



**CITY OF TWENTYNINE PALMS
PLANNING COMMISSION STAFF REPORT**

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 – Fax (760) 367-5400

TO: Planning Commission
FROM: Community Development Director
DATE: January 24, 2011

FOR COMMISSON MEETING: February 1, 2011

SUBJECT: PC 10-92 – Reconsideration of the Planning Commission’s determination of General Plan Consistency for the City’s purchase of a five (5) acre property within the Rural Living 2.5 Acres per Parcel zoning district within the City of Twentynine Palms; APN 0591-321-26.

RECOMMENDATION

Re-open the discussion, consider public comment and determine that no further action is needed at this time.

ORDER OF PROCEDURE

- Request Staff Report (Charles LaClaire Presenting)
- Commission Questions of Staff
- Open to Public Comment
- Commission Discussion
- Motion/Second
- Discussion of Motion
- Call the Question (voice vote)

Attachments
<ul style="list-style-type: none">▪ Staff Report for Approval of Acquisition, Council meeting of November 23, 2010▪ Minute Excerpt – City Council Meeting of November 23, 2010▪ Adopted Planning Commission Resolution No. 10-26▪ Zoning Vicinity Map▪ Aerial Map

PROJECT DESCRIPTION

The City of Twentynine Palms has initiated the steps to purchase the property located within the Rural Living 2.5 Acre per parcel zoning district involving a property described as Assessor’s Parcel Number 0591-321-26. The property in question is located along the western side of the southern logical extension of Bullion Mountain Road, approximately 0.85 miles south of Baseline Road. Under the provisions of Section 65402 of the State of California Government Code, prior to the acquisition of property by any City, the Local Planning Agency (the City’s Planning Commission) must make a determination that such purchase is consistent with and conforms to the Goals and Policies of the City’s adopted General Plan.

COMMISSION REVIEW RESPONSIBILITY

It is staff’s understanding that the Commission’s request for a re-consideration of its past action in determining General Plan consistency is not a challenge to the Council’s responsibility in the decision to purchase the property, nor the wisdom or appropriateness of that decision, but solely advisory relative to General Plan conformity. As noted herein, under Government Code Section 65402, the Commission is to report on the “location, purpose and extent of such acquisition or disposition”. The “location” has been identified, the “purpose” was declared by the Council in accepting the report dated November 23, 2010 (attached) under which it is assumed, as the Council had given no contrary indication, that the purpose shall be for a use as allowed under the property’s present zoning (regardless of ownership), and the “extent” is the five (5) acres in question. As such, the purchase is consistent with the Goals and policies of the

adopted General Plan.

BACKGROUND

At its meeting of January 4, 2011, the Planning Commission considered information provided by staff that the City Council had initiated the purchase of an approximately five (5) acre property and that under the provisions of Government Code Section 65402, prior to any such purchase of the property the local planning agency (in this instance the City's Planning Commission) must first determine that the purchase is not in conflict with the Goals and Policies of the City's adopted General Plan.

As noted within the January 4th report to the Commission, under the provisions and requirements of Section 65402 of the State of California Government Code, the City of Twentynine Palms may not sell, convey or purchase property until such sale or transfer has been reported to the Planning Commission and the Commission has made a determination that the sale or transfer of such property shall not create a situation that the future use of said property shall be inconsistent with the Goals and Policies of the City's adopted General Plan. Such General Plan consistency determination is required prior to the sale and/or conveyance of the property so identified.

Presently, the City of Twentynine Palms has initiated the steps to purchase an approximately five (5) acre property located along what would be the southern extension of Bullion Mountain Road, within the Rural Living 2.5 Acre per parcel zoning designation. No specific development plans are proposed for the property, nor is there a proposal to change the land use designation for the property, and the future use of this land, whether by the City or if sold in the future, must conform to the underlying zoning of the property at that time.

SITE CHARACTERISTICS

The property in question is currently vacant with the exception of the remnant of a homestead shack, a trailer and a small structure used as a shaded shooting platform. Although a portion of the site is graded and flat, where the aforementioned structures are located, the majority of the site consists of native desert vegetation and rocky sloped terrain, with a significant gully along the northwest corner of the site.

ANALYSIS

The City has initiated the steps needed to purchase an approximately five (5) acre property located near the southeastern edge of the City within a Rural Living 2.5 acre per parcel zoning designation. Under the provisions of the California Government Code, prior to the City purchasing (or selling) property, the Planning Commission, as the local planning authority, must first determine that the purchase or sale of such property shall be consistent with the Goals and Policies of the locally adopted General Plan. As described above, the site is presently undeveloped with the exception of the remnants of a homestead shack, a trailer and a small shade structure. Although a portion of the site has been graded, with some minor alteration to the potential flow of water within a gully that runs through a corner of the site, the majority of the property has been left in its natural state. Access to the property is through easements on other properties, with only a dirt road serving the site.

