



## STAFF REPORT

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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** January 18, 2005  
**RE:** **PC 03-40**

Amendment of Conditional Use Permit (CUP) for phased development of Sayaji U Ba Khin Vipassana Foundation meditation center, increasing scope of development with addition of five modular buildings in Phase One, increasing floor area by 8,448 square feet, southwest corner of Twentynine Palms Highway and Mantonya Road. (APN 613-071-03)

**RECOMMENDATION:** Conduct the Public Hearing and approve the CUP Amendment subject to the revised Conditions of Approval.

**BACKGROUND:** On October 21, 2003, the Planning Commission approved a CUP for the applicant Sayaji U Ba Khin Vispassana Foundation, for development of a meditation center. The approval included standard conditions of approval, including requirements for offsite improvements such as curb & gutter, sidewalks, street improvements and a bus shelter. The applicant subsequently received the City Manager's approval of a deferral. The applicant has revised the plan and seeks an amendment to the approval. Staff has developed draft conditions of approval that incorporate the deferral; this is discussed in more detail below.

### Review of Existing Approval

Per the *existing* approval, the first stage of development included converting the existing residential structure (68561 Twentynine Palms Highway) onsite and placement of four modular buildings for use as a meditation center. Peak occupancy for the first stage of development, as originally approved, was expected to be 40 students. The structures approved last year consisted of three 25' x 40' modular buildings and one 12' x 60' modular building. Total footprint of the four modulars is 3,720 square feet. One of the three modular buildings was proposed for use as a meditation hall and the remaining two were to be used for men's and women's dormitories. All four modular buildings were to be placed to the south of the existing house.

The second phase of development per the existing approval includes development of twenty buildings that total 43,522 square feet. This phase of the meditation center was to provide amenities such as larger dorms, kitchen, meditation hall, teacher residence, assistant residences, administration residences, and service enclosures.

### Attachments

- Locator Map
- Land Use Entitlement application
- November 9, 2004 letter from applicant
- Conditions of Approval and phasing plan
- Approved Mitigated Negative Declaration
- Site Plan/Floor Plan/Elevations (7 pages)
- Supplemental Information (provided by applicant)

### **The Proposed Amendment**

In amending the CUP, the applicant proposes nine modular buildings, totaling 12,168 square feet, to replace the four modular buildings in the first phase of development discussed above. This results in an increase of 8448 square feet. Anticipated occupancy for stage one per the revised proposal is 83 (60 students and up to 23 staff members).

The second phase of the development described above is not altered by the CUP amendment, if approved.

### **Project Routing**

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  
Scott Maass, San Bernardino County Environmental Health Division  
Evelyn Kibler, Environmental Health Services  
Mike Wright, Twentynine Palms Water District (TPWD)  
Jim Thompson, Twentynine Palms Fire Department (TPFD)  
Caltrans District 8, Linda Grimes IGR/CEQA Coordinator  
Ashley Calvert, Sierra Environmental Services  
Michael Tree, Morongo Basin Transit Authority (MBTA)

Staff received no comments as a result of routing the revised proposal to the above agencies.

### **Revised Phasing**

Staff has attempted to simplify the approval by incorporating the deferral (approved by the City Manager subsequent to the Planning Commission's original approval) into the revised draft conditions of approval. If approved by the Planning Commission, the conditions provide for compliance with the City's requirements but delays development of the improvements to coincide with project development. With this approach, the applicant is mitigating the impacts as they occur rather than being required to provide all improvements before any use of the property can commence. This approach is unique but is warranted because 1) the applicant has already received approval of the deferral from the City Manager and the Planning Commission is simply incorporating the approved deferral into the revised proposal, and 2) the project site is 115 acres and if the adopted policy (of requiring improvements prior to occupancy) was followed to the letter, it would require that the applicant provide more than 1.5 miles of new public roads (SR 62, Mantonya, Sullivan, and Kern Blvd) even though the proposed facility will not impact all of these roads for many years to come.

The phasing plan incorporated into the attached draft conditions of approval is summarized as follows:

#### **Phase One**

The existing structures have been converted for use as a meditation facility and the improvements specified in Condition #38 through and including Condition #43 are deferred provided that total occupancy is not greater than 24 persons. For occupancy of 24 persons or more in Phase One, Phase Two improvements are required.

