



CITY OF TWENTYNINE PALMS
STAFF REPORT
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 • Fax (760) 367-5400
plantech@ci.twentynine-palms.ca.us

To: Planning Commission
From: Community Development Technician
Date: April 1, 2008
RE: PC 05-98 - An application by Sunwest Development for a Conditional Use Permit (CUP) to develop 40 multi-family apartment units on the 5 acres, located east of Adobe Road, south of Mesa Drive and north of Raymond Drive, Zone RM/RS-2, APN 0621-251-51, T1N, R9E, Section 16.

Recommendation: That the Planning Commission conduct the public hearing, consider public comment, and approve Conditional Use Permit, subject to conditions of approval.

BACKGROUND: The project, a 40 unit multi-family apartment complex consisting of 26 two bedroom apartments and 14 three bedroom apartments, located on a vacant and previously unimproved site, east of Adobe Road, south of Mesa Drive and north of Raymond Drive on APN 621-251-51. The project was previously approved on October 3, 2006 and expired on October 2, 2007. The applicant states that the project was allowed to expire because financing was not in place at the time. The site is zoned RM and RS-2, which allows for 8 dwelling units per acre on the west half of the property and 2 dwelling units per acre on the east half of the site. The applicant proposes a density of 8 dwelling units per gross acre on the western half, 5.15 gross acres. No development is proposed at this time on the east half of the property, which is zoned RS-2.

Attachments

- Conditions of Approval
- Resolution #08-07
- Application
- October 3, 2006 staff report and attachments
- Site Plan
- Elevations

Pursuant to the California Environmental Quality Act (CEQA), an Initial Study was prepared for the project, and a Mitigated Negative Declaration was adopted on October 3, 2006.

Conditional Use Permit Expiration

Conditional Use Permits expire one (1) year from the date the approval was granted (Dev. Code 19.30.090, unless prior to the expiration date:

1. A Building Permit is issued and remains active for any approved phase of the project; or
2. A Certificate of Occupancy is issued for the use or structure; or
3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
4. The site is occupied in accordance with an approved phase as part of a phased development.

An approved Conditional Use Permit shall expire if the use has been commenced and then is

discontinued for a period of one (1) year or more. The applicant states that the project was allowed to expire because financing was not in place.

Amenities

The applicant is proposing to install the following amenities in the designated recreation areas:

- a. 4 picnic tables with benches
- b. 4 barbecue grills
- c. 2 – half court basketball courts
- d. 1 volleyball court
- e. 1 tot lot

Conditions of Approval

The Conditions of Approval from the October 3, 2006 approval have been updated to reflect new expiration date and amenity information.

Findings for Approval

Sections 19.30.060 of the Development Code establishes required Findings for approval of a Conditional Use Permit. Per the section, the Planning Commission is required to make the following findings to approve the change of zoning:

- A. That the proposed design and location of the conditional use and the conditions under which it will be operated are in accordance with the purpose of this Development Code, the zoning regulations applicable to the site, the City of Twentynine Palms General Plan, and other applicable development policies and standards of the City; and
- B. That the proposed design and location of the conditional use and the conditions under which it will be operated will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity; and
- C. That the proposed site is adequate in size and shape to accommodate the use and integrate it with the existing and planned uses in the vicinity.

Staff has developed the following Findings of Approval for the Planning Commission's adoption:

- B. Because of the proximity of the site, in relation to existing residential development, the City finds that the proposed design and location of the project is consistent with the intent of the goals and policies of the General Plan and Development Code; and
- C. The City finds that the proposal meets or exceeds standards established in the Development Code with regard to parking, public improvements, lighting and design, and approval will therefore result in an appropriate and desirable development; and
- C. The parcel can accommodate development of multi-family units as proposed and meet the maximum impervious coverage requirement of the City and is therefore suitable in size and shape for potential development; and
- D. The applicant proposes development of adequate parking facilities, as set forth in the Development Code, and in excess of City requirements and development of street

- improvements adjacent to the site in compliance with standards established by the General Plan and therefore will result in a safe, well-designed facility; and
- E. Review and approval of Building Permits for proposed development will include requirements for development of street improvements adjacent to the site in compliance with standards established by the General Plan and Development Code; and
 - F. Approval of the Conditional Use Permit is consistent with all elements of the General Plan and is not inconsistent with any goal or policy established by any element of the General Plan and will therefore result in development that can be safely integrated into the existing and planned development of the vicinity; and
 - G. That the proposed design and location of the project and the conditions under which it will be operated will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity; and
 - H. That the project site is adequate in size and shape to accommodate the project and integrate it with the existing and planned uses in the vicinity.

Approval Authority

Pursuant to Section 19.03.040 of the Development Code, the Planning Commission is the Approval Authority for this project.

CITY OF TWENTYNINE PALMS

DRAFT CONDITIONS OF APPROVAL

PC 05-98

Applicant Name: Sunwest Development Inc.
Project Description: Adobe Road Project (40 multi-family units)
Location/Parcel Number(s): APN 0621-251-51
Approved: April 22, 2008
Expires: April 21, 2009

Per Section 19.30.090 (A) of the Development Code, Conditional Use Permits shall expire one (1) year from the date the approval was granted, unless prior to the expiration date:

1. A Building Permit is issued and remains active for any approved phase of the project; or
2. A Certificate of Occupancy is issued for the use or structure; or
3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
4. The site is occupied in accordance with an approved phase as part of a phased development.

Per Section 19.30.090 (B), an approved Conditional Use Permit shall expire if the use has been commenced and then is discontinued for a period of one (1) year or more.