Under the present request, the City's purchase of the property in question shall not result in a change to the land use designation of the property, the current or anticipated future use of the property for residential purposes, nor create or allow a use that would be in conflict with uses existing or permitted upon adjoining or surrounding properties. The City Council, during its November 23, 2010 meeting (Minute excerpt attached) directed staff to pursue the purchase of the property in question, but had not indicated that the City has a specific planned use for the

property and it can, therefore, be assumed that the City's anticipated future use is the same as would otherwise be allowed under the property's existing General Plan Land Use and Zoning designations. As an example, if a property is owned by one individual who has the right to use it in accordance with its zoning, a use which must be consistent with the property's General Plan (and therefore consistent with the Goals and Policies of the General Plan), then if another individual were to buy that property also with the intend to use it in accordance to its zoning (consistent with its General Plan), that new ownership must, therefore, be consistent with the Goals and Policies of the General Plan. Thus, if there is no change to the intended or permitted use of a property, the ownership, or a change thereto, of that property does not change that property's conformance to the Goals and Policies of the adopted General Plan. In this instance, the acquisition of the five (5) acre property by the City does not change its zoning nor intended land use and thus cannot change its conformity to the City's adopted General Plan.

GENERAL PLAN AND ZONING DESIGNATIONS

The City of Twentynine Palms adopted General Plan currently designates the Subject Property for low density residential use with a Rural Residential 2.5 Acres land use designation. Consistent with this General Plan designation, the City's Development Code designates the Subject Property as Rural Residential One Unit per 2.5 Acres. Per the General Plan, rural residential uses shall provide for the following:

It is the intent of this category to provide generous amounts of land for large residential parcels located on the outskirts of the City. The district is created for quiet and spacious single family residential use, with some areas devoted to quiet institutional uses. Because of the rural setting, more relaxed standards apply.

Purchase of the property in question by the City of Twentynine Palms will not result in a change to the Site's General Plan Land Use designation nor would it result in or allow a change to the uses permitted within this Land Use designation. Further, no changes to the current land use are proposed by the City Council with the acquisition of the property by the City. As such, the ownership of the property, whether private or the City of Twentynine Palms, would not alter the property's designation or permitted uses to any that would be inconsistent with the Goals and Policies of the adopted General Plan.

In addition to the above, the Commission may wish to consider the following Goals and Policies from the Land Use Element of the adopted General Plan. The City's purchase of the property shall either be in concert with, or clearly not in opposition to, each of the Goals and policies listed below.

GOALS AND POLICIES (Land Use Element)

Goal #1

A Land Use Plan which provides a desirable City in which to live.

Purpose

Goal #1 establishes the primary purpose of the Land Use Plan, a setting which provides a high quality of life for all residents and visitors.

Policy #1.1

Traffic, noise and other impacts will be considered prior to any land use designation change and/or land use intensification.

Policy #1.2

Quality standards will be applied to all new developments.

Policy 1.3

Uses shall be located in a manner which will minimize conflict and mitigate impacts.

Goal #2

Development of a variety of high quality residential neighborhoods.

Purpose

The purpose of Goal #2 is to emphasize the importance of providing opportunity for a variety of residential development and provide housing opportunities for all City residents.

Policy 2.1

Schools, parks and recreation facilities shall be located near residential areas.

Policy 2.2

Development shall ensure efficiency in circulation to and from residential Land Use Districts.

Policy 2.3

The City will provide housing opportunities suitable to all income levels.

Goal #5

The City will be environmentally sensitive and all land uses shall minimize adverse environmental impacts and shall maintain and enhance existing natural resources.

Purpose

The Purpose of Goal #5 is to ensure that all land use decisions are environmentally conscious and that environmental impacts are avoided to the extent possible.

Policy 5.1

Preservation of the community's clean and healthful air will be a priority when considering discretionary projects.

Policy 5.2

The City shall preserve the existing night sky as a community resource.

Policy 5.3

The City shall take all necessary steps in project approval and in issuance of Building Permits to ensure that erosion is minimized.

Goal #6

Consideration shall be given to air quality issues in the preparation of environmental documents for all projects proposed for development.

Purpose

The purpose of Goal #6 is to ensure that air quality is protected and that development will occur in a manner which is supportive of regional air quality policies.

Policy 6.1

During project review, the City will evaluate air quality, land use, transportation, and

economic relationships to ensure consistency and minimize conflicts.

CEQA ENVIRONMENTAL REVIEW

Pursuant to the provisions and requirements of the California Environmental Quality Act (CEQA), the proposed determination by the Planning Commission that the purchase of a privately owned property by the City of Twentynine Palms, a purchase that shall not result in a change to either the property's General Plan Land Use (or zoning) designation nor a change to the current or anticipated future use of the property, can be seen with certainty to have no potential direct or indirect adverse impacts upon the environment and, therefore, this determination by the Commission of General Plan consistency is Categorically Exempt from further environmental review.

FINDINGS

The City's Development Code does not identify any "Findings" that must be made by the City to make a finding of General Plan consistency regarding the purchase, sale and/or title transfer of property.