### **Phase Two**

Phase Two includes placement of nine modular structures. Prior to occupancy of any of the new structures, the applicant is required to develop approximately 500' of SR 62 frontage and approximately 300' of Montonya Road frontage. This includes curb & gutter, street improvements, and the bus turnout. Sidewalks are deferred at this time.

### **Phase Three**

Phase Three includes completion of the meditation center. Required improvements include construction of Mantonya Road along the project site, construction of Sullivan Road from Mantonya Road to the westerly Sullivan Road driveway and completion of the SR 62 and Mantonya sidewalk that were previously deferred. At the completion of these improvements, the applicant will have constructed roads with curb & gutter in all impacted areas and will have constructed sidewalks along the improved portion of SR 62 and a portion of Mantonya Road.

### **Phase Four**

The sidewalk along the southerly portion of Mantonya Road right-of-way will be deferred until construction is required for adjacent properties. This means that no sidewalk is required now south of the southerly Mantonya driveway, but if a subdivision or other development is proposed on adjacent property, and that project requires a sidewalk along Mantonya, then the meditation center will be required to develop sidewalk along the remaining portion of Mantonya.

Construction of the bus shelter is delayed until ridership exceeds an average of seven (7) riders per day boarding MBTA busses at the bus stop.

Streets remaining to be developed (the westerly portion of State Route 62, the westerly portion of Sullivan Road and all of Kerns Boulevard along the project site are deferred until future (additional) development is proposed on subject site.

### **Temporary Facilities**

The applicant states that the placement of the modular units is temporary in nature. However, a specific time limit is not proposed. Accordingly, staff recommends that this application be viewed as a permanent development. Then, the applicant could allow them to remain for their useful life.

### **Findings for Approval**

Pursuant to Section 19.30.050 of the Development Code, the Planning Commission is required to make the following findings prior to approval of a CUP. These same findings are required for approval of a CUP amendment:

- A. That the proposed use is 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 use will not be detrimental to the public health, safety, or welfare, or materially injurious to 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 recommends the following findings of approval for consideration:

- A. Per the City's General Plan and Development Code, the proposed use can be allowed in the Rural Living land use district; it is therefore 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 use will not generate excessive noise, vibration or glare and impacts are expected to be minimal and will therefore not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and
- C. That the proposed site is 155 acres, lot coverage is less than 5%, the site is therefore adequate in size and shape to accommodate the use and integrate it with the existing and planned uses in the vicinity; and
- D. Opportunity for review and comment has been provided to all affected or potentially affected agencies and City departments and their requirements, if any, are incorporated into the Conditions of Approval for this project; and
- E. The draft Conditions of Approval ensure compliance with the requirements of the City of Twentynine Palms in relation to access, circulation, fire protection, building construction, and compatibility with surrounding land uses; and
- F. With the recommended Mitigation Measures and Mitigation Monitoring Program, the proposed project will meet the requirements of the Endangered Species Act; and
- G. Access to handicapped citizens will be provided with the applicant's compliance to the Americans With Disabilities Act.

### **General Plan Consistency**

As indicated within the findings of this staff report, the proposed project is consistent with the Twentynine Palms General Plan. With the proposed Conditions of Approval and Mitigation Monitoring Program, no inconsistencies with the Twentynine Palms General Plan nor conflicts with surrounding land use pattern or developments have been identified during review.

### **Environmental Clearance**

Approval of the CUP was subject to the California Environmental Quality Act (CEQA). Accordingly, staff prepared an Initial Study to assess the potential environmental affects of the project. Based on staff's analysis, significant environmental effects would have resulted from project approval unless mitigation measures were implemented. To avoid significant environmental affects, a Mitigated Negative Declaration (MND) was approved by the Planning Commission. To approve the CUP amendment, the Planning Commission must find that the environmental issues were adequately addressed and that significant additional impacts will not result from approval of the CUP amendment.

