



**CITY OF TWENTYNINE PALMS
STAFF REPORT**
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799, Fax (760) 367-5400
planntech@ci.twentynine-palms.ca.us

To: Planning Commission
From: Community Development Director / Community Development Technician
Date: March 20, 2007
RE: PC 06-15 - An Appeal by Spectrum Engineering on behalf of Los Angeles SMSA Limited Partnership, of the Planning Commission approval and related conditions of approval, including P9, E-2, E-6, F-5 and F-6, for a Conditional Use Permit for a telecommunication facility in the RL-2.5 zone, and a Variance to the maximum allowed height of 35' to allow a 52.5' tall commercial telecommunication tower in the RL 2.5 zone, and site plan approval. The project is located at an existing Edison substation, at the northeast corner of Twentynine Palms Highway (SR 62) and Dorth Place, RL-2.5 zone, T1N, R8E, Section 30, APN 0613-121-25.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, and affirm their August 15, 2006 approval of the project, subject to the attached Conditions of Approval.

BACKGROUND: This case is continued from the March 6, 2007 meeting. On August 15, 2006, the Planning Commission approved the project with Conditions. The applicant subsequently appealed several of the standard conditions included in the Planning Commission's approval. On October 24, 2006, the City Council conducted a public hearing on the appeal. Following the hearing, the City Council decided to send the case back to the Planning Commission, without ruling on the appeal. In the following period, the applicant has not provided any additional information.

- | Attachments |
|------------------------------------|
| • Conditions of Approval |
| • Resolution |
| • Appeal |
| • Planning Commission Staff report |
| • Planning Commission minutes |
| • Application |
| • Locator Map |
| • Aerial Photo |
| • Mitigated Negative Declaration |
| • Correspondence |
| • Dev. Code Chapter 19.30 |

Subsequent to that meeting, the applicant has suggested an alternative halon gas fire suppression system. The Fire Chief has agreed that the use of such a suppression system would meet the needs of the Fire Department, and satisfy the intent of Condition F5 and F6. With that, Conditions P9, E2 and E6 remain the subject of the appeal.

The applicant is appealing the following conditions:

- P9. The Mitigation Measures from the Initial Study shall be incorporated herein, as conditions of approval, by reference.

E2. Road dedications shall be provided as follows:

A 60-ft wide (Expressway) half-width road dedication along Twentynine Palms Highway (SR 62) adjacent to the property shall be granted to the City of Twentynine Palms prior to issuance of building permits.

A 30-ft wide (Local street) half-width road dedication along Dorth Place adjacent to the property shall be granted to the City of Twentynine Palms prior to Final Map Approval.

E6. The applicant shall pave all driveways and parking areas.

Summary

Pursuant to the California Environmental Quality Act, Condition P-6 (Mitigation) must be included, or the City Council must overturn the Planning Commission approval and deny the project.

Because the project generates minimal vehicle trips (traffic) once constructed and also provides important communication infrastructure, the City Engineer did not condition the project to provide for street improvements along the Twentynine Palms Highway (SR 62). However, Condition E-2 requires the applicant to dedicate Right of Way (ROW) for future road widening along the entire 9 acre site.

Because the project site contains an electrical substation, it is very unlikely that the property owner, Edison, will construct street improvements in the future. The City Engineer, in preparing the project conditions, maintains the position that the City should not miss an opportunity to secure ROW for future road widening.

Pursuant to Section 19.07.060 of the Development Code (Street Dedications and Improvements):

Before building permits are issued for the construction of a structure or improvement which would result in an increase or change in vehicular traffic, the dedication of additional right-of-way and construction of required street improvements in accordance with the General Plan Circulation Element shall be required. "Street improvements" include any or all of 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.

Therefore, the City Engineer could have required street improvements on Hwy 62. The Planning Commission and City Council did not want to add this requirement to the Conditions of Approval.

Condition E-6, which requires the paving of all on-site driveways and parking areas, is required by Section 19.82.060 of the Development Code (Parking).

The applicant is, as of the writing of this report:

- Unable to secure additional right of way along State Hwy 62 from Edison; and
- Unwilling to agree to make the required improvements as outlined in the conditions.

The City has received correspondence from residents urging denial, because the applicant did not pursue co-location opportunities on Copper Mountain, Donnell Hill and on Adobe Road.

