



STAFF REPORT

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To: Planning Commission
From: Community Development Director
Date: September 7, 2004
RE: Seating of newly-appointed Commissioner Dan Mintz
Selection of Commission Chair to serve balance of 2004
Selection of Commission Vice Chair, if needed, to serve balance of 2004

RECOMMENDATION: Following the Clerk's administration of the oath of office for newly-appointed Commissioner Dan Mintz, the Commission will select a Chair and, if needed, a Vice Chair to serve through December 2004.

BACKGROUND: Pursuant to Section 19.02.100 (E) of the Development Code, the Commission selects its Chair and Vice Chair at the first meeting of the year, to serve for that year. Accordingly, the Commission selected Commissioner Duncan as Chair and Commissioner Stone as Vice Chair at the January 6, 2004 meeting. The resignation of Chair Duncan creates a short-term vacancy of the Chair position. The Code does not specify that the Vice Chair will automatically ascend to Chair upon such vacancy so the Commission must determine who, among Commissioners, will serve as Chair for the remainder of the year. If Vice Chair Stone is selected, then this creates an opening for Vice Chair and the Commission will select a Vice Chair from the remaining Commissioners to serve the balance of the year.

Therefore, following the Call to Order, Vice Chairman Stone will open the floor to nominations for Chair. The new Chair will preside over selection of the Vice Chair if needed.

The Chair and Vice Chair will serve in their roles through the end of the year and the Commission will determine at the first meeting in 2005 Commissioners to serve as Chair and Vice Chair for calendar year 2005.



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To: Planning Commission
From: Community Development Director
Date: September 7, 2004
RE: PC 04-35

Development Code amendment, implementing revised design requirements for residential development in the Rural Living (RL), Single Family Residential (RS), Multi-family Residential (RM), and Open Space Residential (OSR) land use districts.

RECOMMENDATION: Conduct the public hearing and formulate a recommendation to the City Council for the Development Code amendment.

BACKGROUND: At the August 3, 2004 meeting, the Planning Commission conducted a study session to review design requirements for manufactured homes. The discussion focused on the overhang requirement for such homes. Following the study session, staff was directed to set the matter for public hearing.

Attachments

- Government Code Sections 65852.3-65852.5

Placement of modular homes in residential areas is regulated by Sections 65852.3-65852.5 of the California Government Code. A copy of the aforementioned sections is attached to this Staff Report. The City's recently updated Development Code contains requirements for manufactured homes in residential areas. There are four types of residential zoning in the City: (i) Rural Living (Chapter 19.07); (ii) Single Family Residential (Chapter 19.08); (iii) Multi-family Residential (Chapter 19.09); and (iv) Open Space Residential (Chapter 19.14). Each of these four chapters contains the following text concerning manufactured and mobile homes:

Manufactured and Mobile Home Standards. Any manufactured or mobile home shall comply with the following minimum standards:

1. The home and accessory structures shall be subject to all provisions of the Development Code applicable to residential structures.
2. The home shall be constructed to meet the standards of the National Mobilehome Construction and Safety Standards Act pursuant to Section 18551 of the California Health and Safety Code.
3. The roof live loads, wind and seismic loads, and other environmental standards shall be the same as established for conventionally built structures.
4. The home shall be attached to an engineered, permanent perimeter foundation approved by the Building Division.

5. The home shall have a minimum width of twenty (20) feet excluding garages, porches, patios, eaves, cabanas, and popouts.
6. The siding material shall consist of stucco, wood, brick, stone, or decorative concrete block. Synthetic siding material and textures may be used when determined by the Planning Division to be compatible with the neighborhood.
7. The exterior coving material shall extend to surrounding grade.
8. The roofing material shall be tile, rock, shingles, or materials customarily used on conventional residential structures in the neighborhood.
9. The roof shall have a pitch not less than two (2) inches of vertical rise for each twelve (12) inches of horizontal run.
10. The roof shall have sloping lines with a minimum eighteen (18) inch eaves overhang, measured from the vertical side of the home. The Planning Commission may approve an alternate design with application for Site Plan Review, if the Planning Commission finds that the alternate design is architecturally compatible with conventionally built homes in the vicinity or that the alternate design is compatible with the Desert Southwest Design Guidelines adopted by the City.