STAFF REPORT

TO: City Council
FROM: City Manager
DATE: November 17, 2010
FOR COUNCIL MEETING: November 23, 2010

SUBJECT: Acquisition of Property

RECOMMENDATION:

That City Council:

1. Approve the Acquisition of APN-0591-321-26
2. Authorize the Mayor and Staff to prepare and execute the necessary documents, subject to approval by the City Attorney, for the City to acquire the property.
3. Authorize the expenditure of up to \$30,000 of General Fund Reserves for the acquisition of the property (\$27,500) and related costs (up to \$2,500).
4. Direct Staff to prepare necessary documents, for consideration by Council, prohibiting the creation and operation of open air ranges within the City.

ORDER OF PROCEDURE:

Request Staff Report (John Tooker Presenting)
Council Questions of Staff
Request Public Comment
Council Discussion
Motion/Second
Discussion of Motion
Call the Question (roll call vote)

Attachments

1. Parcel Map

BACKGROUND:

Recently, the City became involved in a Code Enforcement action involving the operation of an open-air range on APN 0591-321-26.

The Range, which is located in a residential zone, has been in some form of operation for years, although it has never been formally permitted. Staff believes that continuation of the range operation is a potential public nuisance and safety issue. Based on an assessment of the city's ability to sustain its position in an extended Code Enforcement action to eliminate the range and the likelihood of a protracted legal case, it is probably more cost effective to acquire the parcel where the range operates.

As a result, Staff has had discussions with the property owner and his representative and a price of \$27,500 has been established for the parcel.

If Council approves the acquisition of property and as a result, the elimination of the Range, it is also recommended that Council direct Staff to prepare the necessary documents, for future Council consideration, that will prohibit the creation and operation of open air ranges within City limits.

FISCAL IMPACT:

There are no funds allocated in the budget for the purchase of this property. As a result, it is recommended that up to \$30,000 (\$27,500 for the property and up to \$2,500 for related costs) from the General Fund Reserve be authorized. The 2008/2009 audited balance of the Reserve is \$9,815,919.

Minute Excerpt

TWENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY

6136 Adobe Road

Twentynine Palms, CA 92277

www.ci.twentynine-palms.ca.us

Tuesday, November 23, 2010

6:00 P.M.

MINUTES

- 1.0 CALL TO ORDER** – Mayor Flock re-opened the meeting at 6:18 p.m.
PLEDGE OF ALLEGIANCE - Councilmember Cole led the Pledge of Allegiance.
INVOCATION - Pastor Paul Reeves, Little Church of the Desert gave the Invocation.
ROLL CALL – The following Councilmembers were present: Cole, Harris, Klink, Spear and Flock.

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10.0 LEGISLATIVE/COUNCIL/REDEVELOPMENT

10.2 Acquisition of Property

RECOMMENDATION: The City Council:

- 1) Approve the Acquisition of APN 0591-321-26.
- 2) Authorize the Mayor and Staff to prepare and execute the necessary documents, subject to approval by the City Attorney, for the City to acquire the property.
- 3) Authorize the expenditure of up to \$30,000 of General Fund Reserves for the acquisition of the property (\$27,500) and related costs (up to \$2,500).
- 4) Direct Staff to prepare necessary documents, for consideration by Council, prohibiting the creation and operation of open air ranges within the City.

Interim City Manager Tooker presented a staff report to the City Council. He said there are a couple amendments to the recommendation including an environmental review of the property which would be an addition of \$2,500 to the \$30,000 being requested making the expenditure \$32,500 which would be taken from the General Fund reserves for the acquisition of the property and related costs including the potential for the environmental review. He said the recommendation is that the City Council approve the acquisition of the parcel, authorize the Mayor and staff to prepare and execute the necessary documents subject to the approval by the City Attorney, including language regarding the road way that accesses the parcel and an environmental review and for the City to approve the documents for the City to acquire the property. He said staff recognizes there is a need for the approval of the property to go to the Planning Commission for review prior to the actual acquisition taking place and it would be recommended the Planning Commission consider the compliance with the General Plan prior to the close of escrow. He said staff would be directed to prepare documents prohibiting creation and operation of open air ranges in the City and those things would be brought back at a future date for Council consideration. He said all of these things would have to be met prior to the close of escrow.

Councilmember Cole said there is the issue of safety and public welfare over time and he supports the acquisition.

Councilmember Klink said he wants safety for the citizens of Twentynine Palms and he would like have open air ranges taken out of the system.

Mayor Flock said this is the cheapest way for the City to handle the issue and the public safety aspect of shooting in open air ranges within City limits should not be allowed and should be looked into.

Mayor Pro Tem Harris read a letter from Jamie Avels who is not in favor of item 10.2 and he indicated the two property owners are trying to work things out. He said if the environmental review reports contamination the deal could die and he is concerned with the expenditure of funds to have to resolve this.

Councilmember Spear said to protect public safety and prevent the potential for an accident is what the issue is about.

John King, Twentynine Palms, asked if this place is closed and this in the only shooting range within the City where are the people supposed to go to practice and if there are no places to go and practice how are they supposed to practice the ability to protect themselves.

Councilmember Spear said there is a Twentynine Palms Rifle and Pistol Club located east of Twentynine Palms and a range west of Yucca Valley where you can practice.