In response, the applicant states that they have investigated all of the available co-location sites and have ruled these other possible locations out for technical reasons.

Project Description

The project includes construction of an un-manned 52.5’ tall telecommunications facility and 11'-6" x 16' equipment cabinet at the above referenced location.

Present zoning for the property is Rural Living (RL-2.5). The proposed use is allowed in the RL-2.5 land use district, subject to approval of a Conditional Use Permit. No habitable structures are proposed.

Environmental Review

Pursuant to the California Environmental Quality Act (CEQA, and based on the findings of the Initial Study, a Mitigated Negative Declaration was adopted by the Planning Commission. the project was routed to the following agencies and departments for public review and comment:

- | | |
|--|--|
| San Bernardino County Clerk | City Engineer |
| Twentynine Palms Water District | Twentynine Palms Fire Department |
| County Sheriff’s Department | County Environmental Health Division |
| County Department of Solid Waste Mgmt. | County Flood Control District |
| County Assessor’s Office | County Recorder |
| San Bernardino Associated Governments | Morongo Unified School District |
| Southern California Edison Company | Southern California Gas Co. |
| Verizon | Time Warner |
| BurTech | Morongo Basin Transit Authority |
| Morongo Basin Ambulance | Mojave Air Quality Management District |
| Division of Mines and Geology | Joshua Tree National Park |
| MCAGCC (Two offices) | Caltrans |
| County Surveyors Office | |

Surrounding Land Use, General Plan and Zoning Designations

	Land Use	General Plan	Zone
Site	SCE sub-station	RL-2.5	RL-2.5
North	Vacant	RL-2.5	RL-2.5
East	Single family and vacant	RL-2.5	RL-2.5
South	Vacant	RL-2.5	RL-2.5
West	Vacant	RL-2.5	RL-2.5

General Plan

The RL-2.5 land use district allows utilities and infrastructure. As designed the project is consistent with the General Plan Land Use Element.

Zoning

The project exceeds RL-2.5 zone standards for height. The RL 2.5 zone allows non-commercial antennas up to 52’ in height. The project is a commercial antenna. At 11'-6", the equipment cabinet is within the allowable building height for the zone. A Conditional Use Permit and Variance were approved for the project.

Site Characteristics

The subject site slopes as it moves north from the highway, south to north. The site includes an Edison electrical sub-station, contains typical desert vegetation and has been used by off-road vehicles.

Comment was received from the City Engineer in response to staff's routing of the project. The City Engineer is recommending that street improvements not be required as a condition of this development. The City Attorney has previously advised the Planning Commission and Council to do a case-by-case analysis of potential impacts in determining what public improvements are required for development proposals. This is especially true on a large parcel where the road improvements would be excessive in relation to the proposed impacts. Traffic generated by the use will be minimal. Road dedications were required, but street improvements were not required as a condition of approval.

Development Code Chapter 19.58

Development of the proposed facility is subject to the requirements contained in Chapter 19.58, that establishes regulation of wireless telecommunications facilities in the City.

Section 19.58.030 establishes general requirements for telecommunications facilities. Subsection 19.58.030 (A) states that the structure height shall be as established in the Land Use District regulations of the Development Code for the underlying land use district. The land use designation (zoning) for the subject property is Rural Living (RL-2.5). The height limitation for the RL-2.5 district is 35 feet. Non-commercial antennas in the RL-2.5 zone are allowed at 52.5' tall.

Section 19.58.030 (B) establishes separation requirements to ensure that telecommunications facilities do not conflict with existing or planned residential uses. The requirement is that proposed telecommunications facilities be at least 200 percent of the height of the facility from an adjacent residential property line; for a 52.5' tower, the separation requirement is 105'. The proposed tower is located 132' from the property line. The subsection also requires a minimum 300' separation from any residence. The development is 320 feet from the property lines of the adjoining single family residence and 630 feet from the residence.

Traffic and Circulation

The project will not result in the development of new residences or significant building area, therefore, a traffic impact analysis was not prepared for this project. The project will generate minimal traffic during construction, which is expected to be less than ten vehicles per day. When fully operational, the project will receive regular maintenance visits, which are not expected to exceed two trips per week. The project will be served from Dorth Place.

