



## STAFF REPORT

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

**To:** Planning Commission  
**From:** Community Development Director  
**Date:** March 15, 2005  
**RE: PC 04-32**

General Plan Amendment from applicant Sunwest Development, Inc., to change zoning, increasing density from one unit per acre to four units per acre, 60 ± acres north of Two Mile Road, west of Encelia Avenue, APNs 612-221-02, 09, 10 and 612-231-02 and 03.

**RECOMMENDATION:** Conduct the public hearing and formulate a recommendation to the City Council.

**BACKGROUND:** Applicant Sunwest Development, Inc., proposes a General Plan Amendment to change the present zoning for the property, Single Family Residential (RS-1), to RS-4. If approved, the General Plan Amendment would increase the allowable density from 60 dwelling units to 240 dwelling units.

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 April 12, 2005.

### Attachments

- Land Use Entitlement application
- Locator Map
- Draft Negative Declaration
- DeMinimis Impact Finding
- Initial Study

### 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  
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.  
John Poole, Verizon  
Ashley Calvert, Waste Management  
Michael Tree, Morongo Basin Transit Authority

Comment was received from the City Engineer and Morongo Unified School District. Per the City Engineer's recommendation, a traffic impact analysis (TIA) is required. This is discussed below. The Morongo Unified School District responded stating that they reserve the option to collect Level 2 school fees on the development. Level 2 is a per unit assessment charged to mitigate impacts caused by the increased enrollment. The District is required to do a nexus study to justify this charge and District staff is currently considering hiring a consultant for this purpose.

### **Traffic Study**

Per the City's policy on traffic studies, the applicant submitted a Traffic Impact Analysis (TIA). The TIA assessed existing and anticipated traffic at the entry points and at potentially affected intersections. Based on the TIA, the applicant will be required to construct a turning pocket on Two Mile Road for eastbound traffic. The traffic report also recommends stop signs as expected for traffic control. Because development is not proposed at this time, the requirement for the recommended improvements is not triggered. If/when a subdivision is proposed, staff will recommend Planning Commission approval of the improvements as specified in the TIA.

### **Street Improvements**

As noted above, development is not proposed at this time. If/when development is proposed, staff will prepare a recommendation for street improvements meeting standards established by the City for residential development.

### **Residential Density**

Allowable density is established in the City's land use element of the General Plan. Per the Plan, the City has several levels of allowable density ranging from eight units per acre in the Multi-family Residential (RM) zone to one unit per five acres in the Rural Living (RL-5) zone. Within the Single Family Residential (RS)<sup>1</sup> land use district, the City has five levels of density, ranging from four units per acre (RS-4) to one unit per 2.5 acres in the Single Family Residential-Estate (RS-E) land use district.

The five parcels that comprise the subject site are currently zoned RS-1. The allowable density under the current designation therefore is one dwelling unit per acre. Because the site is 60 acres, it can accommodate (if subdivided) 60 dwelling units as currently zoned. The applicant seeks to change the designation to RS-4, a designation that would allow development of four dwelling units per acre. If the General Plan Amendment is approved, the applicant could seek and would be entitled to receive approval of a subdivision for development of 240 dwelling units on the 60-acre site.

Specific standards for development are contained in the Development Code. The standards of the RS-1 district vary slightly from those of the RS-4 district. The notable differences, other than the allowable density discussed above, are found in Table 19.08-B on page 08-6 of the Development Code.

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<sup>1</sup> Development Code and General Plan references to the RS designation generally mean RS-4. To avoid confusion in this (and future) staff reports, staff will state RS-4 rather than RS when the intent is to reference the Single Family Residential land use district in which four dwelling units per acre are allowed.

## **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.

## **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.

Because a General Plan Amendment is a legislative act, there is no requirement for findings of denial; this may appear to be in conflict with the Code requirement for findings of approval. However, the Code states that the findings are necessary to change the General Plan, to ensure that the change does not result in a General Plan inconsistency. So to amend the General Plan requires a finding that the amendment does not create an inconsistency but an action to not change it does not require findings.