California Government Code¹ Section 65852.3 requires cities to allow manufactured homes meeting certain specified requirements to be installed in residential districts. Section 65852.3 states that with the exception of architectural requirements concerning roof overhang, roofing material, and siding material, cities may only subject manufactured homes to the same development standards to which conventional single-family residential dwellings on the same property would be subject. Section 65852.5 limits the overhang cities may require on manufactured homes to 16", unless similar requirements are imposed on conventional single-family residential dwellings. Thus, if we want to require an overhang greater than 16" on manufactured homes we must also require the same thing of conventionally built homes in that district. As currently drafted, the Development Code requires an 18" on manufactured homes, but does not contain a similar requirement for conventionally built homes.

Based on discussion at the August 3, 2004 meeting, staff has prepared an amendment to Development Code Chapters 19.07, 19.08, 19.09 and 19.14. The draft amendment would implement a requirement for 18" overhang on conventionally-built homes, therefore bringing the Development Code into compliance with state law.

Because Government Code Section 65852.4 prohibits the City from establishing a permit process for manufactured homes that is different than the process or requirement for conventional single-family residential dwellings, staff is also recommending that the text of item 10 be changed to provide for staff level approval of an alternate design of either a modular home or a conventionally built home. Item 10 would be revised as follows, deleted text is shown in ~~strikethrough~~ and text proposed to be added is shown in *italics*:

¹ All further Section references are to the California Government Code.
04-35 SFR design 2

~~**Manufactured and Mobile Home Standards for Residential Development.** Any manufactured or mobile home~~ *All residential development shall comply with the following minimum standards:*

The home and accessory structures shall be subject to all provisions of the Development Code applicable to residential structures.

~~The home~~ *Manufactured and Mobile homes shall be constructed to meet the standards of the National Mobilehome Construction and Safety Standards Act pursuant to Section 18551 of the California Health and Safety Code.*

~~The roof live loads, wind and seismic loads, and other environmental standards shall be the same as established for conventionally built structures.~~

~~The home~~ *Manufactured and Mobile homes shall be attached to an engineered, permanent perimeter foundation approved by the Building Division.*

The home shall have a minimum width of twenty (20) feet excluding garages, porches, patios, eaves, cabanas, and popouts.

The siding material shall consist of stucco, wood, brick, stone, or decorative concrete block. Synthetic siding material and textures may be used when determined by the Planning Division to be compatible with the neighborhood.

The exterior coving material shall extend to surrounding grade.

The roofing material shall be tile, rock, shingles, or materials customarily used on ~~conventional~~ residential structures in the neighborhood.

The roof shall have a pitch not less than two (2) inches of vertical rise for each twelve (12) inches of horizontal run.

The roof shall have sloping lines with a minimum eighteen (18) inch eaves overhang, measured from the vertical side of the home. The Planning ~~Commission~~ *Director* may approve an alternate design with an application for *Administrative Site Plan Review*, if the Planning ~~Commission~~ *Director* finds that the alternate design is architecturally compatible with ~~conventionally built~~ homes in the vicinity or that the alternate design is compatible with the Desert Southwest Design Guidelines adopted by the City.

The above Development Code amendment to the four chapters (19.07, 19.08, 19.09 and 19.14) will result in our requirements being compliant with the Government Code.

Review Authority

The Planning Commission is the Review Authority for this matter and is required to formulate a recommendation to the City Council. The Commission may, 1) Recommend approval of the Development Code amendment as presented, 2) Modify the amendment and recommend Council approval, or 3) Continue the matter to a future specific date to allow additional time for consideration of the issues.



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To: Planning Commission
From: Community Development Director
Date: September 7, 2004
RE: Review of Development Process and Brown Act

RECOMMENDATION: Conduct the Study Session

BACKGROUND: As a review for Commissioners, staff has prepared two PowerPoint presentations, 1) a review of the development process and 2) a review of the Ralph M. Brown Act. The following is an outline of the two presentations.

Development Process

City of Twentynine Palms
Planning Commission
September 7, 2004

Topics...

- The General Plan
- Municipal Code/Development Code
- Conditional and Permitted Uses
- Development Process
- Building Permits
- Staff/Planning Commission Role

The General Plan

- Required by State
- The Constitution for development
- Seven required elements
- Comprehensive and long term
- Horizontal and vertical consistency
- Approvals either consistent or invalid

Municipal Code

- The City's Municipal Code contains all locally enacted laws. This includes requirements such as business license, franchise agreements, transit occupancy tax, etc.

Development Code

- Part of the Municipal Code
- Contains land use regulations
- Enacted/amended by Ordinance

Police Power

- The legal basis for land-use and planning regulations is police power, power given to cities to protect the public health, safety and welfare of its residents. A land-use regulation lies within the police power if it is reasonably related to the public welfare.

Public Welfare

‘The concept of the public welfare is broad and inclusive... The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.’