Planning Conditions

- P1. Conditional approval is granted by Approval Authority on April 1, 2008, to permit the construction/use of 40 multi-family units. All development of the site shall be in substantial conformance with the adopted site plan and building design and shall comply with all Conditions of Approval.
- P2. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the project proposal.
- P3. The property owner shall keep the property neat, clean, and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas, and landscaping.
- P4. The Applicant shall subscribe to trash collection service with the City's authorized hauler [(760) 367-9168].
- P5. A minimum of four trash enclosure(s) shall be constructed and maintained on the property. The enclosures shall comply with standards established in Section 19.80.020 of the Development Code.
- P6. All outdoor lighting shall conform to Development Code Chapter 19.70, *Lighting Standards*, and shall be designed to not glare or reflect onto neighboring properties or public rights-of-way. Outdoor lighting shall be shielded and limited to that required for

security and safety purposes.

- P7. Prior to construction, the applicant shall submit three sets of plans to the City's Building Official and secure a Building Permit in conformance with the Uniform Building Code.
- P8. Prior to issuance of building permits, the Applicant shall pay school development fees to the Morongo Unified School District that may be in effect at the time of building permit issuance.
- P9. Parking shall be designed and provided for the duration of the use in accordance with Development Code Chapter 19.82, *Off-street Parking and Loading Regulations*, as follows:
- A. A minimum of 80 parking spaces shall be provided on site, 40 of the spaces shall be covered.
 - B. A minimum of three (3) handicap accessible parking spaces shall be provided in accordance with the Americans With Disabilities Act and Title 24 of the California Code of Regulations.
 - C. The applicant shall provide either three carpool parking spaces at all times or two RV parking spaces. If RV parking is provided, one RV space shall be minimum 10' x 20' and the other minimum 10' x 30' in size.
- P10. Landscaping shall not interfere with sight distances at vehicular access points.
- P11. Maximum lot coverage (impervious surface) shall not exceed sixty percent (60%) of the total project area.
- P12. All construction and improvements shall comply with *Encroachments into Yards or Setbacks* standards established in the Development Code for the underlying land use district. Minimum setbacks are:
- | | |
|----------------|---------|
| Front: | 25 feet |
| Street side: | 15 feet |
| Interior side: | 10 feet |
| Rear: | 15 feet |
- P13. Soil testing (percolation report) for the septic system shall meet the requirements of Department of Environmental Health Services (DEHS) [(909) 387-4666]. The Applicant shall submit test results and required fee to DEHS. Copies of all correspondence with DEHS regarding this Condition shall be provided to the City of Twentynine Palms Community Development Department.
- P14. Prior to construction, the Applicant shall provide written clearance from the Colorado River Regional Water Quality Control Board [(760) 776-8940] and a copy of such clearance forwarded to DEHS.
- P15. The applicant shall install the following amenities in the designated recreation areas:
- a. 4 picnic tables with benches
 - b. 4 barbecue grills
 - c. 2 – half court basketball courts

d. 1 volleyball court

e. 1 tot lot

P16. Landscape plans for the streetscape, recreational areas/retention basins and retention basins shall be submitted for review and approval prior to issuance of building permits.

Engineering Conditions

E1. Easements, as required for roadways, drainage facilities, utilities, etc., shall be submitted and recorded as directed by the City Engineer. No structures shall be placed on any part of the easements except those directly related to the purposes of said easements.

E2. A grading permit shall be obtained from the City Engineer prior to any grading or other work done on the site. Prior to the issuance of a grading permit, the applicant's engineer shall submit a comprehensive grading plan in conformance with the Uniform Building Code (UBC) and the requirements of the City. A preliminary soils report and a current preliminary title report shall be submitted to the Engineering Division concurrently with the grading plan.

E3. Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the City Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider retaining onsite drainage flows from a 100-year design storm.

E4. An Encroachment Permit separate from the Grading Permit shall be obtained from the City of Twentynine Palms Public Works Department prior to any construction occurring within the public right-of-way. Contact the Planning Division at City Hall [(760) 367-6799] for a permit application.

E5. Final street improvement plans and profiles shall indicate the location of any existing utility facility which would affect construction.

E6. The following streets shall be improved with the dedicated right-of-way along the project boundaries in conformance with the City's General Plan and adopted standards:

A. Adobe Road
ROW Width 60 feet from centerline
Pavement width 40 feet from centerline

B. Mesa Drive
ROW Width 40 feet from centerline
Pavement width 32 feet from centerline

E7. Sidewalks shall be constructed along all public rights of way in accordance with City Standards. A ten foot (10') wide, combination meandering bike path and sidewalk shall be constructed along Adobe Road. A five-foot (5') wide sidewalk shall be constructed along Mesa Road.

E8. A Class I bikeway shall be constructed along Adobe Road per standards established in

the City's General Plan. This facility may be constructed in combination with the sidewalk.

- E9. Improvement plans for offsite improvements (street improvements, sidewalks, curb and gutter) shall be based upon a centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries.
- E10. All required offsite improvements shall be constructed and approved prior to occupancy unless deferred pursuant to Development Code Chapter 19.85, *Public Improvements, Delaying or Deferring*.
- E11. The minimum structural section of all streets shall be four (4) inches of asphalt concrete over compacted native soil. A soils report containing a design structural section based on an "R" value (soils resistance) and a traffic index determined by the City Engineer, shall be submitted prior to the approval of street improvement plans.
- E12. Existing utilities shall be shown on the improvement plans and protected or relocated as necessary without cost to the City.
- E13. All utilities onsite and in the public right-of-way shall be placed underground in accordance with requirements established in Development Code Section 19.09.070.