Mayor Pro Tem Harris said Twentynine Palms is not covered under the firearms closure area and if you are more than 150 yards from inhabited dwelling you have the right to shoot as long as you are not endangering anyone or close to a highway. He said he would like to see the City become part of the firearms closure area.

ACTION: On a motion made by Councilmember Spear, seconded by Councilmember Cole and carried with a 5-0 roll call vote, the City Council authorized the expenditure of up to \$32,500 of General Fund Reserves for the acquisition of the property (\$30,000) and related costs (up to \$2,500).

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13.0 ADJOURN- Mayor Flock adjourned the meeting at 7:30 p.m.

Respectfully Submitted,

Charlene L. Sherwood MMC, City Clerk

CITY OF TWENTYNINE PALMS
PLANNING COMMISSION
RESOLUTION NO. 10-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, MAKING A DETERMINATION OF CONFORMITY WITH THE GOALS AND POLICIES OF THE CITY'S ADOPTED GENERAL PLAN FOR THE PURCHASE OF PROPERTY WITHIN THE CITY OF TWENTYNINE PALMS.

WHEREAS, California Government Code Section 65402 requires that a jurisdiction's planning agency (i.e., the City of Twentynine Palms Planning Commission) review and report upon whether a proposed disposition of real property for public purposes is consistent with the adopted General Plan; and

WHEREAS, the City of Twentynine Palms, as a local agency as defined under Government Code section 65402, is considering the purchase of a property approximately 5.0 acres in size (APN 0591-321-26) located along the western side of the southern logical extension of Bullion Mountain Road, approximately 0.85 miles south of Baseline Road; and

WHEREAS, the City in its consideration of the purchase of the property in question, has no plans to change the General Plan or Zoning designations for the property, nor change the current or anticipated future use of the property from its current residential permitted use; and

WHEREAS, under the provisions and requirements of the California Environmental Quality Act (CEQA), the proposed determination by the Planning Commission that the purchase of a privately owned property by the City of Twentynine Palms can be seen with certainty to have no potential direct or indirect adverse impacts upon the environment and, therefore, this determination by the Commission of General Plan consistency is Categorically Exempt from further environmental review; and

WHEREAS, a hearing, open to the public, was held by the Planning Commission on January 4, 2011; and

WHEREAS, the property in question is designated in the City's General Plan for low density single-family residential use, and is zoned "Rural Residential 2.5 Acre."

WHEREAS, the City's General Plan states that the purpose of the goals of the residential uses shall provide for the following:

A Land Use Plan to establish a setting which provides a high quality of life for all residents and visitors;

To emphasize the importance of providing opportunity for a variety of residential development and provide housing opportunities for all City residents;

To ensure that all land use decisions are environmentally conscious and that environmental impacts are avoided to the extent possible; and

To ensure that air quality is protected and that development will occur in a manner which is supportive of regional air quality policies.

WHEREAS, the Planning Commission, acting as the Approval Authority, has considered the following Goals and Policies of the General Plan in its consideration of the City's purchase of property for public purposes, specifically:

Goal #1

A Land Use Plan which provides a desirable City in which to live.

Policy #1.1

Traffic, noise and other impacts will be considered prior to any land use designation change and/or land use intensification.

Policy #1.2

Quality standards will be applied to all new developments.

Policy 1.3

Uses shall be located in a manner which will minimize conflict and mitigate impacts.

Goal #2

Development of a variety of high quality residential neighborhoods.

Policy 2.1

Schools, parks and recreation facilities shall be located near residential areas.

Policy 2.2

Development shall ensure efficiency in circulation to and from residential Land Use Districts.

Policy 2.3

The City will provide housing opportunities suitable to all income levels.

Goal #5

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Preservation of the community's clean and healthful air will be a priority when considering discretionary projects.

Policy 5.2

The City shall preserve the existing night sky as a community resource.

Policy 5.3

The City shall take all necessary steps in project approval and in issuance of Building Permits to ensure that erosion is minimized.

Goal #6

Consideration shall be given to air quality issues in the preparation of environmental documents for all projects proposed for development.

Policy 6.1

During project review, the City will evaluate air quality, land use, transportation, and economic relationships to ensure consistency and minimize conflicts.

WHEREAS, the Planning Commission, acting as the Approval Authority for making a determination of General Plan consistency, makes the following findings:

- A. The proposed purchase, sale or title transfer of a property from private ownership to the City of Twentynine Palms, without changing either the land use designation or the

property or the land use of the property, and which may facilitate the future use of the property in a manner that is not in conflict with other existing or anticipated future uses within the area, is consistent with the Land Use Element's Goals and Policies, as well as consistent with all other elements of the City's adopted General Plan.