As part of the environmental analysis, a General Biological Survey and Focused Survey for Desert Tortoise was conducted in July 2003. Within the Phase One fenced area, a single scat, not of this year was found. According to the biologist, it is likely desert tortoises may travel through the fenced area on an occasional basis, but the species is not likely to be resident within the fenced portion of the site since habitat is highly degraded and no burrows were found. A chain-link fence surrounding this area is reinforced along the bottom with a heavy layer of rocks and dirt in most places. The biological consultant considers the fenced portion of the site unsuitable habitat for desert tortoise even though, as discussed above, tortoises may wander onto the site on an occasional basis through gaps in the fenced line. Because the CUP amendment deals only with the fenced portion of the parcel, staff believes that new impacts will not result with approval of the CUP amendment.

The increase in capacity from 40 to 60 students will result in increased traffic. However, the requirement for phased street improvements will mitigate the anticipated increased traffic.

The Planning Commission approved the design in the original proposal as being in compliance with the City's Desert Southwest Design Guidelines. The placement of nine modular buildings necessitates reconsideration of the design. To approve the CUP Amendment under the existing Mitigated Negative Declaration requires that the Planning Commission find that the structures are compliant with the City's design guidelines and that approval would not result in a negative aesthetic impact. The original approval was for four modular units, all located south of (behind) the primary residence. The revised proposal includes placement of one modular unit closer to the highway than the residential unit.

If the Commission finds that the environmental issues have been adequately addressed, then a motion to approve should include a notation that the development is subject to the mitigation measures contained in the originally approved Mitigated Negative Declaration.

### **Approval Authority**

The Planning Commission is the Approval Authority for the CUP amendment. Because the Mitigated Negative Declaration and Mitigation Monitoring Program were previously approved, the Commission may, 1) Make the required findings and take action to approve the CUP amendment subject to the attached Conditions of Approval, 2) Make the required findings and take action to approve the CUP amendment subject to a modified list of Conditions (provided that changes to the Conditions do not materially alter the proposed environmental mitigation for the project), 3) Continue the matter to a future specific date to allow additional time for consideration of the issues, or 4) Direct staff to develop findings for denial and take action to deny the CUP Amendment.

Staff recommends approval of the project subject to the attached Conditions of Approval.

### **Motion for Approval**

To approve the project, the following motion could be made:

I move that the Planning Commission find that the approved Mitigated Negative Declaration adequately addresses environmental issues, adoption of the findings of approval contained in the staff report, and approval of the Conditional Use Permit amendment subject to the draft Conditions of Approval.



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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** January 18, 2005  
**RE: PC 04-54**

General Plan Amendment for change of zoning from General Commercial (CG) to Multi-family Residential (RM) and Conditional Use Permit (CUP) for development of 36 multi-family units on 4.6± acre parcel located at the northeast corner of El Paseo Drive and Bagley Avenue (APN 618-292-09).

**RECOMMENDATION:** Conduct the Public Hearing and formulate a recommendation to the City Council.

**BACKGROUND:** Applicant Sunwest Development Inc., proposes development of 36 multi-family units (three fourplexes, six triplexes and three duplexes) on the currently vacant parcel. Present zoning for the property is CG and the applicant proposes to have the zoning designation changed to RM. The proposed development can be approved with a CUP if the zoning is changed to RM. If the zoning is not changed (through the General Plan Amendment) then the proposed CUP would have to be denied because development of multi-family units cannot be approved in a CG land use district.

The Planning Commission is the Review Authority for this matter and, following the Public Hearing, will formulate a recommendation to Council. As Approval Authority, Council will conduct a Public Hearing on February 8, 2005.

### Attachments

- General Plan/CUP Amendment application
- Locator Map
- Initial Study, Draft Negative Declaration and DeMinimis Impact Finding
- Calderon letter of opposition
- Draft Conditions of Approval
- Site Plan
- Floor Plan
- Elevations

The developer indicates his desire to phase the development. Staff has advised that, per Section 19.30.090 (A) of the Development Code, the Conditional Use Permits will remain valid if a building permit is issued within one (1) year from the date the approval was granted. Section 19.30.100 of the Code also allows for staff level extensions of up to two years and additional extensions by the Planning Commission. Because the applicant proposes to construct all offsite improvements (curb, gutter, sidewalk, etc.) with the first phase, the applicant will have secure right to build subsequent phases at any future date if the first phase is developed in a timely manner as prescribed in the above referenced sections of the Code. In other words, the applicant must secure a building permit for phase one within one year (or apply for extension) and construct the improvements for all subsequent phases prior to occupancy of phase one. Then, subsequent phases may be constructed at any future date.