Justice Douglas

Conditional & Permitted Uses

- The Development Code includes zoning regulations, “what you can build where.”
- Uses are identified as either “conditional” or “permitted.”

Permitted Uses

- Some uses are acceptable for the zoning. For example, an art studio, gift shop, or clothing store is “permitted” in a General Commercial zone such as in our downtown.
- A single family residence is “permitted” in a single family residential zone.

Approval

- Approval of a permitted use is usually a staff action
- Approved if all code requirements are met
- Public hearing is not required

Conditional Uses

- Other uses may be acceptable, but only under certain conditions
- Examples include bars, truck parking, automotive repair, and pawn shops in a General Commercial zone
- These uses may or may not be acceptable
- Some uses, for example a lumber yard, is “permitted” in a Service Commercial zone, is a “conditional” use in a General Commercial zone and cannot be approved in a Tourist Commercial or Office Commercial zone.

Development Process

- First, check zoning
- Can the proposed use be allowed at a particular location
- If so, is it “permitted” or “conditional”

Conditional Uses

- Planning Commission is approval authority
- Require Public Hearing
- Notification in newspaper
- Notification to property owners
- Can be approved or denied

Permitted Uses

- Site Plan Review, no public hearing
- Staff level approval for smaller developments or change of use
- If the proposal meets all standards, it is approved

Building Permits

- Required per California Building Code (formerly Uniform Building Code)
- New construction exceeding 120 square feet
- Alterations to electrical, plumbing, HVAC, etc.
- Land Use entitlement first.

Staff Role

- Carry out Council directive
- Interpret provisions of Code
- Make recommendation to Council or Commission, based on Code requirements
- Provide Planning Commission support

Planning Commission Role

- Limited, specified in Development Code (Section 19.02.100)
- Key function is review/approval of CUPs
- Make recommendations to Council

Discussion

The Ralph M. Brown Act

City of Twentynine Palms

Planning Commission

September 7, 2004

Purpose

To ensure that the public's business is public

Requirements

- Meetings open to the public
- Preparation of an agenda
- Discussion/action limited to agenda
- Public posting of agenda

Meetings

- A "meeting" is any gathering of three Commissioners, no matter how informal, where the members hear, discuss or deliberate upon any item on which the Planning Commission legally could act.
- Does not have to occur at the same time and place.

Serial Meeting

- When does a Serial Meeting occur?

Exceptions

- Act allows for gatherings attended by majority of Commissioners, if official business of the Commission is **not** discussed
- Includes social events, Chamber mixers, and other public meetings
- Also includes Planners Institute where a quorum is likely to attend

Discussions with staff

- Staff can discuss the Planning Commission's business with all members separately.
- Brown Act violation for staff to share with Commissioners what others have said (if it is communicated to a quorum).

Secret Balloting

- Not allowed privately or in a public meeting
- This applies to balloting whether proposed as being preliminary or final

Special Meetings

- Special meetings may be called by Chairman or by majority of Commission
- Each Commissioner will receive at least 24 hours notice

Emergency Meetings

- Brown Act specifies situations in which emergency meetings may be called
- Unlikely to occur at Planning Commission level

Action on Non-agenda Item

- Two statutory exceptions to action on items not on agenda:
 1. Emergency situations
 2. Issues arising after the posting of the agenda
- Both are defined in Brown Act and unlikely to occur during PC meeting

Non-agenda discussion

- Briefly respond to statements or questions posed by the public
- Ask questions for clarification
- Make brief announcement, or make a brief report on his or her own activities
- Request staff to report back at a subsequent meeting
- Direct staff to place item on future agenda
- Provide a reference to staff or other resources for factual information

Public Participation

- Opportunity to address Commission on matters within its jurisdiction
- Reasonable time limits may be imposed
- Citizens may record proceedings
- If meeting is interrupted, Commission may clear room and continue meeting

Closed Sessions

- Brown Act provides certain exceptions to public meetings call closed sessions
- Unlikely that Planning Commission would go into closed session
- City Attorney's office would be consulted

Public Documents

- Written materials distributed to a majority (or all) of the Commissioners, by any person, in connection with a matter subject to discussion or action at a public meeting, are public records

Penalty

- Misdemeanor for any Planning Commissioner to attend a meeting where action is taken in violation of the Brown Act
- District attorney or any interested person may bring an action to stop or prevent violations of the Brown Act

Summary

- Keep the public's business public
- Don't seek informal or secret consensus
- During meetings, speak only on agendized matters
- Consult with staff anytime you have questions

Discussion