- B. The proposed purchase, sale or title transfer of a property privately owned to the City of Twentynine Palms may allow, or even facilitate, future development of the land for residential use(s) consistent with the site's underlying low density residential General Plan and zoning designations, and which may also further or enhance the City's residential diversity and provide opportunities to fulfill the General Plan Housing Element's goal of achieving an array of housing types and opportunities.
- C. An environmental review of a determination by the Planning Commission that a proposed purchase of privately owned property by the City of Twentynine Palms, a purchase that shall not result in either a change to the property's General Plan Land Use designation or anticipated use of the property, can be seen with certainty to have no direct or indirect adverse impacts upon the environment and, therefore, this General Plan consistency determination is Categorical Exempt from further environmental review.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Twentynine Palms finds that the determination of General Plan consistency for the purchase of privately held property by the City of Twentynine Palms is Categorical Exemption from further environmental review under the State Guidelines to Implement the California Environmental Quality Act (CEQA).

BE IT FURTHER RESOLVED that the City of Twentynine Palms Planning Commission findings that the City's purchase of a privately held property, approximately 5.0 acre in size with a Rural Living 2.5 acre General Plan designation (APN 0591-321-26), located along the western side of the southern logical extension of Bullion Mountain Road, approximately 0.85 miles south of Baseline Road, is consistent with the Goals and Policies of the Land Use Element as listed herein and with all other Elements of the City's adopted General Plan.

APPROVED AND ADOPTED THIS 4th DAY OF JANUARY, 2011.

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Rebecca Rinkes, Chair

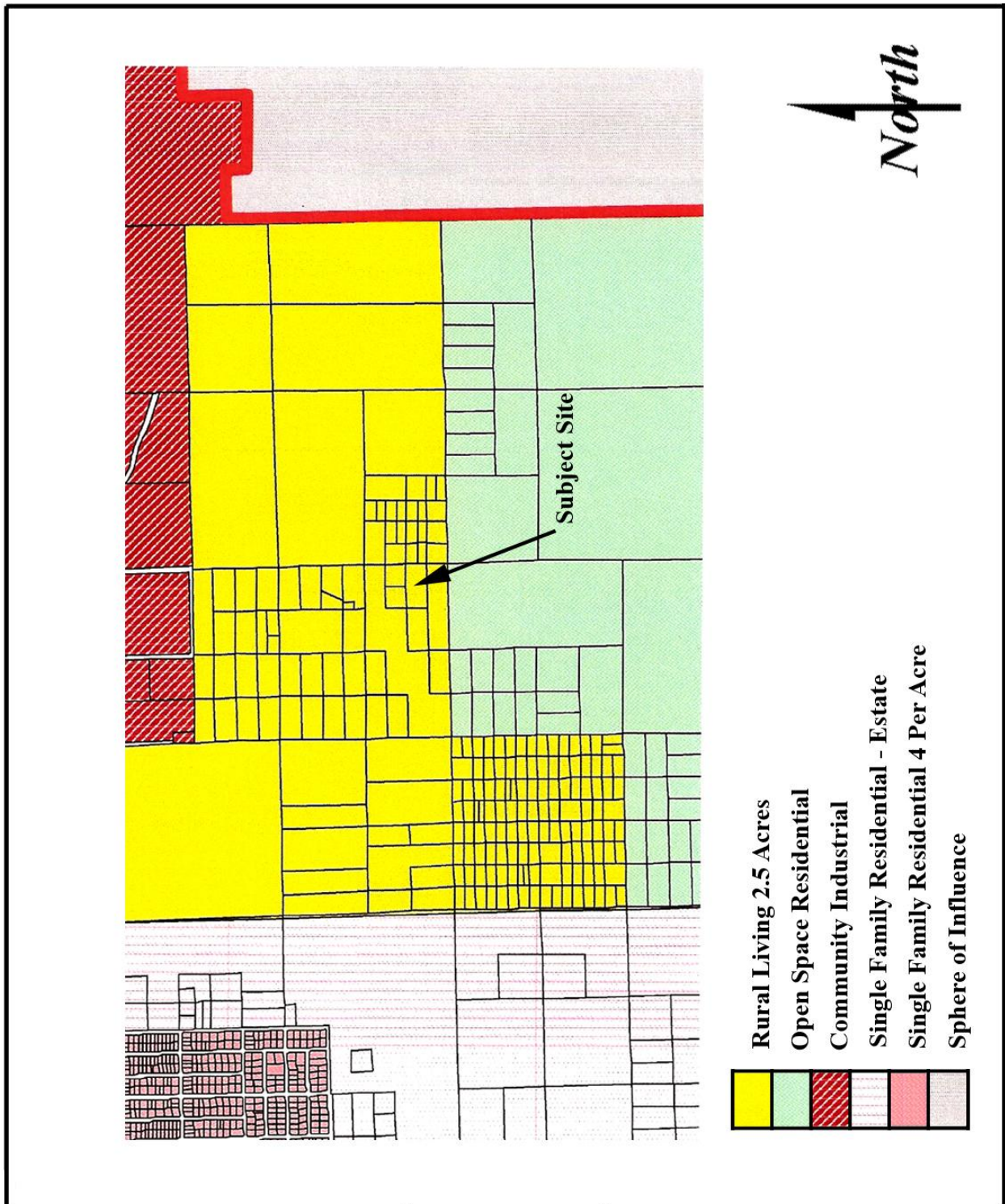
ATTEST:

Jacqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. 10-26 duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the 4th day of January, 2011, in Twentynine Palms, California.