Fire Department Conditions

- F1. The Applicant shall comply with all Conditions and requirements of the Twentynine Palms Fire Department. Written verification from the Fire Department shall be provided by the Applicant prior to issuance of any Building Permit.
- F2. All construction and activities shall comply with applicable sections of the 1988 edition of the Uniform Fire Code and all other state, county, and city ordinances, rules and regulations regarding fire protection.
- F3. The project shall have two (2) points of vehicular access for fire and other emergency vehicles and equipment. The unobstructed width of a fire apparatus access road, to include access gates, shall be not less than twenty (20) feet.
- F4. All flammable vegetation shall be cleared a minimum distance of thirty (30) feet, or to the property line, from any flammable building materials or finished structures.
- F5. Smoke detectors are required in all sleeping quarters in accordance with the Uniform Building Code.

General Conditions

- G1. In compliance with San Bernardino County Ordinance #2684, adopted by reference by the City of Twentynine Palms, the Applicant agrees to defend at his sole expense any action brought against the City, its agents, officers, or employees, because of the issuance of such approval. The Applicant shall reimburse the City, its agents, officers, or employees, for any court costs and attorney's fee which the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve the Applicant of his obligations under this Condition.

- G2. All Conditions are continuing Conditions. Failure of the Applicant and/or operator to comply with any of the said Conditions at any time may result in the revocation of the Conditional Use Permit and/or citation for code violation.
- G3. Within ten days of approval, the applicant shall submit to the Community Development Department a signed copy of the Conditions of Approval, verifying that he/she understands each Condition and agrees to adhere to each of the Conditions of Approval.
- G4. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees, including reimbursement for all City expense in ensuring compliance with the Conditions of Approval.

Applicant Signature

Date

CITY OF TWENTYNINE PALMS
PLANNING COMMISSION
RESOLUTION NO. 08-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, APPROVING PC 05-98, AN APPLICATION BY SUNWEST DEVELOPMENT FOR APPROVAL FOR A PREVIOUSLY APPROVED, EXPIRED CONDITIONAL USE PERMIT TO DEVELOP A 40 UNIT MULTI-FAMILY PROJECT, LOCATED EAST OF ADOBE ROAD, SOUTH OF MESA DRIVE AND NORTH OR RAYMOND DRIVE, ZONE RM/R2, APN 0621-251-51, T1N, R9E, SECTION 16.

WHEREAS, on November 17, 2005 an application was received from Sunwest Development for approval of a Conditional Use Permit for the development of 40 multiple family units; and

WHEREAS, the application was deemed complete on July 18, 2006; and

WHEREAS, pursuant to Chapter 19.30 of the Development Code, a Conditional Use Permit is subject to approval by the Planning Commission; and

WHEREAS, on July 18, 2006, the project was routed to public agencies for public comment; and

WHEREAS, with the proposed Conditions of Approval, the proposed project design is consistent with the General Plan and Development Code; and

WHEREAS, public hearing notice was published in a newspapers of record and notice was mailed to all property owners located within 300 feet of the project site; and

WHEREAS, a public hearing was held by the Planning Commission on October 3, 2006; and

WHEREAS, Pursuant to the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration, with De Minimis Impact finding was adopted on October 3, 2006; and

WHEREAS, the project was approved by the Planning Commission on October 3, 2006; and

WHEREAS, the Conditional Use Permit expired on October 2, 2007; and

WHEREAS, an application, for a Conditional Use Permit was received on March 11, 2008; and

WHEREAS, the Planning Commission finds the following:

- D. Because of the proximity of the site, in relation to existing residential development, the City finds that the proposed design and location of the project is consistent with the intent of the goals and policies of the General Plan and Development Code; and
- E. The City finds that the proposal meets or exceeds standards established in the Development Code with regard to parking, public improvements, lighting and design, and approval will therefore result in an appropriate and desirable development; and
- C. The parcel can accommodate development of multi-family units as proposed and

meet the maximum impervious coverage requirement of the City and is therefore suitable in size and shape for potential development; and

- I. The applicant proposes development of adequate parking facilities, as set forth in the Development Code, and in excess of City requirements and development of street improvements adjacent to the site in compliance with standards established by the General Plan and therefore will result in a safe, well-designed facility; and
- J. Review and approval of Building Permits for proposed development will include requirements for development of street improvements adjacent to the site in compliance with standards established by the General Plan and Development Code; and
- K. Approval of the Conditional Use Permit is consistent with all elements of the General Plan and is not inconsistent with any goal or policy established by any element of the General Plan and will therefore result in development that can be safely integrated into the existing and planned development of the vicinity; and
- L. That the proposed design and location of the project and the conditions under which it will be operated will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity; and
- M. That the project site is adequate in size and shape to accommodate the project and integrate it with the existing and planned uses in the vicinity.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Twentynine Palms approves PC 05-98, subject to the attached Conditions of Approval.

APPROVED AND ADOPTED THIS 1st DAY OF April, 2008.

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

Rebecca Rinkes, Chair

ATTEST:

Jacqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. _____ duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the _____ day of _____, _____, in Twentynine Palms, California.
Dated this _____ day of _____, _____.

Jacqueline, Deputy City Clerk



**CITY OF TWENTYNINE PALMS
STAFF REPORT**

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 • Fax (760) 367-5400
plantech@ci.twentynine-palms.ca.us

To: Planning Commission
From: Community Development Technician
Date: April 1, 2008
RE: PC 08-06 – An application by Karen Provost of Sam’s Grille for a Conditional Use Permit and Letter of Public Convenience and Necessity for a restaurant and bar in the existing 2,200 sq. ft. building at 73527 Twentynine Palms Hwy (APN 617-112-12). Parking to be provided on a gravel parking lot, located on the west side of Yucca Avenue, south of Twentynine Palms Highway, located on APN 617-112-18.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, find the project Exempt pursuant to CEQA, adopt the resolution and approve the project, subject to the attached Conditions of Approval.