Because this project is not expected to generate regular traffic, the Planning Commission required that the applicant dedicate an additional 10' of right of way along the Twentynine Palms Highway (SR 62) to meet future street improvement requirements for a 120' Expressway (60' half street). However, the City Engineer did not recommend, and the Planning Commission did not require that the applicant make street improvements as a condition of approval.

Alternatives

The Planning Commission has a range of options on the appeal:

1. No Action – The approval stands.
2. Deny the appeal - The approval stands.
3. Approve the appeal.
4. Approve elements of the appeal.

CITY OF TWENTYNINE PALMS
CONDITIONS OF APPROVAL
PC 06-15

Applicant: Spectrum Engineering/Los Angeles SMSA Limited Partnership

Project: 52.5' Telecommunication facility

Location: Northeast corner of SR 62 and Dorth Place

APN: 0613-121-25

Approved: August 15, 2006

Expire: August 14, 2007

The following Standard Conditions of Approval shall be applicable to all Conditional Use Permits in the City. Additionally, site specific conditions will be applicable as necessary to protect the public health, safety and welfare.

Planning Division

Per Section 19.30.090 (A) of the Development Code, Conditional Use Permits shall expire one (1) year from the date the approval was granted, unless prior to the expiration date:

1. A Building Permit is issued and remains active for any approved phase of the project; or
2. A Certificate of Occupancy is issued for the use or structure; or
3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
4. The site is occupied in accordance with an approved phase as part of a phased development.

Per Section 19.30.090 (B), an approved Conditional Use Permit shall expire if the use has been commenced and then is discontinued for a period of one (1) year or more.

Planning Conditions

- P1. Conditional approval is granted by the Planning Commission acting as Approval Authority on August 15, 2006, to permit the construction/use of 52.5' unmanned telecommunications facility and 11'-6" x 16' equipment cabinet at the above referenced location. All development of the site shall be in substantial conformance with the adopted site plan and shall comply with all Conditions of Approval.
- P2. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the project proposal.
- P3. The property owner shall keep the property neat, clean, and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas, and landscaping.
- P4. All outdoor lighting shall conform to Development Code Chapter 19.70, *Lighting Standards*, and shall be designed to not glare or reflect onto neighboring properties or public rights-of-way. Outdoor lighting shall be shielded and limited to that required for security and safety purposes.

- P5. Prior to construction, the applicant shall submit three sets of plans to the City's Building Official and secure a Building Permit in conformance with the Uniform Building Code.
- P6. All construction and improvements shall comply with *Encroachments into Yards or Setbacks* standards established in the Development Code for the underlying land use district.
- P7. The applicant shall defend, at its sole expense (with attorneys approved by the City), and indemnify the City against any claim, action, or proceeding brought by any third party against the City, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the City, its agents, officers or employees for any judgment, court costs and attorney's fees which the City, its agents, officers or employees may be required to pay as a result of such claim, action, or proceeding. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
- P8. A copy of the final grading plan shall be submitted to the Building and Safety Division for review and approval by the Community Development Director.
- A. All on-site cut and fill slopes shall conform to the Uniform Building Code and Development Code (Chapter 19.64) relating to maximum slope, height and setbacks. Slopes shall be limited to a maximum slope ratio of 3 to 1 and a maximum vertical height of thirty (30) feet.
 - B. Slopes shall be contour graded to blend with existing natural contours.
 - C. All slopes over five (5) feet in vertical height and all fill slopes over three (3) feet in vertical height and steeper than 3:1, shall incorporate erosion control.
 - D. Minimize elevation differences between adjacent parcels and project.
 - E. Fill-slopes shall not be permitted to be located on the perimeter of the project.
- P9. The Mitigation Measures from the Initial Study shall be incorporated herein, as conditions of approval, by reference.
- P10. Pursuant to Section 19.58.030(c) of the Municipal Code, the applicant shall minimize the negative visual impact of the structure through the use of a stealth palm tree.

General Conditions

- G1. All Conditions are continuing Conditions. Failure of the Applicant and/or operator to comply with any of the said Conditions at any time may result in the revocation of the Conditional Use Permit and/or citation for code violation.
- G2. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees, including reimbursement for all City expense in ensuring compliance with the Conditions of Approval.

Building and Safety

- B1. Grading and drainage plans are to be submitted to, and approved by, the Building Official prior to permit issuance.
- B2. The applicant/developer shall submit plans and obtain building permits for all structures and walls. No work is to be done prior to approvals and permit issuance.