Dated this 4th day of January, 2011.

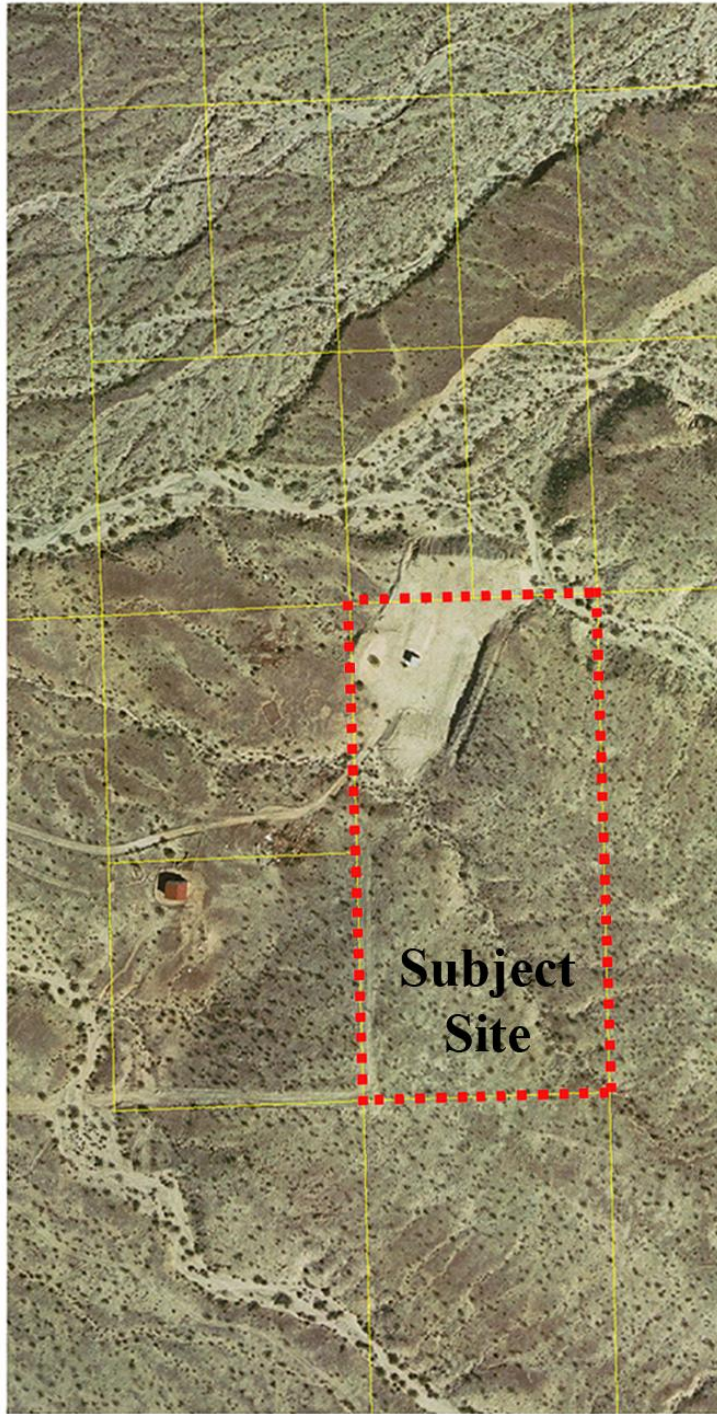
Jacqueline Palmer, Deputy City Clerk



Zoning Vicinity Map
 Assessor Parcel Number
 0591-321-26



PC 10-92
February 1, 2011



Aerial Map
Assessor Parcel Number
0591-321-26



PC 10-92
February 1, 2011



**CITY OF TWENTYNINE PALMS
PLANNING COMMISSION STAFF REPORT**

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 – Fax (760) 367-5400

TO: Planning Commission
FROM: Community Development Director
DATE: January 25, 2011

FOR COMMISISON MEETING: February 1, 2011

SUBJECT: PC 03-40 – Request for a removal, deferral or waiver of the completion of a Condition of Approval for the Southern California Vipassana Center; southwest corner of Twentynine Palms Highway and Mantonya Road (APNs 613-071-03, 10 and 11).

RECOMMENDATION

Receive and file report, giving direction to staff as appropriate.

Attachment

Letter from Philip Block dated
January 25, 2011

ORDER OF PROCEDURE

Request Staff Report (Charles LaClaire Presenting)
Commission Questions of Staff
Commission Discussion
Guidance to Staff

PROJECT DESCRIPTION

The City's Community Development Department has received a letter (dated January 25, 2011, received on same date) from the Southern California Vipassana Center (represented by Mr. Philip Block) requesting a removal, deferral or waiver of the imposition of a Condition of Approval for PC 03-40 regarding the placement of a permanent parking surface within their required parking lot.