The Planning Commission may recommend—and Council may take action—to approve or deny the application based upon its discretion. In this regard, the application becomes a matter of what the Commission and Council believe is in the City’s interest.

There is no question that development of the site with 240 units will bring positive results. Among the positive aspects of such development is increased population and increased property tax revenue for the City. With these positives comes increased traffic and increased responsibility for the City to provide services. If the application is approved, future developers may have an expectation that they too should be approved for increased density.

A recommendation for approval could be grounded in a conclusion that the positive aspects of the proposal outweigh the negative aspects. A recommendation for denial could be grounded in a conclusion that the negative aspects outweigh the positive. In simple terms, your recommendation is based on whether or not you find that the increased density is good for the City.

If the Planning Commission's recommendation is approval, findings should be developed for Council's consideration. Findings provide the factual basis for the Commission's recommendation and will state the facts relative to the proposal that the Planning Commission cites in making its recommendation. Staff will assist the Planning Commission in development of findings but the Commission should be prepared, following the public hearing, to articulate the factual basis of their recommendation if it is a recommendation for approval.

### **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.

Impacts that will result from development (actual construction) are not analyzed at this time because development is not proposed. The application is only a change of zoning for which more intense development may someday be proposed. A separate environmental analysis will be required when/if development 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. The Commission may, 1) recommend adoption of the Negative Declaration and approval of the General Plan Amendment, 2) recommend denial of the General Plan Amendment, or 3) continue the hearing to a future specific date if the Commission would like additional time for consideration of the issues. An April 12, 2005 Council public hearing to consider the Planning Commission's recommendation is scheduled.



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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** March 15, 2005  
**RE: PC 05-01**

General Plan Amendment from applicant Tom Egerer to change zoning, increasing density from one unit per five acres to three units per acre, 20 ± acres southwest corner of Sullivan Road and Copper Mt. Road, APN 613-051-03.

**RECOMMENDATION:** Conduct the public hearing and formulate a recommendation to the City Council.

**BACKGROUND:** Applicant Tom Egerer proposes a General Plan Amendment to change the present zoning for the property, Rural Living (RL-5), to Single Family Residential (RS-3). If approved, the General Plan Amendment would increase the allowable density from four dwelling units to 60 dwelling units.

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 April 12, 2005.

### Attachments

- Land Use Entitlement application
- Locator Map
- Draft Negative Declaration
- DeMinimis Impact Finding
- Initial Study

### 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  
Mike Wright, Twentynine Palms Water District  
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Planning/Engineering, Southern California Edison Company  
Joseph Sullivan, Morongo Unified School District  
Vern Keener, Southern California Gas Co.  
John Poole, Verizon  
Brad Kloos, Waste Management  
Michael Tree, Morongo Basin Transit Authority

Comment was received from the City Engineer. Per the City Engineer's recommendation, a

traffic impact assessment (TIA) was required. This is discussed below.

### **Traffic Study**

Per the City's policy on traffic studies, the applicant submitted a Traffic Impact Assessment (TIA). The TIA assessed existing and anticipated traffic at the entry points and at potentially affected intersections. Based on the TIA, the applicant will be required to construct typical street improvements as prescribed in the General Plan and stop signs for traffic control. Because development is not proposed at this time, the requirement for the recommended improvements is not triggered. If/when a subdivision is proposed, staff will recommend Planning Commission approval of the improvements as specified in the TIA.

### **Street Improvements**

As noted above, development is not proposed at this time. If/when development is proposed, staff will prepare a recommendation for street improvements meeting standards established by the City for residential development.

### **Residential Density**

Allowable density is established in the City's land use element of the General Plan. Per the Plan, the City has several levels of allowable density ranging from eight units per acre in the Multi-family Residential (RM) zone to one unit per five acres in the Rural Living (RL-5) zone.