- | Attachments | |
|-------------|------------------------|
| 1. | Conditions of Approval |
| 2. | Resolution 08-08 |
| 3. | Application |
| 4. | Locator Map |
| 5. | Site Plan |

BACKGROUND: Karen Provost requests approval of a Conditional Use Permit for a restaurant and Letter of Public Convenience and Necessity for a liquor license for a bar in an existing 2,200 sq. ft. building at 73527 Twentynine Palms Hwy (APN 617-112-12 a 2,700 sq. ft. lot). The applicant proposes to utilize the public parking lots adjacent to the restaurant. A separate off-site parking area will be provided on a gravel parking lot, located on the west side of Yucca Avenue, south of Twentynine Palms Highway, located on APN 617-112-18.

Present zoning for the restaurant is General Commercial (CG) and the proposed parking lot is Office Commercial (CO). The proposed use, a restaurant and bar are allowed in the CG land use district subject to approval of a Conditional Use Permit. The proposed parking lot is a permitted use in the CO land use district.

CEQA Environmental Review

Pursuant to the California Environmental Quality Act (CEQA), the project was routed to the following agencies and departments for public review and comment:

City Manager
City Engineer
Twentynine Palms Fire Department
San Bernardino Co. EHS
Southern California Edison Company
Verizon
Burrtec
Mojave Desert AQMD
Joshua Tree National Park
I & L, FMD, MCAGCC
Morongo Basin Ambulance

Community Development Director
Twentynine Palms Water District
San Bernardino County Sheriff
Morongo Unified School District
Southern California Gas Co.
Time Warner Cable
Morongo Basin Transit Authority
Regional Water Quality Control Board
I. & L. NREA, MCAGCC
29 Palms Band of Mission Indians
San Bernardino, Env. Management Div.

Input from these agencies has been reviewed, attached as Correspondence and, where appropriate, incorporated into the Conditions of Approval for the project.

Section 21084 of the Public Resources Code established a list of classes of projects which have been determined by the State of California not to have a significant effect on the environment and which are, therefore, exempt from the provisions of CEQA.

Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, and is Categorically Exempt from further environmental review under state law.

Surrounding Land Use, General Plan and Zoning Designations

| | Land Use | General Plan | Zone |
|-------|------------|--------------|------|
| Site | Commercial | CG | CG |
| North | Commercial | CG | CG |
| East | Commercial | CG | CG |
| South | Parking | CO | CO |
| West | Commercial | CG | CG |

General Plan

The CG land use district allows restaurants with bar facilities with approval of a Conditional Use Permit. The CO land use district allows parking lots as a permitted use. As designed the project is consistent with the General Plan Land Use Element.

Zoning

The CG zone allows restaurants with alcoholic beverage sales with approval of a Conditional Use Permit. The CO zone allows parking lots as a permitted use. The applicant is proposing to utilize the “public” parking lots adjacent to the site on the south. A total of 21 parking spaces are required for the project, one of which shall be a handicap accessible space. The requirement for off street parking for the project can be met with improvement to APN 0617-112-18.

Staff recommends that the applicant be allowed to utilize the existing paved “public” parking and apply for Redevelopment Agency (RDA) funds to improve the existing gravel parking lot on APN 0617-112-18. This improvement would serve to increase the supply of available paved public parking in the Downtown area. In the event RDA funds are not obtained, the applicant would be allowed a reasonable and specific amount of time, determined by the Planning Commission, to construct the parking lot to city standards.

Site Characteristics

The subject site consists of two parcels, APN 0617-112-12 an existing 2,200 sq. ft. building on a 2,700 sq. ft. lot and APN 0617-112-18, a gravel parking lot. Both sites are flat. The proposed parking lot site has been available as parking since the 1999 approval of the Bella Rouge Bakery. The Bella Rouge Bakery (a restaurant use approved in 1999 and discontinued in 2002) was previously approved and operated at this site.

Conditional Use Permit

Pursuant to Section 19.30.050 of the Development Code, the Planning Commission is required to make the following findings prior to recommendation of approval to the City Council of a CUP. The required findings are:

- A. That the proposed design and location of the conditional use and the conditions under which it will be operated are in accordance with the purpose of this Development Code, the zoning regulations applicable to the site, the City of Twentynine Palms General Plan, and other applicable development policies and standards of the City; and
- B. That the proposed design and location of the conditional use and the conditions under which it will be operated will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity; and
- C. That the proposed site is adequate in size and shape to accommodate the use and integrate it with the existing and planned uses in the vicinity.

If the required findings cannot be made, the application should be denied. Staff has prepared the following findings of approval for consideration: The site is located on the Twentynine Palms Highway and will therefore not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

- A. The subject site is approximately 0.06 acres and is therefore adequate in size to Accommodate the proposed use.
- B. The shape of the parcel is typical, and allows for orderly development such as the proposed use.
- C. With the recommended conditions, the proposed project will meet the objectives of the General Plan, CG and CO land use designation.
- D. The proposed project, as conditioned, does not conflict with and is consistent with the goals and objectives of the Twentynine Palms General Plan.
- E. This project would provide for fine dining opportunities in the Downtown.
- F. This project would eliminate one vacancy in the area and add to the vitality of the Downtown.

Parking

Section 19.82.060,(B) of the Development Code allows off-street parking within 300' of the land use for the use it serves. Section 19.82.040, (B) of the Development Code allows a 25% reduction in the parking requirement in the Downtown where the parking facility is available to the general public. This project is located in the Downtown.

