



STAFF REPORT

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To: Planning Commission
From: Community Development Director
Date: January 20, 2004
RE: PC 02-15

General Plan Amendment from applicant Judy Beltz, seeking a change in the Land Use designation from Rural Living (RL-1) to General Commercial (CG) for the 2.39-acre parcel at 73441 Indian Trail (APN 620-121-04).

RECOMMENDATION: Conduct the Public Hearing and formulate a recommendation to the City Council regarding the proposed General Plan Amendment.

BACKGROUND: Issues related to the subject property were raised on March 2, 2001 when Code Enforcement staff noted that the applicant had placed illegal portable signs on the property and that substantial junk and rubbish was present. In preparing the Code Enforcement notification, it was discovered that a new, larger, office trailer had been placed on the property and a substandard (portable) toilet facility was being used. The trailer was in addition to the existing (200 square foot) trailer which has historically been used as the office for the truck rental business. Placement of the trailer was done without the required Building Permit, and does not comply with the Uniform Building Code or the City's Development Code.

The truck rental business has operated in the residential zone since before incorporation. Upon incorporation, the business operated out of the smaller office trailer. Because the zoning is residential, this use, if it was legally established through the County, is a legal nonconforming use. As such, it may continue so long as it is not expanded. Because the placement of the new office is an expansion, it could not be approved.

In seeking compliance, Code Enforcement staff made contact with the applicant, requesting that she contact Planning staff to determine if approval could be granted for the trailer. The applicant did not contact staff, and on March 6, 2001, the property was posted with a Notice of Violation (NOV) which listed the following violations:

Community Plan (Business not allowed on residential property)

City Ordinance No. 107 (Mobile home does not meet requirements)

Uniform Building Code (Unlawful toilet facilities,) and lack of building permits

Attachments

- General Plan Amendment application
- Locator Map
- Development Code Chapter 19.10

The Notice ordered the applicant to remove the office trailer, remove the unlawful toilet facilities, and obtain the required permits within thirty days. Shortly after the NOV was posted, the applicant met with staff and agreed to remove the trailer within 90 days.

However, the trailer was not removed from the property as agreed, nor were permits applied for. On August 2, 2001, a letter was mailed to the applicant, allowing two weeks for compliance. The letter also stated that should she fail to begin the approval process, or remove the trailer, within two weeks, the City would begin the abatement process of the trailer and all of the junk and rubbish on the property.

The August 2, 2001 letter resulted in an August 7, 2001 meeting with staff. After discussing the issues, the applicant stated she would remove the trailer and that she would be relocating the portable toilet business to a property she owns on Pine Avenue. It was agreed that she would be allowed thirty days to develop and submit a plan.

However, none of the agreed changes were made and a plan was not submitted. Instead, on October 9, 2001, the applicant indicated via phone conversation that she would like to pursue a Change of Zoning for the property.

On October 10, 2001, a letter was mailed which summarized the City's communications and agreements with her over the previous eight months, and noted her failure to bring her property into compliance. The letter went on to say that to authorize continued use of the property (as expanded) would require approval of a Change of Zoning and a Conditional Use Permit, and that application must be submitted within thirty days, or the abatement process would begin. Permit applications were enclosed with the letter.

Mrs. Beltz complained that although she received the letter, it had been sent to the wrong address. A second, revised, letter was sent to her on October 17, 2001. This letter stated that the office trailer had not been removed pursuant to the agreement of March 6, 2001, that the trailer did not meet City requirements, the toilet facilities are in violation of Uniform Building Code, and that placement of the trailer was an unlawful expansion of a nonconforming use. The letter continued, that the trailer had to be removed or she must obtain the required permits and approvals from the Planning Commission and City Council, or the abatement process would begin.

In response, the applicant indicated that she would like to construct a house on the property.

Accordingly, staff began to seek a way to interpret the Code in a manner that would allow the business to operate from the house, if constructed. In seeking this remedy, staff contacted the City Attorney's office for advice. The City Attorney reviewed the matter and stated that this approach could be viable if the City was prepared to allow such approvals in other similar cases. However, rather than pursue development of a residential structure, the applicant applied for a Temporary Use Permit (TUP), seeking approval of three businesses, truck rental, portable toilet rental, and a grading business, as well as approval of the two portable offices and use of the portable toilets as sanitation facilities for the businesses. On December 18, 2001, the Planning Commission denied the TUP.

On February 21, 2002, the General Plan Amendment and Conditional Use Permit applications were submitted.

In a letter dated the same date, February 21, 2002, staff notified the applicant that the application was incomplete and requested clarification on which parcels the zoning change was requested.

