area, and as conditioned are not detrimental to surrounding property. The Commission also found that the project request is exempt under the California Environmental Quality Act, as an infill development. The Commission then approved CUP 18-02 subject to eleven Conditions of Approval. Adopted Minutes of the Planning Commission August 21, 2018 Regular Meeting are provided as **Attachment A**.

The following documents were part of the Planning Commission hearing and are enclosed as follows provided as **Attachment B**:

- Planning Commission August 21, 2018 Staff Report;
- Applicant Submittal Package;
- Written Public Comments Received, Including Those from the Lacey Family on June 8, 2018;

**Appeal**

Appellants Kristen Lacey, Ryan Lacey, Tiffani Lacey and Hannah Lacey, hereinafter referred to as the "Laceys," filed a Notice of Appeal on August 31, 2018 requesting the City Council deny Conditional Use Permit 18-02. The Notice of Appeal is provided as **Attachment C**.

The Laceys' position for requesting that the City Council deny the proposed project is as follows:

1. "My original filing was dismissed by the Planning Commission Chair based on thinking myself and family were someone entirely else. Although I am not going to avoid stating to if it was appropriate to address us should we have been the family the Chair thought

we were, I can say, it was absolutely unacceptable to dismiss our filing and concerns based on who we actually are and where we live.”

*See pages 1-11 and Exhibits 1 through 5 of the Laceys' Notice of Appeal.*

The Laceys' contend they were mistaken for a family in 2016 that inquired that the City allow for the keeping of chickens within city limits. This 2016 inquiry resulted in the City Council amending the Zoning Ordinance to allow hen chickens within the City under certain regulations. The Lacey family participated during public hearing for the Zoning Ordinance amendment.

The Laceys' contend that concerns raised by the Laceys and other neighbors to the Planning Commission such as project traffic and parking impacting Debbie Lane and Green Valley Road, noise from the dog training facility impacting neighborhood residents, smell from facility generated dog waste, and that the requested facility would put the Laceys' livestock at risk, indicating incidents from the local vet clinic at Sierra Animal Clinic at 7476 Green Valley Road that has put their livestock at risk.

2. “Neighborhood surrounding the proposed business was never noticed on the intent to have outside classes. This was brought up as a concern, but dismissed.”  
*See page 10 of the Notice of Appeal.*
3. “The approval conditions did not capture agreements that were made during the meeting, and stated by the applicant, and leave it open to significant issues moving forward.”  
*See pages 10-12 and Exhibit 6 of the Notice of Appeal.*

These positions are analyzed below by Staff.

1. Misidentification: Staff has no stance or opinion regarding the Laceys' position that they were misidentified by Planning Commission Chair Frenn.

Traffic and Parking: An assessment of project traffic generation and parking was provided in its written and oral report to the Planning Commission. Based on the Project's business operations of classes and hours of operation, traffic generation would be similar to that from existing office, retail sales and retail service uses that are already in the project vicinity, and similar to the previous use of the site as a plumbing supply commercial retail use. Condition 11 requires that the Project site's Debbie Lane access gate remain locked and used only for emergency access only.

Condition 5 stipulates that a total of 29 parking spaces, meeting all City requirements be provided on site for the use. There is adequate land area to accommodate all required parking onsite within the 1.46 acre site. The site has 23 existing spaces located between the retail building onsite and the site access along Green Valley Road. The applicant has informed staff that the remaining six spaces would be located within the rear portion of the site next to the warehouse building to meet Condition 5 requirements.

Dog Waste Odors: Condition 1 requires the project be in compliance with the project description, hearing exhibits and conditions of approval. The project description is a component of the Applicant Submittal Package. The Project applicant addressed waste disposal in her project description. A fenced “doggie relief area” would be located within

the rear yard and adjacent to the warehouse building. Dog waste would be picked up and disposed of.

To better qualify the issue of dog waste and odors, the Council could consider the following conditions for addition to those adopted by the Planning Commission:

- 12. Dog owners and trainers shall bag and remove solid animal waste immediately and dispose of the bags in covered waste containers. The owners shall clean the outdoor “doggie relief area” at least weekly and dispose of animal waste in covered containers.*
- 13. All solid waste materials from the animals shall be disposed of in a City approved trash container and enclosure. Disposal shall comply with the requirement of the licensed waste hauler, El Dorado Disposal.*
- 14. Animal odors shall not be detectable beyond the property boundaries.*

Noise: Condition 1 requires the project be in compliance with the project description, hearing exhibits and conditions of approval. The topic of barking dogs is addressed in the Applicant Submittal Package. Occasional barking may occur at the facility. When it occurs it will be addressed during training classes.

Risk to Livestock: This does not appear to be likely in that the training activities would take place within the warehouse building and outdoor fenced yard during Phase I, and indoor during Phase II.