Traffic and Circulation

Because the project will not result in the development of any new structures, a traffic impact analysis was not prepared for this project. The project will generate minimal new traffic during renovation, which is expected to be less than ten vehicles per day. Right of way dedication has been obtained on SR62 and Yucca Avenue. The applicant will be required to construct street improvements along Yucca Avenue for the parking lot (APN 0617-112-18).

Transit Service

The Morongo Basin Transit Authority has benches and signs in the vicinity of this project and has placed no requirement on this project.

Approval Process

The Planning Commission is the Review Authority for the Conditional Use Permit and Letter of Public Convenience and Necessity. In recommending approval, the Commission must find that

the proposed project is consistent with the General Plan. Because the subject property has the CG and CO General Plan land use designations, development of the restaurant and parking lot are consistent the General Plan Land Use Plan.

CITY OF TWENTYNINE PALMS
DRAFT CONDITIONS OF APPROVAL

PC 08-06

Applicant: Karen Provost

Project: 2,200 square foot restaurant

Location: 73527 Twentynine Palms Highway

APN 0617-112-12 and -18

Approved: April 22, 2008

Expire: April 21, 2009

The following Standard Conditions of Approval shall be applicable to all Conditional Use Permits in the City. Additionally, site-specific conditions will be applicable as necessary to protect the public health, safety and welfare.

Planning Division

Per Section 19.30.090 (A) of the Development Code, Conditional Use Permits shall expire one (1) year from the date the approval was granted, unless prior to the expiration date:

1. A Building Permit is issued and remains active for any approved phase of the project; or
2. A Certificate of Occupancy is issued for the use or structure; or
3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
4. The site is occupied in accordance with an approved phase as part of a phased development.

Per Section 19.30.090 (B), an approved Conditional Use Permit shall expire if the use has been commenced and then is discontinued for a period of one (1) year or more.

Planning Conditions

- P1. Conditional approval is granted by the City Council acting as Approval Authority on April 22, 2008, to permit a full service restaurant with alcoholic beverage sales at the above referenced location. All development of the site shall be in substantial conformance with the adopted site plan and shall comply with all Conditions of Approval.
- P2. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the project proposal.
- P3. The property owner shall keep the property neat, clean, and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas, and landscaping.
- P4. All outdoor lighting shall conform to Development Code Chapter 19.70, *Lighting Standards*, and shall be designed to not glare or reflect onto neighboring properties or public rights-of-way. Outdoor lighting shall be shielded and limited to that required for security and safety purposes.
- P5. Prior to rehabilitation, the applicant shall submit three sets of plans to the City's Building Official and secure a Building Permit in conformance with the Uniform Building Code.

- P6. All construction and improvements shall comply with *Encroachments into Yards or Setbacks* standards established in the Development Code for the underlying land use district.
- P7. The applicant shall defend, at its sole expense (with attorneys approved by the City), and indemnify the City against any claim, action, or proceeding brought by any third party against the City, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the City, its agents, officers or employees for any judgment, court costs and attorney's fees which the City, its agents, officers or employees may be required to pay as a result of such claim, action, or proceeding. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
- P8. The applicant shall provide a recordable instrument guaranteeing use of the parking facility for the benefit of the property and its use(s) for the duration of the use(s) for which the parking is provided. Said instrument shall be approved by the City Attorney and, upon approval, shall be recorded in the County Recorder's Office as a deed restriction on all subject properties.
- P9. The applicant shall apply for Redevelopment Area funding to construct paved parking lot improvements on APN 0617-112-18.
- P10. The Applicant shall provide paved parking for 20 regular parking spaces and 1 handicap accessible parking space in accordance with the Americans With Disabilities Act and Title 24 of the California Code of Regulations and City of Twentynine Palms Development Code 19.82, within 180 days of the occupancy of the site.

General Conditions

- G1. All Conditions are continuing Conditions. Failure of the Applicant and/or operator to comply with any of the said Conditions at any time may result in the revocation of the Conditional Use Permit and/or citation for code violation.
- G2. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees, including reimbursement for all City expense in ensuring compliance with the Conditions of Approval.

Building and Safety

- B1. The County of San Bernardino Environmental Health Services and the California Regional Water Quality Control Board prior to issuance of building permits shall approve the sewage disposal system.
- B2. The applicant/developer shall submit plans and obtain city building permits for all sewage disposal, structures, walls and rehabilitation work. No work is to be done prior to approvals and permit issuance.

Engineering

General

- E1. The project shall comply with all applicable City ordinances and resolutions.

Improvements

- E2. Sidewalks shall be constructed adjacent to the parking lot to City Standards.
- E3. An encroachment permit separate from the grading onsite permit shall be obtained from the City of Twentynine Palms (760-367-6799) prior to any construction occurring within the public right-of-way.
- E4. Right-of-way and improvements (including offsite) to transition traffic and drainage flows from proposed to existing shall be required as necessary.

Utilities

- E5. All proposed construction of utilities adjacent to and onsite shall be underground.

Fire Department

- F1. Prior to any construction, the owner shall contact the Twentynine Palms Fire Department for verification of current fire protection requirements.
- F2. All construction and activities shall comply with applicable sections of the 1988 edition of the Uniform Fire Code and all other state, county, and city ordinances, rules and regulations regarding fire protection.
- F3. All flammable vegetation shall be cleared a minimum distance of 30 feet, or to the property line, from any flammable building materials or finished structures.
- F4. Street addresses shall be posted with numbers a minimum height of four (4) inches. Posted numbers shall contrast with their background and be visible and legible from the street. Developer shall furnish the fire department with a list and map of all of the street names and addresses within the project.
- F5. Prior to commencement of construction, an approved water supply capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings or portions of buildings are hereafter constructed. The following are the minimum requirements for the proposed development:

A: SYSTEM STANDARDS

Fire Flow: 1500 GPM @ 20 PSI Residual Pressure
Duration: 2 Hours
Hydrant Spacing: 660 Feet

B: DISTRIBUTION SYSTEM

Mains: 6-Inch Minimum
Laterals: 6-Inch Minimum
Riser: 6-Inch Minimum

C: FIRE HYDRANTS

Number: To be determined
Type: 6-Inch, with one (1) two and one half (2 ½) inch outlet and one (1) four (4) inch outlet with National Standard Threads.