BACKGROUND

On October 21, 2003, the Planning Commission approved a CUP for the development of a 55,055 square foot meditation center at the above identified location. The approval included standard Conditions of Approval, including requirements for both on-site improvements and offsite improvements such as curb & gutter, sidewalks, street improvements and a bus shelter. In 2005, an amendment to the project increasing the size of the proposed structures on site to 63,503 square feet was approved. Further amendments were also granted to the Conditional Use Permit in 2007.

Although staff has been in communications with Mr. Block regarding his request for an alternative to the required parking, due to the lateness of the receipt of the letter attached to this report, staff has not had the opportunity to thoroughly review and analyze the request to formulate a sound and reasonable recommendation to the Planning Commission on the issue.

SITE CHARACTERISTICS

The property in question is currently being developed with a variety of the buildings approved under the Conditional Use Permit, including various support structures and improvements (but

without the required parking as conditioned).

ANALYSIS

Staff has not had the opportunity to review the applicant's request in any detail. The request appears to be a proposal to amend the Conditions of Approval or a deferral/waiver of an applied Condition of Approval for the installation of all weather surfacing for the required paved parking area on site. The Planning Commission may either initiate a Code Amendment to examine the current Code's requirements relative to paved parking, it may direct the applicant to seek/apply for a Code Amendment through the Community Development Department on appropriate forms available within the Department, the Commission may direct the applicant to submit a formal application to amend the Conditions of Approval for the approved Conditional Use Permit, or the Commission may direct staff to take no action at this time, allowing the applicant to select their next course of action.

In general terms, the City Engineer has reviewed a couple of requests for the use of alternative paving surfaces for required parking within the City of Twentynine Palms. In each case, the City Engineer has not been provided with sufficient information and evidence that the alternative parking surface shall provide for the long term parking needs for which the parking is required by Code. From the research that the City Engineer has completed to date, he has consistently been opposed to the use of alternative paving surfaces for required parking areas. Although Mr. Block has provided the attached letter, the City has not had the opportunity to review the request, nor research the material provided.

CEQA ENVIRONMENTAL REVIEW

Pursuant to the provisions and requirements of the California Environmental Quality Act (CEQA), the proposal is a request to initiate further action. That further action, dependent upon what direction that may be, may need further CEQA review at that time, however, the request currently before the Commission is not a project under CEQA and, therefore, is Exempt from further environmental review.

FINDINGS

The City's Development Code does not identify any "Findings" that must be made by the City to receive and file this report, or to provide direction to staff or the applicant on a future course of action.

Southern California Vipassana Center
68561 Twentynine Palms Highway
Twentynine Palms, California

Please Reply to:
Philip Block
philipablock@gmail.com
cell 323-496-1193

January 25, 2011

Chairperson and Commissioners, Planning Commission
City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277

SENT BY EMAIL TO: Charles LaClaire, Director of Community Development

Re: REQUEST FOR TEMPORARY WAIVER, CONDITION #16, Conditional Use
Permit PC 03-40, Southern California Vipassana Center, 68561 Twentynine
Palms Highway, Twentynine Palms, CA

EXECUTIVE SUMMARY

Dear Commissioners,

I am happy to report that construction of the first phase of the Southern California Vipassana Center (SCVC) is progressing. If all goes as planned we expect to be requesting an occupancy permit in April.

As you know, the City is currently engaged in a full review of its General Plan, and will also be making revisions to the Development Code in accordance with the new General Plan. As part of this process we are seeking an amendment of the Development Code with regard to surfacing requirements for parking areas in low-traffic developments in Rural Living districts, which is where our project is located.

Because the proposed Development Code amendment will impact our project, I am writing to you on behalf of SCVC to request a temporary waiver of one of the Conditions of Approval that we must meet for this project. Condition 16 (Mitigation Measure 6.4) requires that parking "shall be designed in accordance with the City of Twentynine Palms Parking Ordinance." We are requesting a temporary waiver of this condition so that we can install parking areas and driveways in compliance with the Development Code as newly amended. Otherwise, under the current Parking Ordinance we will be required to install asphalt paving that, under the newly revised Code, may not be required nor desired by the City.

Our project is in the Rural Living 2.5 district in the western rural section of the City. In September 2010 we proposed using an acrylic polymer surfacing as a superior alternative to asphalt, in order to avoid the undesirable environmental impacts of asphalt paving. In December we were informed by the Community Development Director that

the acrylic polymer surfacing does not meet the current paving requirements of the Parking Ordinance.

As will be described below, we feel the current Parking Ordinance is inconsistent in its application of paving requirements, especially with regard to the Rural Living districts. The amendment we are seeking will make the Code more internally consistent and will also bring it into line with the draft General Plan's goals of sustainable design and preservation of the rural character of the City. The amendment would provide that paving requirements for uses in Rural Living districts be based on expected traffic volumes, rather than the type of use, as is currently the case. We have been informed by the Community Development Director that the Code amendment process will extend well beyond April, when we hope to get an occupancy permit, which is why we are making this request for a temporary waiver.