Engineering

- E1. A grading permit shall be obtained from the City Engineer prior to any grading or other work done on the site. Prior to the issuance of a grading permit, the applicant's engineer shall submit a comprehensive grading plan in conformance with the Uniform Building Code (UBC) and the requirements of the City. A preliminary soils report and a current preliminary title report shall be submitted to the Engineering Division concurrently with the grading plan.
- E2. Road dedications shall be provided as follows:
 - A 60-ft wide (Expressway) half-width road dedication along Twentynine Palms Highway (SR 62) adjacent to the property shall be granted to the City of Twentynine Palms prior to issuance of building permits.
 - A 30-ft wide (Local street) half-width road dedication along Dorth Place adjacent to the property shall be granted to the City of Twentynine Palms prior to Final Map Approval.
- E3. An encroachment permit shall be obtained from the City prior to performing any work in any public right of way.
- E4. A final grading plan shall be submitted to the City Engineer prior to issuance of a grading permit for review and approval. A grading permit shall not be issued until street improvement plans have been submitted to the City Engineer for review and substantial completion of the street plans has been attained as determined by the City Engine
- E5. Utility lines shall be placed underground in accordance with the requirements of the City.
- E6. The applicant shall pave all driveways and parking areas.

Fire Department

- F1. Prior to any construction, the owner shall contact the Twentynine Palms Fire Department for verification of current fire protection requirements.
- F2. All construction and activities shall comply with applicable sections of the 1988 edition of the Uniform Fire Code and all other state, county, and city ordinances, rules and regulations regarding fire protection.
- F3. All flammable vegetation shall be cleared a minimum distance of 30 feet, or to the property line, from any flammable building materials or finished structures.
- F4. Street addresses shall be posted with numbers a minimum height of three (3) inches. Posted numbers shall contrast with their background and be visible and legible from the

street.

- F5. Prior to commencement of construction, an approved water supply capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings or portions of buildings are hereafter constructed. The following are the minimum requirements for the proposed development:

A: SYSTEM STANDARDS

Fire Flow: 1500 GPM @ 20 PSI Residual Pressure
Duration: 2 Hours
Hydrant Spacing: 660 Feet

B: DISTRIBUTION SYSTEM

Mains: 6-Inch Minimum
Laterals: 6-Inch Minimum
Riser: 6-Inch Minimum

C: FIRE HYDRANTS

Number: To be determined
Type: 6-Inch, with one (1) two and one half (2 ½) inch outlet and one (1) four (4) inch outlet with National Standard Threads.
Street Valve: 6-Inch Gate

- F6. The developer shall furnish the fire department with a copy of the water system improvement plans. A letter from the water purveyor stating what fire flow can be met shall be required.

The undersigned applicant verifies that he/she has read the Conditions of Approval, understands each Condition, and agrees to adhere to the Conditions of Approval.

Applicant/Developer

Date



**CITY OF TWENTYNINE PALMS
STAFF REPORT**

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

To: Planning Commission
From: Community Development Technician
Date: March 20, 2007
RE: PC 07-06 – An application by Konrad Prager for a Conditional Use Permit to construct a 2,200 square foot addition to the Indian Cove Market for a convenience store and letter of Public Convenience and Necessity for an Off-Sale General Permit for the sale of alcoholic beverages at 69131 Twentynine Palms Highway, CN Zone, on APN# 0614-101-04 and 05, T1N, R8E, Section 33.

RECOMMENDATION: Conduct the Public Hearing, consider public comment, find the project Exempt pursuant to CEQA, adopt the resolution and recommend that the City Council approve the project and issue a Letter of Public Convenience and Necessity, subject to the attached Conditions of Approval.

- | Attachments | |
|-------------|------------------------|
| 1. | Resolution 07-08 |
| 2. | Conditions of Approval |
| 3. | Application |
| 4. | Locator Map |
| 5. | Correspondence |
| 6. | Site Plan |

BACKGROUND: Konrad Prager is requesting approval of a Conditional Use Permit for the modification/addition to the existing Indian Cove Market of 2,200 sq. ft. and a letter of Public Convenience and Necessity for an Off-Sale General Permit for the sale of alcoholic beverages at 69131 Twentynine Palms Hwy. The site was previously used a convenience store with a Type 20 Off-Sale Beer and Wine license which was active from July 6, 1964 terminating June 9, 1999. Zoning for the property is Neighborhood Commercial (CN). The proposed use, a convenience store, is allowed in the CN land use district, subject to approval of a Conditional Use Permit.