## **Project Routing**

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

Richard Pedersen, City Engineer  
Fred Fogel, Building Official  
Bobby Matz, Public Works  
Ray Britain, San Bernardino County Environmental Health Division  
Mike Wright, Twentynine Palms Water District  
Jim Thompson, Twentynine Palms Fire Department  
Joseph Sullivan, Morongo Unified School District  
Charles Springer, California Regional Water Quality Control Board  
Brad Kloos, Waste Management  
Michael Tree, Morongo Basin Transit Authority

No concerns were expressed as a result of project routing.

## **Citizen Comment**

Per state law, we are required to notify all property owners within 300 feet of the subject site. In response to this notification, staff received a letter from Manuel and Wendy Calderon who own a single family residence in the vicinity of the proposed development. In their January 8, 2004 letter, they express their opposition and urge denial of the proposal. A copy of their letter is attached.

## **General Plan**

Section VI (B) of the General Plan Land Use Plan establishes the purpose of the RM land use district as follows:

These territories are intended to serve the housing needs of non-long term residents or residents not needing or desiring a single family, detached household situation. However, diverse residential development may occur; this may include single family units, duplexes, apartment complexes, and mobile home parks. This designation is most suitable for planned communities, affordable and senior housing, where smaller units are appropriate.

This section also establishes policies and standards applicable to the RM district. Staff has not identified any conflicts with the General Plan policies and standards. Therefore, the multi-family development can be approved if the General Plan Amendment is approved changing the zoning designation from CG to RM.

## **General Plan Amendment Procedure**

The procedure for amending the General Plan is found in Development Code Chapter 19.20. Section 19.20.050 establishes the Planning Commission as the Review Authority for such amendments. Per this section, the Planning Commission is required to hold a Public Hearing on the application and make a recommendation to the City Council to approve, approve with modifications, or deny the application.

Section 19.20.070 establishes required findings for a General Plan Amendment. This is discussed in more detail below.

### **RM Zoning/Development Code Standards**

Chapter 19.09 establishes the Development Code standards and requirements for development in the RM land use district and will be applicable to the site if the project (and General Plan Amendment) is approved. Section 19.09.010 establishes the purpose of the RM district:

This district is intended to create, preserve and enhance neighborhoods where two or more dwelling units on the same lot are predominant. The district provides an additional range of housing types to meet the varying needs of different individuals and families within the City. The higher density residential area may either be part of a predominately one-family neighborhood or an independent neighborhood, normally close to public and private transportation facilities and commercial districts or other employment and service areas.

Table 19.09-A in Section 19.09.020 establishes Permitted and Conditional Uses. One of the “conditional uses” is multi-family dwelling projects of more than ten (10) dwelling units. Accordingly, the applicant has submitted an application for the multi-family development.

Per Chapter 19.09 of the Development Code (and the General Plan Land Use Plan, discussed above) the allowable density for a multi-family development is eight (8) units per gross acre, this translates to one dwelling unit per 5445 square feet of gross lot area (1 acre = 43,560 square feet / 8 = 5445 square feet). The subject site is 4.602 acres gross so the proposed 36 unit development does not exceed the allowable density standard (4.6 acres = 200,449 square feet / 5445 = 36.8 units).

The requirement for street dedications and improvements is found in Section 19.09.060. Per this section, dedication of additional right-of-way and construction of required street improvements in accordance with the General Plan Circulation Element is required (including curb and gutter, sidewalks, concrete driveway approaches, drainage structures, paving, back-filling and preparation of the road surface to rough grade, and the placement of paving, and other necessary improvements) before building permits are issued for the construction of the multi-family units. The site is at the corner of two Collectors (Bagley Avenue and El Paseo Drive) and the proposed development includes construction of streets to the City’s standard. Note on the site plan a reference to “Yucaipa Ave (ABDN)”, this is the former extension of El Paseo Drive that was abandoned by the City several years ago. Therefore, this former right-of-way is private property and can be developed per the underlying zoning.

The applicant proposes development of the two adjacent streets per the City’s standards; Bagley Avenue along the westerly edge of the site and El Paseo Drive along the southerly property line and rounding the corner onto Smoketree Avenue

Section 19.09.070 specifies that all utilities serving new projects of more than four (4) dwelling units are to be underground.