Street Valve: 6-Inch Gate

- F6. The developer shall furnish the fire department with a copy of the water system improvement plans. A letter from the water purveyor stating what fire flow can be met shall be required.
- F7. The applicant shall install a Knox Box.

The undersigned applicant verifies that he/she has read the Conditions of Approval, understands each Condition, and agrees to adhere to the Conditions of Approval.

Applicant/Developer

Date

CITY OF TWENTYNINE PALMS
PLANNING COMMISSION
RESOLUTION NO. 08-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, RECOMMENDING APPROVAL OF PC 08-06 – AN APPLICATION BY KAREN PROVOST OF SAM’S GRILLE FOR A CONDITIONAL USE PERMIT AND LETTER OF PUBLIC CONVENIENCE AND NECESSITY FOR A FULL SERVICE RESTAURANT AND BAR IN THE EXISTING 2,200 SQ. FT. BUILDING AT 73527 TWENTYNINE PALMS HWY (APN 617-112-12, AND APPROVAL OF A PARKING LOT TO BE PROVIDED ON A GRAVEL LOT, LOCATED ON THE WEST SIDE OF YUCCA AVENUE, SOUTH OF TWENTYNINE PALMS HIGHWAY, LOCATED ON APN 617-112-18.

WHEREAS, on January 29, 2008, an application was received from Karen Provost of Sam’s Grille for a Conditional Use Permit and Letter of Public Convenience and Necessity to allow a full service restaurant with alcoholic beverage sales at 73572 Twentynine Palms Highway, APN 0617-112-12, in the CG zone; and

WHEREAS, the applicant is proposing parking on a gravel parking lot, located on the west side of Yucca Avenue, south of Twentynine Palms Highway, located on APN 617-112-18, in the CO Zone; and

WHEREAS, the location was previously approved as a restaurant on August 17, 1999 and utilized as such between August 1999 and December 2002; and

WHEREAS, the land use designation (zoning) for the subject property is General Commercial (CG) and Office Commercial (CO); and

WHEREAS, the proposed project is an existing commercial building and parking lot; and

WHEREAS, with the proposed conditions of approval, the proposed project design is consistent with the General Plan and Development Code; and

WHEREAS, Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, and is Categorically Exempt from further environmental review under state law; and

WHEREAS, the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; and

WHEREAS, the project site has no value as habitat for endangered, rare or threatened species; and

WHEREAS, approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and

WHEREAS, the site can be adequately served by all required utilities and public services; and

WHEREAS, public hearing notice was published in a newspaper of record and notice was

mailed to all property owners located within 300 feet of the project site; and

WHEREAS, public hearings were held by the Planning Commission on April 1, 2008; and

WHEREAS, with respect to the Conditional Use Permit application the Planning Commission finds the following:

- A. The proposed site is located adjacent to the Twentynine Palms Highway and will therefore not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- B. The subject site is approximately 0.06 acres and is therefore adequate in size to accommodate the proposed use.
- C. The shape of the parcel is typical, and allows for orderly development such as the proposed use.
- D. With the recommended conditions, the proposed project will meet the objectives of the General Plan and CG land use designation.
- E. The proposed project, as conditioned, does not conflict with and is consistent with the goals and objectives of the Twentynine Palms General Plan.
- F. This project would provide for fine dining opportunities in the Downtown.
- G. This project would eliminate one vacancy in the area and add to the vitality of the Downtown.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Twentynine Palms adopts the Categorical Exemption, adopts this resolution, and recommends approval of the Conditional Use Permit and Letter of Public Convenience and Necessity, subject to the attached Conditions of Approval.

APPROVED AND ADOPTED THIS 1st DAY OF April, 2008

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

Rebecca Rinkes, Chair

ATTEST:

Jacqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. _____ duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the _____ day of _____, _____, in Twentynine Palms, California.

Dated this _____ day of _____, _____.

Jacqueline Palmer, Deputy City Clerk

DRAFT

April 23, 2008

Department of Alcoholic Beverage Control
42-700 Bob Hope Drive
Suite 317
Rancho Mirage, CA 92270

RE: PC 08-06
Letter of Public Convenience and Necessity for Sam's Grille, 73527 Twentynine Palms Highway (Hwy 62), for a liquor license for On-Sale General Eating Place.

At their regular meeting on April 22, 2008, the Twentynine Palms City Council reviewed a request from Karen and Samuel Provost on behalf of Sam's Grille, for a Conditional Use Permit to allow the sale of alcoholic beverages in a restaurant and for the issuance of a Letter of Public Convenience and Necessity for a liquor license for On-Sale General Eating Place, at the above referenced facility in Twentynine Palms. After considering the request, the City Council approved the Conditional Use Permit and issuance of the Letter of Convenience and Necessity. This action is recorded in the official minutes of the meeting.

The case files related to this application will be retained at the Community Development Department at City Hall and are available for inspection during business hours. Any questions regarding this action should be directed to the City Clerk or the Community Development Department.