The next communication from the applicant was a November 3, 2003 letter in which the applicant requested that the General Plan Amendment for the subject parcel be processed. In discussing this with the applicant, the request is that the zoning be changed to General Commercial at this time and, if approved, they will seek approval of the Conditional Use Permit

The Land Use Plan of the General Plan describes CG as follows:

The General Commercial category shall be designated by the letters “CG” on the Land Use Map of the General Plan. The General Commercial district will serve as the City’s primary commercial area(s), suitable to a wide variety of commercial uses.

A commercial setting conducive to the sale of a variety of products and services is emphasized. Sale of items such as clothing, groceries, hardware, appliances, are to be established in a mutually supportive relationship with restaurants, gift shops, art galleries, hair salons, automotive repair, fitness centers, offices, etc.

The following policies and standards shall apply to the CG district:

Building design shall be Desert Southwest pursuant to the Design Guidelines adopted by the City.

The undergrounding of utilities will be required where found to be reasonable considering the nature and scope of development.

Landscaping shall include amenities such as flower boxes, statues and architectural features to beautify and embellish the district and complement the City’s Desert Southwest theme. Palm trees may be used to accent the character of the area.

It is the intent to eventually provide sewer service to the CG area to allow both healthy and intense development.

Concrete curb, gutter, and sidewalks are required along rights-of-way for all new projects in all CG zones.

Solar energy use is desirable.

Off street parking shall be provided.

Vehicle storage lots shall be screened from public view.

The Development Code specifies what uses can be approved in the CG district. Chapter 19.10 of the Code is attached and would be applicable to the subject property if the General Plan Amendment is approved. It establishes “*Permitted Uses*” and “*Conditional Uses*.” Permitted

Uses are allowed by right, requiring only that the applicant meet other provisions of the Development Code with regard to signs, parking, lot coverage, setbacks, etc.

Conditional uses require a CUP for which Planning Commission approval is necessary.

Street Improvements

The City's General Plan and Development Code specify when the requirement for offsite improvements is triggered. Because the applicant does not propose development at this time, there is not an increase or change in vehicular traffic. Therefore, the requirement for street improvements is not triggered. If the Planning Commission approves the CUP, when processed, the standards specified in the General Plan and in the Development Code will be applicable.

Spot Zoning

Anytime a single parcel is zoned differently than those adjacent to it, spot zoning can result. This can result in a mixture of incompatible uses. Staff recommends careful consideration of the existing and planned uses in the vicinity of this property prior to formulating the recommendation.

The applicant attempted to get the owners of adjacent parcels, to the east between the subject site and the Adobe Road commercial corridor, to also seek a change of zoning in conjunction with her request. However, according to the applicant, the owners of these parcels were not responsive.

Environmental Clearance

Development is not proposed at this time. When the CUP application is processed, an analysis, pursuant to the California Environmental Quality Act (CEQA) will be conducted and presented to the Planning Commission for consideration.

General Plan Amendment Procedure

Section 19.20.070 of the Development Code sets forth required Findings for General Plan Amendments. The Section states:

Prior to approving a General Plan amendment as prescribed by this Chapter, the City Council shall make the following Findings:

- A. That the amendment is consistent with the intent of the goals and policies of the General Plan as a whole, and is not inconsistent with any element thereof; and
- B. That the amendment prescribes reasonable controls and standards for affected land uses to ensure compatibility and integrity of those uses with other established uses; and
- C. That the amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and
- D. That the amendment provides for the protection of the general health, safety, or welfare of the community.

Section 19.20.080 of the Development Code states that the Council's approval of a General Plan amendment shall be in the form of a Resolution. If approval is recommended by the Planning Commission, staff will prepare a Resolution for consideration which contains the above reference findings and/or other findings specified by the Planning Commission.

Citizen Comment

The Public Hearing was advertised in the January 8, 2004 *Desert Trail* newspaper and mailed to owners of all property within 300 feet of the subject site. As of this writing (January 13, 2004) no comments have been received.

Review Authority

The Planning Commission, acting in their role as the Review Authority for this matter, is required to conduct the Public Hearing and formulate a recommendation to the City Council. The City Council is the Approval Authority for this matter and may approve or deny the request. A February 10, 2004 City Council Public Hearing is scheduled.

If the General Plan Amendment is denied, the CUP for the expanded use cannot be approved. In this event, the applicant would be required to remove the second office trailer and develop sanitation facilities in conformance with the Uniform Building Code. Use of the original 200 square-foot office trailer could resume if modified to comply with the Uniform Building Code but expansion of officer area could not be allowed.