CEQA Environmental Review

Pursuant to the California Environmental Quality Act (CEQA), the project was routed to the following agencies and departments for public review and comment:

- | | |
|--------------------------------------|---------------------------------|
| City Manager | Burrtec |
| Community Development Director | Caltrans |
| City Engineer | Twentynine Palms Water District |
| County Sheriff's Department | Morongo Basin Transit Authority |
| Twentynine Palms Fire Department | Joshua Tree National Park |
| Morongo Unified School District | MCAGCC (Two offices) |
| Southern California Edison Company | Southern California Gas Co. |
| Regional Water Quality Control Board | Verizon |
| County Environmental Health Division | |

Input from these agencies has been reviewed, attached as Correspondence and, where appropriate, incorporated into the Conditions of Approval for the project.

Section 21084 of the Public Resources Code established a list of classes of projects which have been determined by the State of California not to have a significant effect on the environment and which are, therefore, exempt from the provisions of CEQA.

Pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guideline, the project, which consists of the modification of an existing small structure, is Categorically Exempt from further environmental review under state law.

This section of CEQA Exemptions is intended to allow the development of a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 sq. ft. in floor area. This class is not intended to be applied to projects which would result in any significant traffic, noise, air quality, or water quality effects. Based upon this information, staff recommends that the Planning Commission direct to staff file a Notice of Exemption for the project.

Surrounding Land Use, General Plan and Zoning Designations

	Land Use	General Plan	Zone
Site	Commercial	CN	CN
North	Vacant	CN	CN
East	Vacant	CN	CN
South	Apartments	RS-4	RS-4
West	Vacant	CN	CN

General Plan

Uses allowed in the Neighborhood Commercial (CN) land use district provide convenience items or services. Typical uses include convenience stores. As designed the project is consistent with the General Plan Land Use Element.

Zoning

The CN zone allows convenience stores including alcoholic beverage sales with City Council approval of a Conditional Use Permit.

The number of required parking stalls is 11, one of which is a handicap assessable space. The site plan indicates 13 parking stalls (12 regular stalls and one handicap stall). Therefore, the project is consistent with the Development Code parking requirements.

Site Characteristics

The subject site slopes as it moves north towards the highway, south to north. The site has been cleared of desert vegetation and has previously been used as a convenience store/gas station. A permit was issued by the County of San Bernardino Hazardous Materials Division for removal of underground storage tanks. The gas tanks were removed from the site in May of 1998.

Conditional Use Permit

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

- 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.

If the required findings cannot be made, the application should be denied. Staff has prepared the following findings of approval for consideration:

- A. The site is located on the Twentynine Palms Highway, is conveniently located in proximity to the Indian Cove neighborhood, and will therefore not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- B. The subject site is approximately 0.41 acres and is therefore adequate in size to accommodate the proposed use.
- C. The shape of the parcel is typical, and allows for orderly development such as the proposed use.
- D. With the recommended conditions, the proposed project will meet the objectives of the General Plan and CN land use designation.
- E. The proposed project, as conditioned, does not conflict with and is consistent with the goals and objectives of the Twentynine Palms General Plan.

Traffic and Circulation

Because the project will not result in the development of any new residences, a traffic impact analysis was not prepared for this project. The project will generate minimal new traffic during construction, which is expected to be less than ten vehicles per day. The applicant will be required to dedicate right of way and construct street improvements along the project boundaries at Twentynine Palms Outer Highway (SR 62) as a condition of approval. Caltrans may require additional improvements, no comment has been received at the time this report was prepared.

Transit Service

The Morongo Basin Transit Authority has had an opportunity to review the project and, as of the writing of this report has not commented on the project. Generally, the MBTA recommends that applicants provide a bus shelter with bench and trash receptacle, with the specific location will be determined at a later date.

Approval Process

The Planning Commission is the Review Authority and the City Council is the Approval Authority for the Conditional Use Permit and letter of Public Convenience and Necessity. In taking action to recommend approval, the Commission must find that the proposed project is consistent with the General Plan. Because the subject property has the CN General Plan land use designation, development of a convenience store is consistent with the General Plan Land Use Plan.