Sincerely,

Brenda Simmons
Community Development Technician

cc: Karen Provost - Applicant/Sam's Grille
Alex Meyerhoff, Community Dev. Director



STAFF REPORT

TO: Planning Commission
FROM: Code Enforcement Officer
DATE: April 1, 2008

SUBJECT: PC 08-05 Declaration of a public nuisance at 6648, 6650, and 6652 Smoketree Avenue (APN 0617-123-13), direct the owner to make all necessary repairs within thirty (30) days, and should the owner fail to make all necessary repairs, direct staff to obtain an abatement warrant and demolish the public nuisance.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, adopt Resolution PC 08-09, and declare 6648, 6650, and 6652 Smoketree Avenue a substandard building and a public nuisance, directing the demolition of the building.

ORDER OF PROCEDURE:

Request Staff Report (Alex Meyerhoff Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (voice vote)

BACKGROUND: This property's history of code violations is chronicled below:

- April 19, 2007. Initial complaint received regarding junk and rubbish at the property. At this time only the front unit of the tri-plex was occupied.
- April 26, 2007. The owner of the property (Dorothea Erbacher) and the property manager (Myra Hayes), were sent letters directing them to remove the junk and rubbish from the property within two weeks (May 11, 2007).
- May 29, 2007. The rubbish had not been removed and a Notice to Abate was sent by certified mail (return receipt requested) to the property owner and manager. The apartments were also posted with the Notice.
- June 25, 2007. The rubbish was removed and the case was closed.

Attachments

- Locator Map
- April 26, 2007 letter
- May 29, 2007 Notice to Abate
- August 6, 2007 letter
- August 22, 2007 Notice to Abate
- March 5, 2008 letter of Planning Commission Hearing
- October 25, 2007 Pre-Abatement Photos
- December 19, 2007 Post Abatement Photos
- March 20, 2008 photos
- Resolution

Review of Staff Report: _____

City Manager

City Attorney

City Engineer

Department Head

- July 31, 2007. The City received a new complaint that the septic system was malfunctioning and waste water was backing up in the yard. The property was inspected and the condition was confirmed.
- August 6, 2007. A third letter was mailed to the property owner, property manager, and residents, directing that the septic system be repaired within ten days or the property would be red-tagged and the owner or manager cited.
- August 21, 2007. At a re-inspection the septic was no longer draining wastewater above ground. Rubbish was observed on the property. A person living in an RV trailer was ordered to cease living there, and a dangerous electrical connection to the RV was observed.
- August 22, 2007. A second Notice to Abate was sent by certified mail to the owner of the property at four potential addresses. The Notice was also sent to the property manager and residents. The apartments and the RV were also posted with the Notice.
- August 30, 2007. At a re-inspection of the property the resident of the RV was cited for unlawfully living in an RV on residentially zoned property.
- September 19, 2007. A re-inspection revealed that the RV had been removed from the property.
- September 24, 2007. A re-inspection revealed that rubbish was present and an Abatement Warrant was obtained from the Superior Court in Joshua Tree.
- Between October 25, 2007 and November 4, 2007, the City abated the property, removing the junk and rubbish, capping off the unsafe electrical connection, sealing a gray water drain, and boarding up the two back units. Someone was living in the front unit, therefore it could not be boarded up.
- October 29, 2007. A re-inspection revealed that there wasn't any water service to the property. Property was red-tagged as uninhabitable.
- February 4, 2008. The property manager was cited for renting substandard property, the resident of the front unit was cited for not having water service and for junk and rubbish, and the person that opened the boarded-up apartments was cited for junk and rubbish. The property was in the process of being cleaned by one of the persons cited.
- February 12, 2008. The City Council confirmed abatement costs of \$2,941.00, and informed the Community Development Director that they would like to have the building demolished if the nuisance continues.
- March 5, 2008. A fifth letter was sent by certified mail (return receipt requested) to the property owner and the possible property manager (Myra Hayes). The letter informed them that the property once again had junk and rubbish on it, and that a public hearing

had been scheduled for April 1, 2008 before the Planning Commission to determine if the property is a nuisance, and the manner of its abatement.

- March 20, 2008. During an inspection the following unsanitary and substandard conditions were observed on the property: Roofing shingles are missing, the porch roof support poles are failing and one is missing entirely. Some of the support poles are split and shattered, and are not attached to the concrete porch. If one more porch roof support pole fails the entire porch roof could fall. Water heaters to the back two apartments are missing, the water heater to the front unit is inoperative and its enclosure is missing its door. There aren't any water heater enclosures for the back two units. One of the breaker boxes is missing a cover plate. Most of the units' interior rooms are missing doors and electrical outlet cover plates. The front unit furnace is inoperable, and most of the windows are broken. The sink is not connected to wall, and there aren't any faucets or drain plumbing. The bathroom sink is inoperable, the carpet is black with filth, and the back door is nailed shut. The middle apartment's furnace is inoperable, and there isn't any front door. Most of the windows are broken, a water heater is lying on the kitchen floor with a lot of other rubbish, and there is so much trash inside that it is hard to see the floor. The kitchen does not have a sink or counter top, and the bathroom does not have a sink or stool. The back apartment does not have a front door, most of the windows are broken, and the interior doors are missing. There is so much rubbish inside the apartment that it is unsafe to walk there. The furnace cannot be found because of the depth of rubbish. The toilet is full of excrement and there are two large holes in the walls. The shower is full of junk, the walls of all the units have peeling and faded paint, and graffiti exists throughout.

Code Enforcement has not had any contact from the property owner. All Certified mailings (return receipt requested) were returned to sender with the exception of an early mailing, which was signed by someone other than the owner. The resident of 6648 Smoketree Avenue has since vacated the front apartment, and it will be secured as soon as the person removes the remaining junk and rubbish.

