



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: November 15, 2005
RE: PC 05-29 - An appeal by Sean Pulliam of the Conditions of Approval, specifically conditions # E3, E4, E5, E12 and E19, of Tentative Parcel Map 17060, which approved the subdivision of 10 acres into four parcels, located at the northwest corner of Indian Trail and Utah Trail, on APN #0621-281-20, Zone RL 2.5, Section 9.

RECOMMENDATION: Open the Public Hearing, take testimony, uphold the conditions of approval and deny the appeal.

BACKGROUND: Pursuant to Section 19.46 of the Development Code, the applicant is appealing the Conditions of Approval. The applicant seeks relief from conditions requiring street improvements on Utah Trail and Indian Trail, installation of street lights and construction of a Class I bike path on Utah Trail adjacent to the development. The applicant contends that these conditions are “economic discrimination.”

Attachments

- Vicinity Map
- USGS Map
- Tentative Parcel Map
- Appeal letter
- Conditions of Approval

The parcel map would subdivide ten acres into four (4)-lots. The project is located west of Utah Trail, north of Indian Trail on APN # 0621-281-20. The zoning for the property is Rural Living 2.5 minimum parcel size (RL 2.5). The proposed use, low-density single family residential uses, are allowed in the RL 2.5 Land Use District.

On August 15, 2005, Tentative Parcel Map 17060 was approved by the City Manager acting as the Community Development Director, pursuant to Section 19.94.110 of the Development Code (Review and Approval Authority).

On September 6, 2005, the applicant appealed the following conditions:

- E3. All streets shall be improved to City standards with curb, gutter, sidewalk and street pavement.
- E4. All streets abutting the development shall be improved a minimum half-street width of 40 feet with curb, gutter and sidewalk on the development side.

E5. Streets adjacent to the property shall be improved as follows:

Utah Trail adjacent to the property shall be improved to the City's half-width Arterial street standards.

Indian Trail adjacent to the property shall be improved to the City's half-width Arterial street standards.

E12. Streetlights shall be required and shall conform to City's standards for such.

E19 Class I bike path shall be constructed along Utah Trail adjacent to the development. Additional easements shall be required for construction of bike path.

SUMMARY

The project is located at the intersection of Indian Trail and Utah Trail, both of which are General Plan designated Arterial roadways. Arterials transport large volumes of intra-city traffic. An Arterial provides circulation within a defined geographic area, providing access and connections between other Arterials and is also designed to route local traffic from Expressways to their destination and vice versa. Arterials feature 104' wide right of ways, with 52' wide half streets.

Recently, an applicant appealed conditions requiring street improvements on "Local" streets. Streets not designated by the General Plan are deemed to be "Local" streets. Local streets require 60' of right of way and have a paving width of 36' feet. The City Council has found that, in one instance where lots of very low density, were located on Local streets, street improvements may be deferred without damage to the City's General Plan Circulation Element. This did not establish precedent, as the subject property was not located on an Arterial roadway.

The legal basis for requiring conditions of approval was established by the courts in the case entitled City of Buena Park V Boyar. In the case, the courts ruled that a City may impose conditions of approval when granting discretionary approval, in order to assure that a project is consistent with the General Plan. In this case, conditions were imposed to assure that the Pulliam Tentative Parcel Map would be consistent with the General Plan. Without these conditions, the project would not be consistent with the General Plan

In the case of Dolan v City of Tigard, the United States Supreme Court found that there must be a connection between the project and the condition. In the case of this project, the four proposed residential lots created by the project, will result in additional traffic, therefore, street improvements to the General Plan standard are required.

While the applicant contends that these conditions are "economic discrimination", the conditions are consistent with the policies of the General Plan and Development Code and with other map approvals in the vicinity and throughout the community under similar conditions.

GENERAL PLAN REQUIREMENTS

The purpose of the Circulation Plan is to establish a standard for the development and improvement of the transportation network and a long-range plan, which ensures the community vision. Goals, policies, and programs established in the Plan are to be implemented to ensure the orderly development of effective circulation systems in the twenty-year period from adoption through the year 2020.

The City of Twentynine Palms General Plan Circulation Element requires the orderly development of required infrastructure, including the construction of underground utilities (water, gas, electricity, sewage treatment), curb, gutter, sidewalks and roads, by the private sector. This requirement is generally implemented as a condition of approval placed upon new development as a means of minimizing the environmental impacts of new development, in exchange for the right to develop property in a manner consistent with the Land Use Element.

The General Plan designates Indian Trail and Utah Trail as Arterials adjacent to the project site.

Arterials are intended to transport large volumes of intra-city traffic. An Arterial provides circulation within a defined geographic area, providing access and connections between other Arterials and/or Expressways. These streets distribute traffic to Collectors within the City and provide efficient access to nearby destinations. Some vehicles may use Arterials as through routes, but the primary function of an Arterial is to route local traffic from Expressways to their destination and vice versa. Arterials are designed with a 104-foot wide right-of-way consisting of a minimum of four traffic lanes, two parking lanes and 12-foot wide continuous left turn lane and/or median strip.

Eliminating these conditions would result in a project that is inconsistent with the General Plan. Government Code Section 66474 states that a City must deny a map that is inconsistent with the General Plan.