CITY OF TWENTYNINE PALMS
PLANNING COMMISSION
RESOLUTION NO. 07-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, RECOMMENDING CITY COUNCIL APPROVAL OF PC 07-06, AN APPLICATION BY KONRAD PRAGER (INDIAN COVE MARKET) A CONDITIONAL USE PERMIT TO CONSTRUCT A 2,200 SQUARE FOOT MODIFICATION TO AN EXISTING RETAIL CONVENIENCE STORE ON A 0.41 ACRE SITE AND A LETTER OF PUBLIC CONVENIENCE AND NECESSITY, LOCATED AT 69131 TWENTYNINE PALMS HIGHWAY (SR 62), ZONE CN, T1N, R8E, SECTION 33, APN 0614-101-04 & 05.

WHEREAS, on February 9, 2007 an application was received from Konrad Prager of Indian Cove Market, for approval of a Conditional Use Permit to construct a 2,200 sq. ft. modification to a convenience store in the CN zone; and

WHEREAS, the land use designation (zoning) for the subject property is Neighborhood Commercial (CN); and

WHEREAS, the proposed project is a retail convenience store including the sale of alcoholic beverages; and

WHEREAS, with the proposed conditions of approval, the proposed project design is consistent with the General Plan and Development Code; and

WHEREAS, Pursuant to Section 15332 of the CEQA Guidelines, Class 3 allows the development of a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 sq. ft. in floor area and therefore is Categorically Exempt from further environmental review under state law; and

WHEREAS, the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; and

WHEREAS, the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; and

WHEREAS, the project site has no value as habitat for endangered, rare or threatened species; and

WHEREAS, approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and

WHEREAS, the site can be adequately served by all required utilities and public services; and

WHEREAS, public hearing notice was published in a newspaper of record and notice was mailed to all property owners located within 300 feet of the project site; and

WHEREAS, public hearings were held by the Planning Commission on March 20, 2007 and by the City Council on March 27, 2007; and

WHEREAS, with respect to the Conditional Use Permit application the Planning Commission finds the following:

- A. The proposed site is located adjacent to the Twentynine Palms Highway and the Indian Cove neighborhood and will therefore not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- B. The subject site is approximately 0.41 acres and is therefore adequate in size to accommodate the proposed use.
- C. The shape of the parcel is typical, and allows for orderly development such as the proposed use.
- D. With the recommended conditions, the proposed project will meet the objectives of the General Plan and CG land use designation.
- E. The proposed project, as conditioned, does not conflict with and is consistent with the goals and objectives of the Twentynine Palms General Plan.

WHEREAS, the proposal is for the sale of alcoholic beverages and a Letter of Public Convenience and Necessity; and

WHEREAS, following the public hearing, the Planning Commission, vote to recommend that the City Council approve the project.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Twentynine Palms recommends adopting the Categorical Exemption, adopts this resolution, and recommends approval the Conditional Use Permit application, subject to the attached Conditions of Approval.

APPROVED AND ADOPTED THIS 20th DAY OF March, 2007

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

Daniel Mintz, Chairman

ATTEST:

Charlene L. Sherwood, City Clerk, I hereby certify that the foregoing is a true copy of Resolution No. _____ duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the _____ day of _____, _____, in Twentynine Palms, California. Dated this _____ day of _____, 2007.

Charlene L. Sherwood, City Clerk

CITY OF TWENTYNINE PALMS
DRAFT CONDITIONS OF APPROVAL

PC 07-06

Applicant Name: Konrad Prager
Post Office Box 398
Morongo Valley, CA 92256
Project Description: Upgrade and addition to existing building to add approximately 2200 sq. ft. for a retail market with off-sale general liquor license.
Location: 69131 Twentynine Palms Hwy.
Parcel Number: 0614-101-04 and 05
Approved: March 20, 2007
Expires: March 19, 2008

The following Standard Conditions of Approval shall be applicable to all Conditional Use Permits in the City. Additionally, site specific Conditions will be applicable as necessary to protect the public health, safety and welfare.

Planning Division

Per Section 19.30.090 of the Development Code, Conditional Use Permits shall expire one (1) year from the date the approval was granted, unless prior to the expiration date:

1. A Building Permit is issued and remains active for any approved phase of the project; or
2. A Certificate of Occupancy is issued for the use or structure; or
3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
4. The site is occupied in accordance with an approved phase as part of a phased development.