ALTERNATIVES: The Planning Commission may take the following actions: (a) Declare the apartments at 6648, 6650, and 6652 Smoketree Avenue a public nuisance; (b) Adopt a resolution directing the property owner to repair the building to code or demolish the building within thirty (30) days. The resolution should also contain the provision that, should the property owner fail to be contacted or fail to obtain the required permits and begin bringing the property into compliance within thirty (30) days (by April 30, 2008), the Code Enforcement Division is directed to obtain the necessary Abatement Warrant and have the building demolished; or (c) Take no action on 6648, 6650, and 6652 Smoketree Avenue.

FISCAL IMPACT: Cost of demolishing the building. This cost will be added to City fees, which include Staff time, a warrant fee, and re-inspection fees. Following the demolition, the abatement costs would again be taken to the City Council for confirmation of costs and a resolution directing staff to place a Special Assessment against the property for all of the unpaid costs of abatement. The City would recover the costs of abatement when the annual taxes are paid.

PLANNING COMMISSION RESOLUTION NO. 08-09

A RESOLUTION OF THE CITY OF TWENTYNINE PALMS PLANNING COMMISSION DIRECTING THAT THE RESIDENTIAL BUILDING AT 6648, 6650, AND 6652 SMOKETREE AVENUE, APN 0617-123-13, BE DEMOLISHED AND THE REMANTS REMOVED PURSUANT TO CITY DEVELOPMENT CODE 19.92.

WHEREAS, this tri-plex has repeatedly had junk and rubbish code violations; and

WHEREAS on August 21, 2007, the City's Code Enforcement Division once again observed accumulated junk and rubbish, as well as two apartments full of junk with doors and windows broken open, and dangerous electrical wiring; and

WHEREAS, on August 22, 2007, a Notice to Abate was sent by certified mail to the owner of the property, Dorothea B. Erbacher, directing her to remove the junk and rubbish, repair or board up the vacant apartments, and repair any electrical violations within thirty (30) days; and

WHEREAS, the property was not brought into compliance within the thirty (30) day period, and on October 25, 2007, the City's Code Enforcement Division obtained an Abatement Warrant from the California Superior Court, and between October 25 and November 4, 2007, the City removed all of the junk and rubbish from the property and boarded up the back two apartments for a total abatement cost of \$2,941.00; and

WHEREAS, on February 12, 2008 a Public Hearing was held before the Twentynine Palms City Council where the abatement costs were confirmed and the Council directed that a Special Assessment be filed against the property in the amount of \$2,941.00; and

WHEREAS, at the hearing the Council expressed a desire to bring this property to the Planning Commission for a proposed demolition abatement; and

WHEREAS, shortly after the City abated the property, persons moved onto the property, removed the board up lumber, and placed a great deal of junk on the grounds to the south of the property, once again causing a public nuisance; and

WHEREAS, Code Enforcement has been unable to located the property owner, and all mail to the property owner has been returned to sender, except for one early letter that was signed for by a person other than the owner, and the property is once again open and unsightly due to junk and rubbish; and

WHEREAS, the unsanitary and substandard condition of the residential units as of March 20, 2008, is as set forth in this paragraph and the City's file for these properties. Roofing shingles are missing,

the porch roof support poles are failing and one is missing entirely. Some of the support poles are split and shattered, and are not attached to the concrete porch. If one more porch roof support pole fails the entire porch roof could fall. Water heaters to the back two apartments are missing, the water heater to the front unit is inoperative and its enclosure is missing its door. There aren't any water heater enclosures for the back two units. One of the breaker boxes is missing a cover plate. Most of the units' interior rooms are missing doors and electrical outlet cover plates. The front unit furnace is inoperable, and most of the windows are broken. The sink is not connected to wall, and there aren't any faucets or drain plumbing. The bathroom sink is inoperable, the carpet is black with filth, and the back door is nailed shut. The middle apartment's furnace is inoperable, and there isn't any front door. Most of the windows are broken, a water heater is lying on the kitchen floor with a lot of other rubbish, and there is so much trash inside that it is hard to see the floor. The kitchen does not have a sink or counter top, and the bathroom does not have a sink or stool. The back apartment does not have a front door, most of the windows are broken, and the interior doors are missing. There is so much rubbish inside the apartment that it is unsafe to walk there. The furnace cannot be found because of the depth of rubbish. The toilet is full of excrement and there are two large holes in the walls. The shower is full of junk, the walls of all the units have peeling and faded paint, and graffiti exists throughout.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Twentynine Palms hereby adopts a resolution stating that the property at 6648, 6650, 6652 Smoketree Avenue is unsightly, substandard, and a public nuisance, and directs the property owner to repair the property to code after obtaining a Building Permit, or obtain a demolition permit and demolish the building, collapse the septic tank, and remove the slab within thirty (30) days. Should such repairs or demolition actions not be taken by the owner, Code Enforcement is directed to obtain an Abatement Warrant for demolition of the building, and take such action after the thirty day period has passed.

BE IT FURTHER RESOLVED that the property in this Resolution is located in the City of Twentynine Palms, County of San Bernardino, State of California.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to file a copy of this Resolution with the San Bernardino County Recorder.

APPROVED AND ADOPTED THIS _____ DAY OF _____, 2008

AYES:PLANNING COMMISSION MEMBERS:

NOES:PLANNING COMMISSION MEMBERS:

ABSENT:PLANNING COMMISSION MEMBERS:

Rebecca Rinkes, Chair

ATTEST:

Jacqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. _____ duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the _____ day of _____, _____, in Twentynine Palms, California.

Dated this _____ day of _____, _____.

Jacqueline Palmer, Deputy City Clerk