Section 19.09.100 (A) establishes additional standards for projects exceeding ten (10) dwelling units. This section is applicable to the proposal. Accordingly, the applicant proposes to provide

picnic tables and barbeque grilles at six locations in the complex and a playground/sand box area located near the center of the complex.

Section 19.09.100 (C) requires a minimum of one trash enclosure for every ten (10) units. Per this section, each trash enclosure is to be placed on a slab or paved area and shall be screened on at least three sides with a solid wall, made of block, masonry or other similar material, minimum five (5) feet high with a visually solid gate to screen the receptacles. The applicant proposes six trash enclosures meeting or exceeding these standards.

### **Parking**

Chapter 19.82 establishes the parking requirement for multi-family projects. Per this Chapter, each unit is to have one covered and one regular parking space. For this project, the requirement is 72 spaces, of which 36 must be covered. The site plan depicts 103 parking spaces, of which 36 are covered. Three of the spaces are designated as carpool parking and are distributed throughout the site of easy access/use. This proposed quantity exceeds the minimum requirements.

Per the Americans With Disabilities Act (ADA) and Title 24 of the California Code of Regulations, three of the spaces must be handicap accessible. The applicant proposes nine handicap spaces.

Per standards established in Table 19.82-A (item C on page 82-5 of the Development Code):

One recreational vehicle (RV) storage space must be provided for each twenty (20) dwelling units or for each twenty (20) guest rooms, or fraction thereof, located on a lot or building site. Projects of ten (10) or fewer dwelling units or guest rooms are exempt from this requirement. Such spaces shall be not less than ten feet by twenty feet (10' x 20') in size. At least one of the RV spaces shall be not less than ten feet by thirty feet (10' x 30') in size.

This standard results a requirement for two RV parking spaces, one being 10' x 20' and the other at least 10' x 30' in size. The applicant has not proposed RV parking per this requirement. Because the proposal includes parking equal to 143% of the minimum requirement, and because the applicant proposes carpool parking, staff recommends approval of the parking plan as proposed. If the Planning Commission approves the parking plan as proposed, the Commission would be finding that the additional parking and carpool parking provide benefits exceeding the minimum requirements established in the Code. Alternatively, the applicant can be required to reconfigure the parking, deleting some of the excess parking to provide the RV parking.

Staff's recommendation is to approve the parking as proposed. Per the draft Conditions of Approval, the applicant may provide either the carpool spaces or the RV parking as specified in the Code. If the Commission does not agree with this approach, the attached draft Conditions of Approval should be modified accordingly.

### **Conditions of Approval**

Draft Conditions of Approval are provided for the Commission's consideration. The draft Conditions address issues discussed above.

### **Findings for Approval**

Sections 19.20.070 and 19.22.050 of the Development Code establishes required Findings for approval of a General Plan amendment. Per the section, the City Council will be required to

make the following findings to approve the change of zoning:

- 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.

Staff has developed the following Findings of Approval for the Planning Commission's consideration as a recommendation to the City Council:

- A. Because of the proximity of the site, in relation to existing residential development, the City finds that changing the zoning designation from General Commercial to Multi-family Residential is consistent with the intent of the goals and policies of the General Plan; and
- B. 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. In conjunction with the General Plan Amendment, 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 General Plan Amendment 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.

**Environmental Clearance**

The project is subject to the California Environmental Quality Act (CEQA). Accordingly, staff prepared an Initial Study to assess the potential environmental affects of the project. Based on staff's analysis, significant environmental effects will not result from project approval. Therefore, a Negative Declaration is proposed.

**De Minimis Impact Finding**

Separate from the CEQA requirement, Section 711.2 of the California Department of Fish and Game Code requires that the applicant pay a mitigation fee to the Department if project approval will result in an adverse affect on wildlife resources. However, if a finding can be made that project approval will not result in an adverse affect on wildlife resources, the fee is not required. Because the project will not disturb any wildlife habitat, staff believes the finding can be made. This finding should be cited in the motion to approve the Negative Declaration if/when such motion is made.