Per Section 19.30.090 (B), an approved Conditional Use Permit shall expire if the use has been commenced and then is discontinued for a period of one (1) year or more.

Planning Conditions

- P1. Conditional approval is granted by the City Council acting as Approval Authority on March 27, 2007, to permit the construction/use of a convenience store and Letter of Public Convenience and Necessity for an off-sale general liquor license. All development of the site shall be in substantial conformance with the adopted site plan and shall comply with all Conditions of Approval.
- P2. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the project proposal.

- P3. The property owner shall keep the property neat, clean, and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas, and landscaping.
- P4. The Applicant shall subscribe to trash collection service with the City's authorized hauler [(760) 367-9168]. A minimum service level of once weekly, will be required.
- P5. Trash enclosure(s) shall comply with standards established in Section 19.80.020 of the Development Code.
- P6. All outdoor lighting shall conform to Development Code Chapter 19.70, *Lighting Standards*, and shall be designed to not glare or reflect onto neighboring properties or public rights-of-way. Outdoor lighting shall be shielded and limited to that required for security and safety purposes.
- P7. The building design shall be Desert Southwest, in conformance with the City's Design Guidelines, per drawing and detail provided on the site plan. The approved design theme shall be retained for the duration of the approved use unless a revised design is approved by the Planning Commission as a Conditional Use Permit Amendment.
- P8. Prior to construction, the applicant shall submit three sets of plans to the City's Building Official and secure a Building Permit in conformance with the Uniform Building Code.
- P9. Prior to issuance of building permits, the Applicant shall pay school development fees to the Morongo Unified School District that may be in effect at the time of building permit issuance.
- P10. Commercial signs shall be in compliance with Development Code Chapter 19.84 *Signs*.
- P11. Parking shall be designed and provided for the duration of the use in accordance with Development Code Chapter 19.82, *Off-street Parking and Loading Regulations*, as follows:
- A. Ten (10) standard parking spaces shall be provided on site.
 - B. One (1) handicap accessible parking space shall be provided in accordance with the Americans With Disabilities Act and Title 24 of the California Code of Regulations.
- P12. Landscaping shall not interfere with sight distances at vehicular access points.
- P13. Maximum lot coverage (impervious surface) shall not exceed seventy-five percent (75%) of the total project area.
- P14. All construction and improvements shall comply with *Encroachments into Yards or Setbacks* standards established in the Development Code for the underlying land use district. Minimum setbacks are:

Front:	25 feet
Street side:	15 feet
Interior side:	10 feet
Rear:	10 feet

- P15. Soil testing (percolation report) for the septic system shall meet the requirements of Department of Environmental Health Services (DEHS) [(909) 387-4666]. The Applicant shall submit test results and required fee to DEHS. Copies of all correspondence with DEHS regarding this Condition shall be provided to the City of Twentynine Palms Community Development Department.
- P16. Prior to construction, the Applicant shall provide written clearance from the Colorado River Regional Water Quality Control Board [(760) 776-8940] and a copy of such clearance forwarded to DEHS.
- P17. Comply with Section 19.10.040 Design Standards.

Engineering Conditions

General

- E1. The project shall comply with all applicable City ordinances and resolutions.

Drainage

- E2. Prior to issuance of a grading permit, a final drainage plan with street layouts shall be submitted for review and approval by the City Engineer showing provisions for receiving and conducting offsite and onsite tributary drainage flows around or through the site in a manner which will not adversely affect adjacent or downstream properties. This plan shall consider retaining onsite drainage flows from a 100-year design storm.
- E3. Prior to the submittal of any improvement plans or issuance of a grading permit, the Developer/representative shall submit to the City Engineer, detailed drainage studies indicating how potential grading in conjunction with the drainage conveyance systems, will allow building pads to be safe from inundation from rainfall run off, which may be expected from all storms up to, and including, the theoretical 100 year storm.
- E4. In addition to the drainage requirement stated herein, other "onsite" or "offsite" improvement may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to the Engineering Department.

Grading

- E5. Prior to the issuance of a grading permit, the developer's engineer shall submit a comprehensive grading plan in conformance with California Building Code and the requirements of the City.
- E6. A grading permit shall be obtained from the City Engineer prior to any grading or other work done on the site.