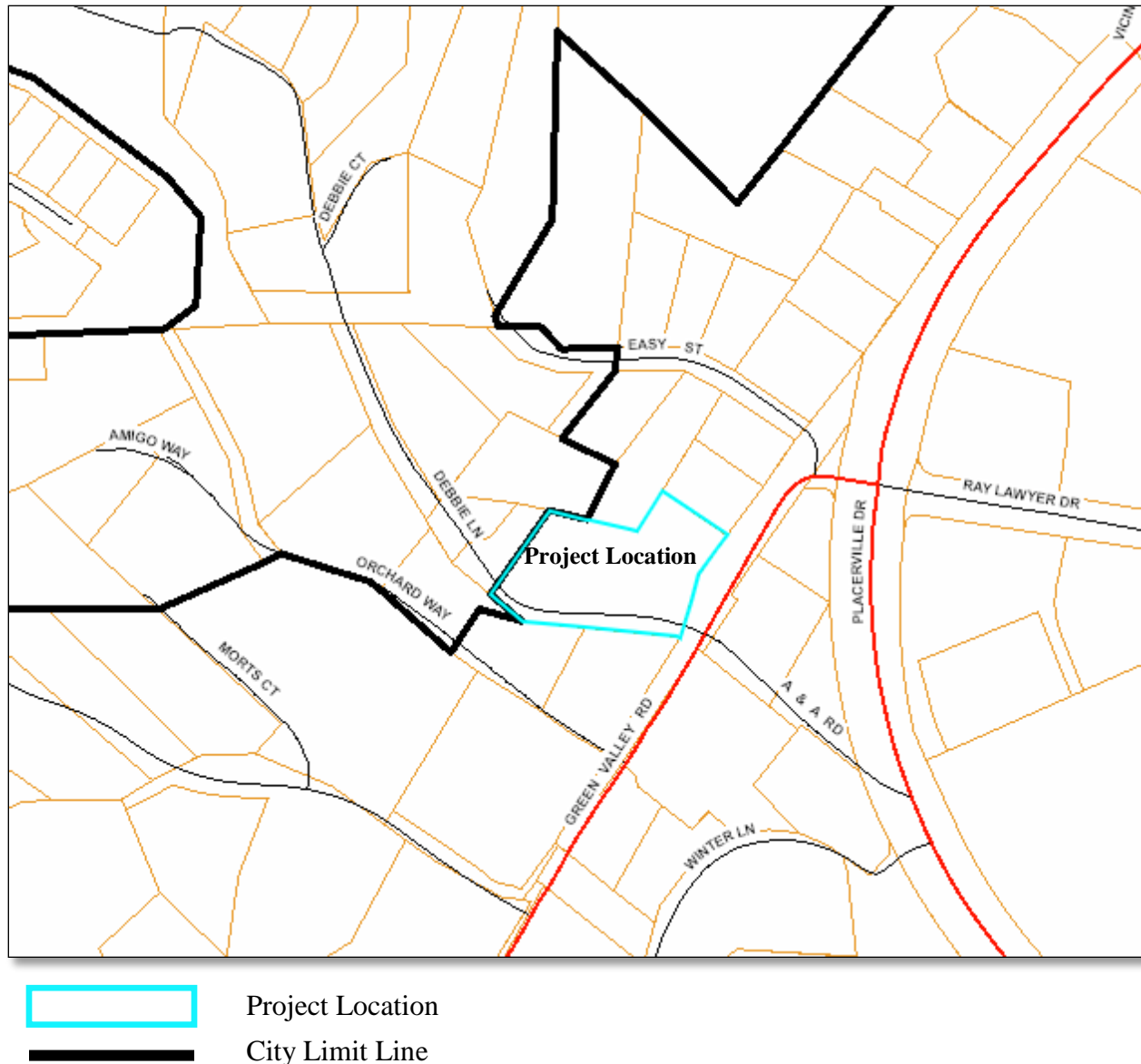
2. Condition 1 requires the project be in compliance with the project description, hearing exhibits and conditions of approval. Classes outside were mentioned in the project description that is part of the Applicant Submittal Package.
3. Conditions set by the Planning Commission are the conditions of record.

The Council’s authority under an appeal of a Planning Commission decision is stipulated under Section 10-3-7(D) of City Code. The Council may affirm or reverse the decision of the Commission and may substitute its decision for that of the Commission, based on the record of appeal and the evidence received at the hearing on appeal. The decision of the Council on such appeal shall be final.

- Options:**
1. Deny the appeal affirming the decision of the Planning Commission.
  2. Reverse the decision of the Commission, upholding the appeal.
  3. Substitute a decision for that of the Commission, making changes to findings, conditions of approval, etc. as necessary.

**Additional Appellant Information Received Since Notice of Appeal Filed:** On September 28, 2018, the Laceys submitted additional information regarding their Notice of Appeal. This information is provided as **Attachment D**.

**Additional Project Applicant Information Received Since Notice of Appeal Filed:** On September 28, 2018, the project applicant, Ann McQuillen, submitted additional information regarding the project. This information is provided as **Attachment E**.

**Subject Project Location:**

**Public Comments Received Since Notice of Appeal Filed:** The City received written public comments since public notice for the appeal was sent to property owners within 500 feet of the project site, published in the Mountain Democrat and posted on the City's website. These comments are provided as **Attachment F**.

**Cost:** All costs associated with this request are fully cost-covered through the appellant's \$400.00 fee filed to appeal the Planning Commission's August 21, 2018 decision.

**Budget Impact:** None. No public funds are required for the project and therefore there would be no direct fiscal impact to the City.

**Recommendation:** Conduct a public hearing and upon conclusion deny an appeal to the Planning Commission's approval of Conditional Use Permit (CUP) 18-02, a request to convert

an existing, vacant commercial warehouse and commercial/retail building for use as a canine training facility at 7533A Green Valley Road.



M. Cleve Morris, City Manager



Pierre Rivas, Development Services Director



Andrew Painter, City Planner

**Attachments:**

- A. Planning Commission Minutes of August 21, 2018 - CUP18-02**
- B. Documents from the August 21, 2018 Planning Commission Meeting**
- C. Notice of Appeal filed by Kristen Lacey, Ryan Lacey, Tiffani Lacey and Hannah Lacey**
- D. Additional Appellant Information Received Since Notice of Appeal Filed**
- E. Additional Project Applicant Information Received Since Notice of Appeal Filed**
- F. Public Comments received since Notice of Appeal Filed**