**Review Authority**

The Planning Commission is the Review Authority for this project and is required to formulate a recommendation to the City Council. If the Commission recommends approval of the Negative Declaration, then a recommendation to approve the project could be made. Alternatively, if the Commission cannot recommend adoption of the Negative Declaration, mitigation measures should be implemented to reduce impacts to a level of insignificance. In this event, the matter should be referred back to staff for additional analysis and development of mitigation measures. If all environmental impacts cannot be mitigated, an Environmental Impact Report would be required pursuant to CEQA.

If the Commission would like additional time for consideration of the issues, the hearing can be continued to a future specific date.

**Motion for Approval**

If the Planning Commission would like to recommend approval of the Negative Declaration, deminimis impact finding, General Plan Amendment (change of zoning) and the Conditional Use Permit, the following motion could be made:

I move that the Planning Commission recommend Council adoption of the Negative Declaration with a finding of de minimis environmental impact and approval of the General Plan Amendment and Conditional Use Permit subject to the draft Conditions of Approval.



## STAFF REPORT

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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** January 18, 2005  
**RE: PC 04-60**

Conditional Use Permit for proposed 50-person child daycare center in the existing building located at 73486 Twentynine Palms Highway (APN 618-231-20), with offsite parking on parcel APN 618-232-05. Applicants Marshall and Giselle Day.

**RECOMMENDATION:** Conduct the Public Hearing and approve the Conditional Use Permit subject to the Conditions of Approval.

**BACKGROUND:** The applicant seeks to establish a child daycare center in the existing structure at 73486 Twentynine Palms Highway, with offsite parking. Zoning for both properties is General Commercial (CG). Per Table 19.10-A in Section 19.10.020 of the Development Code, a Conditional Use Permit (CUP) is required for a daycare center providing care for more than 14 children.

### Project Routing

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

#### Attachments

- CUP application
- Locator Map
- Site Plan
- Initial Study, Draft Negative Declaration and DeMinimis Impact Finding
- Draft Conditions of Approval
- Action Council letter

Richard Pedersen, City Engineer  
Fred Fogel, Building Official  
Administrative Sergeant, San Bernardino County Sheriff's Department  
Ray Britain, San Bernardino County Environmental Health Division  
Tracy Walters, Environmental Health Services  
Mike Wright, Twentynine Palms Water District  
Jim Thompson, Twentynine Palms Fire Department  
Joseph Sullivan, Morongo Unified School District  
Charles Springer, California Regional Water Quality Control Board  
Michael Tree, Morongo Basin Transit Authority  
Al Faoro, Morongo Basin Ambulance  
Action 29 Council  
Tammy McMichaels, Department of Social Services

Comment was received from Action Council for 29 Palms, Inc. A copy of their December 22, 2004 letter is attached.

## **Parking**

The parking requirement for commercial uses is established in Chapter 19.82 of the Code. Per Table 19.82-A (page 82-3 of the Code) the parking requirement for a daycare center is one (1) space for each employee, plus one (1) space for each six (6) children enrolled. The applicant proposes a 50-person daycare center with up to four employees. This results in a parking requirement of 13 spaces.

On the same parcel is an existing 2500 square foot future retail facility. Because a CUP is for an entire property, the analysis includes issues related to this future facility. Per Chapter 19.82, the parking requirement for a retail facility is one (1) space per each 200 square feet of gross floor area. The retail facility then has a parking requirement of 13 spaces.

For both uses, the daycare center and the future retail facility, the parking requirement is 26. The site plan indicates 34 parking spaces. However, to meet the 6-foot buffer standard established in Section 19.82.060 (J), and to provide the two required handicap accessible parking spaces per the Americans With Disabilities Act (ADA), it appears that 31 or 32 parking spaces may be possible. This would still be sufficient to meet the required quantity.

Section 19.82.060 D (1) requires that all paved parking stalls are to be clearly marked by painted (or other easily distinguished and durable material) pavement striping. To be compliant with this requirement, striping of the lot will be required. The portion that will serve as parking for the future retail facility is not paved and will require paving prior to occupancy of the retail outlet. Because of the condition of the existing pavement proposed offsite for the daycare center, resurfacing of the lot may be necessary.

In the attached draft Conditions of Approval, a condition is included for the required 26 spaces, including two ADA spaces; staff recommends approval of the parking plan with the requirement that the applicant provide a revised parking plan prior to the resurfacing and striping of the lot.