Improvements

- E7. All streets abutting the development shall be improved a minimum half-width of 28 feet with curb and gutter and sidewalk on the development side.
- E8. Outer Highway 62, shall be constructed to the City's half-width Commercial Road Standards adjacent to the development as approved by the City Engineer and Caltrans.
- E9. The alley shall be constructed to the City's alley standards from adjacent to the development.
- E10. The minimum structural section of all public streets shall be four (4) inches of asphalt concrete over compacted native soil. A soils report containing a design structural section based on a traffic index assigned by the City Engineer shall be submitted prior to the approval of street improvement plans.
- E11. An encroachment permit separate from the grading onsite permit shall be obtained from the City of Twentynine Palms (760-367-6799) prior to any construction occurring within the public right-of-way.
- E12. The developer shall pay any developer fees, including but not limited to traffic impact fees, as per City enactment.

Utilities

- E13. Final improvement plans and profiles shall indicate the location of any existing utility which would affect construction and shall provide for its relocation at no cost to the City.
- E14. All proposed construction of utilities adjacent to and onsite shall be underground.

Fire Department Conditions

- F1. The Applicant shall comply with all Conditions and requirements of the Twentynine Palms Fire Department. Written verification from the Fire Department shall be provided by the Applicant prior to issuance of any Building Permit.
- F2. All construction and activities shall comply with applicable sections of the 1988 edition of the Uniform Fire Code and all other state, county, and city ordinances, rules and regulations regarding fire protection.
- F3. The project shall have two (2) points of vehicular access for fire and other emergency vehicles and equipment. The unobstructed width of a fire apparatus access road, to include access gates, shall be not less than twenty (20) feet. A turn-around shall be required at the end of each roadway that is one hundred and fifty (150) feet or more in length and shall be approved by the fire department.

- F4. All flammable vegetation shall be cleared a minimum distance of thirty (30') feet, or to the property line, from any flammable building materials or finished structures.
- F5. Automatic extinguishing systems are required for commercial style kitchens and require fire department approval.
- F6. Smoke detectors are required in all sleeping quarters in accordance with the Uniform Building Code.
- F7. Fire extinguishers (type and quantity to be specified by the fire department) will be required prior to any use of the facility.
- F8. Prior to commencement of construction, an approved water supply capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings or portions of buildings are hereafter constructed. The following are the minimum requirements for the proposed development:
 - A. SYSTEM STANDARDS

Fire Flow:	2000 GPM @ 20 PSI Residual Pressure
Duration:	2 Hours
Hydrant Spacing:	330 Feet
 - B. DISTRIBUTION SYSTEM

Mains:	6-Inch Minimum
Laterals:	6-Inch Minimum
Riser:	6-Inch Minimum
 - C. FIRE HYDRANTS

Type:	6-Inch, with one (1) two and one half (2 ½) inch outlet and one (1) four (4) inch outlet with National Standard Threads.
Street Valve:	6-Inch Gate
- F9. The developer shall furnish the fire department with a copy of the water system improvement plans where fire protection water systems are required. A letter from the water purveyor stating what fire flow can be met shall be required.
- F10. A Knox-Box shall be placed on the building with keys providing access into the building.
- F11. The street address shall be posted with numbers that are three (3) inches or greater in size. Posted numbers shall contrast with their background and be clearly visible and legible from the street.

General Conditions

- G1. In compliance with San Bernardino County Ordinance #2684, adopted by reference by the City of Twentynine Palms, the Applicant agrees to defend at his sole expense any action brought against the City, its agents, officers, or employees, because of the issuance of such approval. The Applicant shall reimburse the City, its agents, officers, or employees, for any court costs and

attorney's fee which the City, its agents, officers, or employees may be required by a court to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve the Applicant of his obligations under this Condition.

- G2. All Conditions are continuing Conditions. Failure of the Applicant and/or operator to comply with any of the said Conditions at any time may result in the revocation of the Conditional Use Permit and/or citation for code violation.
- G3. Within ten days of approval, the applicant shall submit to the Community Development Department a signed copy of the Conditions of Approval, verifying that he/she understands each Condition and agrees to adhere to each of the Conditions of Approval.
- G4. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees, including reimbursement for all City expense in ensuring compliance with the Conditions of Approval.

Applicant Signature

Date