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To: Planning Commission
From: Community Development Director
Date: January 20, 2004
RE: PC 03-61

132 lot subdivision of existing 40-acre parcel (APN 615-211-09), and development of up to 132 single family residential units. Tentative Tract Map No. 16729.

RECOMMENDATION: Conduct the Public Hearing, consider all public comment, adopt the Negative Declaration and De Minimis Impact Finding, and approve Tentative Tract Map No. 16729 subject to the attached Conditions of Approval.

BACKGROUND: Penca Capital, LLC proposes a 132-lot subdivision in the Single Family Residential (RS) land use district. The site is located south of Sunnyslope Drive, north of El Paseo Drive, between Enceila Avenue and Panorama Avenue.

The proposed density of the subdivision is allowed in the RS land use district, subject to the Planning Commission's approval of a Tentative Tract Map. If the Tentative Tract Map is approved by the Planning Commission, the applicant is required to construct the subdivision per the Conditions of Approval and then submit the Final Map to the City Council for approval. Following approval of the Final Map, the applicant may begin development and/or sale of the individual lots.

Attachments

- Major Subdivision application
- Locator Map
- Draft Conditions of Approval
- Draft Negative Declaration and DeMinimis Impact Finding
- Artist rendering of perimeter wall
- Tract Map (8 ½ X 11)
- Tract Map (in pocket)

Regulation and control of the design and improvement of subdivisions are regulated by Government Code Section 66410 through 66413.5, known as the Subdivision Map Act. In adoption of the Act, the state confers upon the City the power to regulate subdivisions through adoption of local law. The City's subdivision regulations are contained in Section 88.0101 through 88.1315 of the County Code, adopted by the City upon incorporation. On January 13, 2004, Council adopted revised subdivision regulations, as recommended by the Planning Commission, which will become effective on February 13th. Because the new regulations were not in effect at the time the subject application was submitted, the regulations contained in the County Code are applicable.

Project Routing/Notification

After receiving the application, staff routed the proposal to the following agencies and City departments requesting their review and comment:

Richard Pedersen, City Engineer
Fred Fogel, Building Official
Bobby Matz, Public Works
Administrative Sergeant, San Bernardino County Sheriff's Department
Scott Maass, San Bernardino County Environmental Health Division
Mike Wright, Twentynine Palms Water District
Jim Thompson, Twentynine Palms Fire Department
Planning/Engineering, Southern California Edison Company
Joseph Sullivan, Morongo Unified School District
Vern Keener, Southern California Gas Co.
Rick Jones, Adelphia
Larry Moore, Verizon
Caltrans District 8, Linda Grimes IGR/CEQA Coordinator
Charles Springer, California Regional Water Quality Control Board
Mojave Desert Air Quality Management District (AQMD)
California Department of Fish & Game
County of San Bernardino Clerk of the Board of Supervisors

Comments were received from the City Engineer, Twentynine Palms Water District, Twentynine Palms Fire Department, and Caltrans. All conditions proposed have been incorporated into the attached draft Conditions of Approval.

The proposed Tentative Tract Map was advertised as a public hearing in the *Desert Trail* newspaper on January 8, 2004 and notices were mailed to property owners within a 500 foot radius of the project site. As of this writing (January 13, 2004), the Planning Division has not received any written or oral opposition to the proposed subdivision.

Surrounding General Plan Designations/Zoning and Land Use

Property to the north is Single Family Residential (RS-1), one dwelling unit per acre, and is generally undeveloped.

Property to the south, along most of the southerly property line, is RS, allowing for up to four dwelling units per acre. With the exception of one single family residence, property to the south in the immediate vicinity of the proposed subdivision is undeveloped. Near the southwest corner of the subdivision, the land use designation is RS-1, single family residential with a minimum lot size of one acre, and is undeveloped.

Property east of the subject site has the RS designation and is divided to the allowable density. Other than a few remaining infill lots, property east of the proposed subdivision is developed.

To the west of the subject site, the designation established by the General Plan is RS-1 and this area too is generally undeveloped in the immediate vicinity of the proposed subdivision.

Density/Lot Size

The RS district allows for up to four dwelling units per acre and a minimum lot size of 7,200 square feet. The tentative tract map shows a density of approximately 3.4 units per acre and lot sizes ranging in size from 7,499 to 17,326 square feet, with an average lot size of 8,768. The proposed density and lot sizes meet the City's Code requirements for density and size.

Site Characteristics

Terrain for the subject site slopes north to south, with typical desert vegetation. The applicant has provided a General Biological Survey and Focused Desert Tortoise Survey, prepared by a biologist, and found no evidence of desert tortoise and concluded that desert tortoise is absent from the site.