## **Offsite Parking**

Per Section 19.82.060 (G), all off-street parking is to be located on the same lot as the use it is designed to serve, unless the parking is within 300 feet from an entrance to the use it serves and the applicant shall provide a recordable instrument guaranteeing use of such 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. The document is to be recorded in the County Recorder's Office as a deed restriction on all subject properties.

When measured as a straight line, the farthest parking space is approximately 200 feet from the rear entrance to the building; this puts the applicant in compliance with the letter of the Code. However, the intent of the Code is to provide parking that is readily accessible to the use it serves. If the owner of the adjacent parcel (south of the parking parcel) obstructs pedestrian access, some of the parking will be slightly more than 300 feet from the rear entrance. Because this is an existing facility, the applicant is very near compliance with the Code, and the undue hardship that would result from absolute compliance, staff recommends approval of the offsite parking with the requirement of the recordable instrument as prescribed by Section 19.82.060 of the Code. This recommendation is reflected in the draft Conditions of Approval.

### **Handicap Parking**

Per the Americans With Disabilities Act and Title 24 of the California Code of Regulations, two of the required parking spaces are to be handicap accessible. The handicapped spaces are to be as close to the entryway as is reasonably possible. The applicant does not indicate the proposed location of the handicapped accessible spaces but this will be addressed when the applicant provides the final design of the parking layout for staff review and approval.

### **Lighting Requirements**

Section 19.82.060 (L) (1) of the Development Code states:

Every parking lot or area, or portion thereof, used as a public or private parking area serving a commercial or public assembly use shall be illuminated during the hours of night-time activity in such a manner that any point of the pavement surface in such areas is illuminated at not less than one (1) foot-candle.

Lighting to meet this standard is not proposed. In approving the CUP, the Planning Commission will have to determine if this is applicable to existing lots. If it is to be required, the draft Conditions of Approval will need to be modified accordingly.

### **Street Improvements**

The subject property is adjacent to both Twentynine Palms Highway and Desert Queen Avenue. Construction of street improvements is not proposed with the CUP. Twentynine Palms Highway is developed with curb, gutter and sidewalk. Desert Queen Avenue adjacent to the parking parcel has curb and gutter but no sidewalk. To meet the standards established by the General Plan, the applicant would be required to construct the sidewalk along the Desert Queen right-of-way. However, the courts have ruled that there must be a reasonable relationship between the required improvements and the impact generated by the proposed use.

In approving the CUP, the Planning Commission will have to determine if the Desert Queen sidewalk should be required. Staff recommends that it not be required because the proposal does not include new construction and because the impacts of the daycare center are not significantly greater than the former uses. Accordingly, the draft Conditions of Approval do not include the requirement for street improvements.

### **Road Dedications**

The General Plan half-width standard is 52' for Twentynine Palms Highway and 30' for Desert Queen Avenue. The Desert Queen Avenue width meets this standard. However, the existing width of the Twentynine Palms Highway road dedication is 40'. Staff recommends that the applicant provide the required right-of-way width of 52' for Twentynine Palms Highway. This requirement is included in the draft Conditions of Approval.

### **Desert Southwest Design**

Development Code Section 19.10.040 includes Design Standards for commercial projects. Subsection (A) states:

Desert Southwest theme is encouraged where possible. A modern building design may be acceptable where the Desert Southwest theme is not feasible and the proposed design will not detract from or conflict with the established theme of the neighborhood.

Staff believes that the existing design meets this standard. To ensure ongoing compliance, the draft Conditions of Approval state that the Desert Southwest theme is required to be retained.

### **Findings for Approval**

Section 19.30.060 establishes required Findings for Approval. Prior to approving a Conditional Use Permit, the Planning Commission shall make the following findings:

- 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 recommends the following Findings of Approval:

- A. Because of the proximity of the site, in relation to existing and planned commercial development, the City finds that approval of the CUP in the General Commercial land use district is consistent with the intent of the goals and policies of the General Plan; and
- B. The City finds that the facilities have sufficient improvements with regard to parking, public improvements, lighting and design, and approval will therefore result in an appropriate and desirable development; and
- C. The proposal includes development of parking facilities in excess of City requirements and therefore will result in a safe, well-designed facility; and
- D. The proposed design meets the City's Development Code requirement for design in the General Commercial land use district and is compatible with the existing onsite development and therefore will not detract from nor conflict with the established design theme; and
- E. Approval of the project 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.