The subject site is currently zoned RL-5. The allowable density under the current designation therefore is one dwelling unit per five acres. Because the site is 20 acres, it can accommodate (if subdivided) four dwelling units as currently zoned. The applicant seeks to change the designation to Single Family Residential (RS-3), a designation that would allow development of three dwelling units per acre. If the General Plan Amendment is approved, the applicant could seek and would be entitled to receive approval of a subdivision for development of 60 dwelling units on the 20-acre site.

Specific standards for development are contained in the Development Code. The standards in Chapter 19.07 for the RL district are somewhat different than those found in Chapter 19.08 for the RS district. The notable differences, other than the allowable density discussed above, are Permitted and Conditional Uses found in Table 19.07-A on page 07-2 (for RL) and Table 19.08-A on page 08-2 (for RS). Additionally, street development standards found in section 19.08.060 for RS are greater than those required in the RL district as delineated in section on 19.07.060 of the Development Code.

### **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.

### **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.

Because a General Plan Amendment is a legislative act, there is no requirement for findings of denial; this may appear to be in conflict with the Code requirement for findings of approval. However, the Code states that the findings are necessary to change the General Plan, to ensure that the change does not result in a General Plan inconsistency. So to amend the General Plan requires a finding that the amendment does not create an inconsistency but an action to not change it does not require findings.

The Planning Commission may recommend—and Council may take action—to approve or deny the application based upon its discretion. In this regard, the application becomes a matter of what the Commission and Council believe is in the City’s interest.

There is no question that development of the site with 60 units will bring positive results. Among the positive aspects of such development is increased population and increased property tax revenue for the City. With these positives comes increased traffic and increased responsibility for the City to provide services. If the application is approved, future developers may have an expectation that they too should be approved for increased density.

A recommendation for approval could be grounded in a conclusion that the positive aspects of the proposal outweigh the negative aspects. A recommendation for denial could be grounded in a conclusion that the negative aspects outweigh the positive. In simple terms, your recommendation is based on whether or not you find that the increased density is good for the City.

If the Planning Commission’s recommendation is approval, findings should be developed for Council’s consideration. Findings provide the factual basis for the Commission’s recommendation and will state the facts relative to the proposal that the Planning Commission cites in making its recommendation. Staff will assist the Planning Commission in development of findings but the Commission should be prepared, following the public hearing, to articulate the factual basis of their recommendation if it is a recommendation for approval.

### **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.

Impacts that will result from development (actual construction) are not analyzed at this time because development is not proposed. The application is only a change of zoning for which more intense development may someday be proposed. A separate environmental analysis will be required when/if development 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. The Commission may, 1) recommend adoption of the Negative Declaration and approval of the General Plan Amendment, 2) recommend denial of the General Plan Amendment, or 3) continue the hearing to a future specific date if the Commission would like additional time for consideration of the issues. An April 12, 2005 Council public hearing to consider the Planning Commission's recommendation is scheduled.



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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** March 15, 2005  
**RE: PC 04-53**  
Amendment of General Plan Land Use and Circulation Plans.

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

**BACKGROUND:** The City recently completed update of the General Plan. Since that time, staff and the Planning Commission have had an opportunity to put the revised and updated policies into effect. Utilizing the new Plan has afforded an opportunity to determine areas in which fine-tuning or minor modification may be necessary. On November 16, 2004 the Planning Commission held a Study Session to consider minor modifications to the Land Use and Circulation Plans. Staff was directed to prepare three items for amendment, two amendments to the Land Use Plan and one amendment to the Circulation Plan. The Land Use amendments are deletion of reference to bed and breakfast uses in the RS district and revised standards for Southwest Design in the CS district. Recommended amendment to the Circulation Plan is the addition of Mesquite Springs Road, south of Twentynine Palms Highway, as a Collector.