DEVELOPMENT CODE REQUIREMENTS

Pursuant to Section 19.96 of the Development Code, the project was approved with conditions, according to the following General Subdivision Standards:

19.96.010 Circulation. The street pattern of the proposed subdivision shall conform to the Circulation Element of the City's General Plan; and

19.96.040 Street Layout - Street layout and design shall be consistent with the Circulation Element of the General Plan and surrounding developments.

The appeal, which requests the elimination of these conditions of approval, would result in a project inconsistent with these Development Code requirements.

APPEALS

Appeals must be filed in a timely basis. The code provision below addresses this topic:

19.46.030 Filing Appeals. - Appeals shall only be considered if filed within ten (10) consecutive calendar days following the date of action for which the Appeal is made. If the last day to act falls on a non-business day, the following business day shall be deemed to be the last day to act.

The appeal was filed on September 6, 2005, 21 days after the project was approved. Therefore, the appeal was not filed in a timely basis and should not be considered by the Planning Commission.

FINDINGS:

Based on the aforementioned facts, staff recommends that the Planning Commission adopt the following findings in denying this appeal:

1. The project is located at the intersection of Indian Trail and Utah Trail, both of which are General Plan designated Arterial roadways.
2. Arterials feature 104' wide right of ways, with 52' wide half streets.
3. A City must deny a map that is inconsistent with the General Plan (Government Code Section 66474).
4. The project was approved with conditions (Government Code Section 66474).
5. The street pattern of the proposed subdivision shall conform to the Circulation Element of the City's General Plan (Development Code 19.96.010 Circulation).
6. Street layout and design shall be consistent with the Circulation Element of the General Plan and surrounding developments (Development Code 19.96.040 Street Layout).
7. The conditions are consistent with the General Plan.
8. The conditions are consistent with the Development Code.
9. The project, a tentative parcel map, will generate additional traffic in the area.
10. The conditions are proportional to the project impacts.
11. Infrastructure improvements have previously required on other projects, and under similar conditions.
12. A nexus exists between the project's impact and the conditions of approval.
13. The conditions of approval are appropriate and proportionate for the size and scale of the project.
14. On August 15, 2005, Tentative Parcel Map 17060 was approved by the City Manager acting as the Community Development Director, pursuant to Section 19.94.110 of the Development Code (Review and Approval Authority).
15. On September 6, 2005, the applicant filed an appeal.
16. The appeal was not filed within ten days of approval.
17. The appeal was not filed within the required timeframe.
18. The appeal is without merit.
19. The appeal has no basis in fact.
20. The approval with conditions (action) is final, as the appeal was not filed on a timely basis.
21. No relevant precedent on the topic of this appeal exists.
22. The application of these conditions does not constitute economic discrimination.



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To: Planning Commission
From: Community Development Director
Date: November 15, 2005
RE: PC 03-48 - Application by Donald Yerkes for a second, one-year time extension for a Conditional Use Permit to construct a 16 unit apartment complex, located at 5266 Adobe Road, Zone RM, Section 20, APN # 621-061-06.

RECOMMENDATION: Open the hearing and approve a second, one-year time extension.

BACKGROUND: The Planning Commission approved the project on November 18, 2003. On October 5, 2005, a one-year time extension was granted by the Community Development Director. The applicant filed a request for a time extension prior to the expiration of the Conditional Use Permit on October 13, 2005.

Attachments

- Vicinity Map
- Extension request letter
- 10/05/04 Time Extension
- 10/18/03 Staff report
- Initial Study
- Conditions of Approval

SUMMARY: Donald E. Yerkes proposes construction of a 16-unit apartment complex at 5266 Adobe Road (APN 621-061-06). The General Plan land use designation for the property is Multi-family Residential (RM). The proposed use is allowed in the RM district, subject to the approval of a CUP.

Time extensions are governed by Section 19.30.100 of the Development Code. Extensions of time may be granted only if it is found that there have been no significant changes in the General Plan, Development Code, or character of the area in which the project is located, that would cause the project to become nonconforming, and that the granting of the extension will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

Staff is confident that all of these findings can be met.

While authorized to approve a second time extension, staff thought that the Planning Commission would be interested in the project, and has therefore referred this item to the Planning Commission for review and approval.



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To: Planning Commission
From: Community Development Director
Date: November 15, 2005
RE: PC 05-83 - An application by the City of Twentynine Palms for site plan approval of the Luckier Park Skatepark Expansion, located at 74362 Joe Davis Drive, Zone P, Section 28, APN # 623-161-13.

RECOMMENDATION: Open the hearing and approve site plan.

BACKGROUND: On September 17, 2002, the Planning Commission approved the Luckie Park Skatepark. The Community Service Director is in the process of applying for grant funding for an expansion of this facility.

Attachments

- Vicinity Map
- Notice of Exemption

SUMMARY: Site Plan Review is the process, which enables the City to ensure the quality and compatibility of proposed development. This procedure:

- A. Facilitates review of development proposals in a timely manner;
- B. Ensures conformance with all applicable local design guidelines, standards, and ordinances;
- C. Allows City departments to review new development proposals and place reasonable conditions to ensure that the public health, safety and welfare is maintained; and
- D. Promotes the goals of the General Plan.

The Planning Commission is authorized to approve or deny applications for Site Plan Review and to impose conditions upon such approval. Staff recommends that the Planning Commission approve the project. Conditions are not required.