Phasing

The map is proposed with 15 separate phases. The phasing plan is indicated on the site plan with each phase consisting of between seven and ten lots. The first phase, consisting of seven lots, is at the northeast corner of the site, the corner of Sunnyslope Drive and Encelia Avenue.

Per the Subdivision Map Act and the City's subdivision regulations, phasing is allowed. The tentative map of a phased development can be approved with one action. Then, the developer is required to construct all offsite improvements (curb & gutter, sidewalks, streets) for the phase and then the phase is taken to the City Council for final approval. If the Council finds that the improvements meet the requirements of the City and the Subdivision Map Act, then the final approval is given and the developer may commence sale and development of the lots for that phase. As proposed, therefore, the applicant seeks one approval from the Planning Commission of the Tentative Map, and will be seeking up to fifteen separate approvals (one for each of 15 phases) of the final map.

Development of Model Homes

The applicant has requested approval to commence construction of three units prior to final map approval of the first phase. The three units would serve as models for potential buyers. Two of the requested units can be allowed per the City's code; one because it is a single family zone and a second unit as a secondary dwelling unit. Pursuant to Chapter 19.53, *Secondary Dwelling Units*, a second unit can be allowed in the RS on lots that are at least twice the area of the minimum size established by the General Plan if the unit is located on a portion of the lot that could legally be separated by lot division. Therefore, development of two of the units can be approved administratively with issuance of a building permits on the existing 40-acre parcel.

Staff is proposing in the attached draft Conditions of Approval that the third unit could be allowed if placed in a manner that would comply with all applicable code requirements after the subdivision of land has been completed, with the requirement that the applicant provide a \$10,000 cash deposit for removal of the third unit in the event the subdivision is not finalized. This approach allows the applicant to commence construction right away, allows development of three units as requested, and provides a means to ensure compliance with City requirements. Per the draft condition, the final approval of the third unit would not be made by the City until after the final approval of the proposed subdivision.

The Planning Commission should only approve this creative method of approving the units prior to final approval, if there is a willingness to extend the same procedure to future developers if a similar request is made.

Traffic and Circulation

Staff has required that the applicant provide a traffic study to determine if existing roadway systems are capable of accommodating the existing traffic and the increased traffic that will result from project approval. Daniel Benson & Associates prepared a Traffic Impact Analysis which concludes:

In summary, our Traffic Impact Analysis shows that existing traffic volumes east and west of the SR-62 intersection with Sunrise Road in Twentynine Palms are operating at Level of Service "A" and will continue to do so after the proposed project is in operation. Similarly, Sunrise Road west of SR-62 at the project site will continue to operate at Level of Service "A" after project opening. The highest volume of left turns to or from Sunrise at SR-62 in any hour is one per minute in the PM peak hour, which is negligible. Our Level of Service Tabulations were based on the street segment standards established in (the City's) General Plan.

Because the traffic level of service at the analyzed intersections was the same both without and with the proposed project, no formal street improvements are required by the project. It is assumed that the City will require the developer to pave to the half width on its side of the boundary roads.

Accordingly, staff is not recommending that the applicant improve Sunrise Road nor is there a requirement for development of traffic control systems at the SR 62 intersections with Lupine Avenue or Sunrise Road. Per the Conditions of Approval, the developer will improve all adjacent streets (Encelia, Sunnyslope, El Paseo and Panorama) on the development side of the streets. Additionally, all interior streets will be constructed to City Standards. Per City standards, all street improvements will include curb, gutter, sidewalks and street pavement.

Drainage

The applicant has submitted a preliminary drainage study for the subject property to determine drainage flows affecting the site. 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.

Environmental Assessment

Based on the findings of the Initial Study, a Negative Declaration is recommended. Because the project will not impact wildlife resources, a De Minimis impact finding can be made, thereby exempting the application from the California Department of Fish and Game environmental fee.

Approval

The Planning Commission is the Approval Authority for the Tentative Map. In taking action to approve, the Commission must find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan. Because the subject property has the RS General Plan land use designation, development of single family residential units at the proposed density is consistent with the General Plan Land Use Plan.

In considering the application, the Planning Commission should consider the effects of its action upon the housing needs of the region and balanced these needs against the public service needs of its residents and available fiscal and environmental resources (Subdivision Map Act Section 66412.3). Because the applicant proposes residential development, approval results in an increase in housing stock and will not negatively impact housing for the region. Based on the proposal's conformance with local standards, staff recommends approval of the proposed Tentative Tract Map.