### Attachments

- Draft Land Use Plan
- Draft Circulation Plan

Since that time, staff has identified two other streets for consideration by the Planning Commission and is providing a revised recommendation on Level of Service goals for circulation. Also, at the March 1, 2005 meeting, the Planning Commission provided direction to staff to amend the Circulation plan truck route network. The Planning Commission has also provided a recommendation to Council on amending the Development Code with regard to undergrounding of utility service; the attached draft Land Use Plan reflects this direction.

The proposed amendments are depicted in the attached drafts with text proposed for deletion shown in ~~strike through~~ and text proposed to be added shown in shadow. Each of the edits is discussed below.

### Bed and Breakfast uses in RS

Earlier this year the Planning Commission recommended and Council adopted revised regulations for bed and breakfast uses, Chapter 19.54 of the Development Code. Per the revised regulations, bed and breakfast uses are not allowed in the Single Family Residential (RS) land use district. Per direction provided by the Commission at the November 16<sup>th</sup> Study Session, text in the Land Use Plan, referencing bed and breakfast uses, found on page I-3, is deleted.

### **Desert Southwest Design in CS**

Section VII (E) on page I-13 of the Land Use Plan states that building design in the Service Commercial (CS) land use district “shall” be Desert Southwest, pursuant to the Design Guidelines adopted by the City. Based on direction provided by the Planning Commission at the November 2, 2004 meeting, the attached draft contains the following text:

For development visible from the Adobe Road corridor, north of Twentynine Palms Highway, building design shall be Desert Southwest pursuant to the Design Guidelines adopted by the City.

### **Mesquite Springs Road**

The Circulation Plan establishes a system of Expressways, Arterials and Collectors to distribute traffic within and through the City. In addition to the Collectors specified on pages II-20 and II-21, the Circulation Plan allows for establishment of Collectors at quarter-mile intervals in areas where Collectors are not otherwise identified. Section V (D) (6) on page II-22 provides the policy statement on this matter. This section of the Plan allows flexibility in establishing Collectors in areas in areas where the development pattern is not yet established. For areas in which higher density is allowed or where the roadway connects to a commercial or industrial district, the likelihood of a Collector each quarter mile is greater than in rural, less dense areas where the density is one unit per 2.5 acres or one unit per five acres.

During the November 16<sup>th</sup> meeting, the Commission directed staff to modify the Circulation Plan to identify Mesquite Springs Road, south of Twentynine Palms Highway, as a Collector.

### **Cactus Drive and Joshua Drive**

Collectors identified in the Circulation Plan (page II-20) include Cactus Drive from Bullion Avenue to Adobe Road and Joshua Drive from Split Rock Avenue to Adobe Road. Recently a property owner proposed a single-family development on a 60'x 120' parcel along Cactus Drive. The north/south dimension was 60'. Because Cactus Drive is identified as a Collector, the required half-street width is 40'. The current half-street width is 25' so development would require that the owner provide a road dedication of an additional 15', taking the property down to 45' in width. The Code specifies a 25' front yard setback and a 15' rear yard setback, leaving developable area of only 5'. This caused staff to reexamine the potential need for a collector in this location. Because most of the parcels along both of these street segments are developed, it is very unlikely that the City will expand either to a four-lane Collector. Also, both streets have east/west limitations; Donnell Hill on the west end of Cactus Drive and the flood control basin/channel on the west end of this segment of Joshua Drive.

For these reasons, staff is recommending that these two streets segments be removed as Collectors from the Circulation Plan. If this is done, they would be reclassified as local roads.

### **Level of Service**

A discussion on Level of Service (LOS) is found on pages II-30 and II-31 of the Circulation Plan. Program 1.1.1 on page II-47 establishes the City's Level of Service standard as LOS-D or better. This standard will become increasingly important as the City experiences growth. Applicants will need to demonstrate, through a traffic study, that their proposed development meets the LOS standard established in the Circulation Plan.