### **Environmental Clearance**

The project is subject to the California Environmental Quality Act (CEQA). Accordingly, staff prepared an Initial Study to assess the potential environmental affects of the project. Based on staff's analysis, significant environmental effects will not result from project approval. Therefore, a Negative Declaration is proposed.

### **De Minimis Impact Finding**

Separate from the CEQA requirement, Section 711.2 of the California Department of Fish and Game Code requires that the applicant pay a mitigation fee to the Department if project approval

will result in an adverse affect on wildlife resources. However, if a finding can be made that project approval will not result in an adverse affect on wildlife resources, the fee is not required. Because the project will not disturb any wildlife habitat, staff believes the finding can be made. This finding should be cited in the motion to approve the Negative Declaration if/when such motion is made.

### **Approval Authority**

The Planning Commission is the Approval Authority for the CUP. If the CEQA Negative Declaration is adopted, the Commission may, 1) Make the required findings and take action to approve the CUP subject to the attached Conditions of Approval, 2) Make the required findings and take action to approve the CUP subject to a modified list of Conditions, 3) Continue the matter to a future specific date to allow additional time for consideration of the issues, or 4) Direct staff to develop findings for denial and take action to deny the project.

### **Staff Recommendation**

Staff recommends approval of the CUP, subject to the attached Conditions of Approval. To approve the project, the following motion could be made:

I move that the Planning Commission adopt the Negative Declaration with a finding of de minimis environmental impact, make the required findings of approval contained in the staff report, and approve of the CUP subject to the draft Conditions of Approval.



## STAFF REPORT

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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** January 18, 2005  
**RE: PC 04-52**  
Chapter 19.66 Commercial Vehicle Parking.

**RECOMMENDATION:** Review draft text and provide staff direction on setting the revised Chapter for adoption.

**BACKGROUND:** The Planning Commission held Study Sessions on November 2, November 16, and December 7, 2004 to consider amendment of Development Code Chapter 19.66. The amendment is to provide an exception for on-call emergency vehicles in residential areas.

### Attachments

- DC Chapter 19.66

Following the December 7<sup>th</sup> meeting, staff was directed to prepare draft text for consideration. The draft, as directed by the Planning Commission, is attached. Text proposed for deletion is shown in ~~strikeout~~, new text is in *italics*.

### Summary

Staff recommends that the Planning Commission conduct the Study Session and provide staff direction. Unless otherwise directed by the Commission, staff will set the matter for hearing (along with the other Development Code amendment issues previously discussed in Study Session) for Planning Commission hearing on February 1, 2005. If the Planning Commission hearing is held February 1, 2005, staff will set the Council hearing for March 8, 2005 which would clear the way for Council adoption at the March 22, 2005 meeting.



## STAFF REPORT

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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** January 18, 2005  
**RE:** Review of requirements for undergrounding of utility service per standards established in Development Code Chapters 19.07, 19.08, 19.09, and 19.14.

**RECOMMENDATION:** Review existing requirements and provide staff direction.

**BACKGROUND:** The above referenced chapters of the Development Code contain a section entitled "Utilities" which states:

Attachments
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- |  |
|--|
| <ul style="list-style-type: none"><li>• None</li></ul> |
|--|

All utilities serving new projects of more than four (4) dwelling units shall install underground utilities both onsite and in the public right-of-way. New projects of four (4) or less dwelling units shall install underground utilities onsite; utilities in the public right-of-way shall be installed in a manner consistent with the existing surrounding improvements.

The above requirement means that the developer of a single-family residential unit would be required to install onsite underground utilities. However, to date, staff has not required underground utilities for such development. To ensure that staff's implementation is in sync with the policy recommend by the Planning Commission and adopted by Council, staff is bringing the matter to the Planning Commission for discussion.

If it is the intent of the Commission to require underground onsite utilities, staff will implement the policy accordingly. If this is not the intent, staff will include amendment of the Development Code text in the upcoming Development Code amendment set for Planning Commission public hearing on February 1, 2005.