Per the existing LOS-D standard, citizens experience “generally poor level of comfort and convenience.” Staff believes that LOS-C is more suitable and is therefore recommending that Program 1.1.1 be modified to require that applicants demonstrate that their project will result in congestion of LOS-C or better. Accordingly, Program 1.1.1 of the attached draft reflects the requirement for LOS-C or better.

### **Truck Routes**

At the March 1, 2005 meeting, the Planning Commission considered revision of the existing truck route network as established in Exhibit H of the Circulation Plan. Following discussion, the Planning Commission directed staff to prepare an amendment to the Circulation plan to add Mojave Road south of SR 62 to the truck route network. This roadway is primarily used for large trucks transporting gravel and asphalt from the gravel mine located approximately one mile south of SR 62. The change is depicted on Exhibit H-1 of the attached draft Circulation Plan.

### **Undergrounding of Utilities**

To ensure that the City’s Development Code and General Plan are consistent, text has been added to the Land Use Plan to reflect the amended policy for undergrounding of utility service. This edit is found in the RS, RM, CG, CG, CN, CS and IC land use descriptions.

### **Review Authority**

The Planning Commission is the Review Authority for the General Plan Amendment and is required to formulate a recommendation to the City Council. The Commission may, 1) Recommend approval as described herein, 2) Modify the text 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:** March 15, 2005  
**RE: PC 04-62**  
Review of Chapter 19.36, Home Occupation Permits

**RECOMMENDATION:** Receive and file.

**BACKGROUND:** As requested by Council, the Planning Commission reviewed standards for home occupations at their February 15, 2005 meeting. Following the discussion, staff was directed to prepare revisions to the standards to allow limited amounts of vehicles to be parked in residential areas in conjunction with a home-based business. The Planning Commission also stated that vehicles used in conjunction with a home occupation should be parked adjacent to the property in which the Home Occupation Permit is issued.

### Attachments

- Development Code Chapter 19.36
- City Attorney memo

Staff prepared draft text, amending Section 19.36.070 (M), to state that two vehicles (automobiles, trailers, and light trucks) not exceeding 10,000 pounds gross vehicle weight, may be parked in the public right-of-way adjacent to the property in which the Home Occupation Permit is issued; and that additional vehicles used in conjunction with the home occupation shall be parked onsite.

The City Attorney reviewed the draft text and states that they do not recommend that the City modify Chapter 19.36 to restrict parking on public streets. A copy of the City Attorney's March 7, 2005 memo is attached.

This does not mean that any number of vehicles can be parked in a residential setting. Section 19.36.070 (N) states:

No home occupation shall generate pedestrian or vehicular traffic in excess of that customarily associated with a residential use and the neighborhood in which it is located.

Based on the City Attorney's recommendation, staff recommends no change in the Code. If the number of vehicles exceeds what is normally found in a residential area, staff could either issue a citation or deny the license renewal pursuant to Section 19.36.050. Note also that Section 19.36.070 (M) restricts vehicle size to 10,000 pounds GVW.

Section 19.36.070 (B) is also relevant to the issue being discussed. This subsection states:

There shall be no display, sale, or advertising signs on the premises.

The purpose of this standard is to prevent generation of commercial traffic in residential areas. An argument can be made that the presence of a truck or trailer in front of a home could be used as advertisement of the location. However, if the address is not included, this is unlikely. Accordingly, unless otherwise directed, staff will proceed with the interpretation that advertising on the vehicles can be allowed so long as the advertising does not include information that would indicate that the business is operated from the residential location. Under this interpretation, the business name, logo, brand names, telephone number, name of city, and possibly a post office box, will be permissible.

If the Commission is satisfied with the City Attorney's recommendation and staff interpretation with regard to advertising on vehicles, no action is necessary. If the Commission would like additional analysis or review, staff direction may be provided and the matter will be set for a future hearing.