REQUEST FOR TEMPORARY WAIVER

I. Current Parking Ordinance

The City's Parking Ordinance is contained in Chapter 19.82 of the Development Code, "Off-Street Parking and Loading Regulations." The purpose of the regulations is stated in Section 19.82.010:

"Purpose. The intent and purpose of this Chapter is to ensure that all uses shall have the minimum required off-street motor vehicle parking spaces installed and maintained in a manner which will ensure: adequate and safe parking (temporary storage), ingress and egress, and parking facility design which will provide for safe and convenient use of such facilities." (Emphasis added.)

The paving standards of the Parking Ordinance are contained in Section 19.82.060M. For residential development in the Rural Living, Open Space Residential, RS-1 and RS-E land use districts, and for commercial development in the CT district, paving is specifically not required as long as wind and soil erosion prevention measures are taken and appropriate facilities are provided to safely accommodate traffic:

"2. Paving shall not be required for projects within the following land use districts if it can be demonstrated that the area will be appropriately treated to contain wind and soil erosion and if appropriate facilities are provided to safely and adequately accommodate traffic and circulation:

- a. Commercial development in the Tourist Commercial (CT) land use district.
- b. Residential development in the Rural Living (RL), Open Space Residential (OSR), RS-1 and RS-E land use districts."

Thus, from a safety standpoint, it is clear that the Parking Ordinance allows non-paved surfaces for both commercial development in CT districts and residential development in RL, OSR, RS-1 and RS-E districts, regardless of the traffic impacts.

In addition, even commercial uses in RL, OSR, RS-1 and RS-E districts may not necessarily be required to have paved parking and access ways. This is because subsection 1 of Section 19.82.060M, which requires paved parking for development in the commercial and IC land use districts, makes no mention of any paving requirement for commercial development in the rural land use districts. (Of course, the City, through exercise of its police powers, can require paved parking for commercial development by imposing conditions as part a Conditional Use Permit for a commercial project in a rural land use district. However, what needs to be emphasized is that the Development Code does not require paving for such uses.)

In contrast to the above requirements, under Section 19.82.060M1d, all institutional uses and public uses are required to have paved parking, regardless of zoning designation, and, we note, regardless of the traffic impact of the use. This approach ignores the fact that some institutional uses in rural areas may have very low traffic impacts.

II. Traffic Impact of the SCVC Project

The Southern California Vipassana Center is a residential meditation retreat center. As described in documents submitted for the CUP application, the primary purpose of the center is to offer 10-day and longer meditation courses; occasionally shorter courses are offered, but the bulk of our schedule consists of 10-day courses. Over 150 of these centers exist around the world.

When the original CUP was issued, the center was labeled by the City as an “institutional use.” However, it should be pointed out that most of the square footage of the center is devoted to residential accommodations for persons coming to the center. More importantly, the nature of the center’s use dictates that its traffic impacts will be very low.

One of the key rules of the center is that persons taking meditation courses must commit to residing at the center for the entire duration of the meditation course they are taking. In addition, once they arrive at the center and park their vehicle attendees may not use their vehicle during the meditation course. As a result, the traffic flowing into and out of the center is very limited. In this regard, the traffic going into and out of the center’s parking areas and access ways will be far lower than most institutional uses, such as schools, churches, etc.

At the time the Center received its initial CUP and subsequent amendments, we provided several traffic studies based on our expected use prepared by a licensed traffic engineer. These studies provided projections of average daily traffic at the center, and peak hourly traffic. (The studies assumed an average of two students per vehicle, as we use a vigorous carpooling program at our centers; we also assumed all students arrive by private vehicle.) The charts below showing estimated traffic are contained in the studies. Please note that in the current first phase, student capacity will be 60 students.

Estimated Average Daily Traffic:

2010-2015

Student Capacity	Courses /Month 2010/15	Student Trips/Mo. 2010/15	Other Trips/Mo. 2010/15	Trips/Mo. 2010/15	Trips/Wk. 2010/15	Trips/Day 2010/15
60	1.67	100.2	230	330.2	75.6	10.8
75	1.67	125.25	240	365.25	84	12
90	1.67	150.3	250	400.3	91.7	13.1

2016-2023

Student Capacity	Courses /Month 2016/23	Student Trips/Mo. 2016/23	Other Trips/Mo. 2016/23	Trips/Mo. 2016/23	Trips/Wk. 2016/23	Trips/Day 2016/23
60	1.83	109.8	240	349.8	80.5	11.5
75	1.83	137.25	250	387.25	88.9	12.7
90	1.83	164.7	260	424.7	97.3	13.9
115	1.83	210.45	280	490.45	112.7	16.1
140	1.83	256.2	300	556.2	127.4	18.2

Estimated Peak Hourly Traffic:

2011-2015

Student Capacity	Courses /Month 2008-10	Peak periods/month	Student Trips/3-hour peak	Other Trips/3-hour peak	Total Trips/ 3-hour peak	Trips/ peak hour
60	1.67	3.3	30	8	38	12.7
75	1.67	3.3	37.5	10	47.5	15.8
90	1.67	3.3	45	12	57	19

2016-2023

Student Capacity	Courses /Month 2008-10	Peak periods/month	Student Trips/3-hour peak	Other Trips/3-hour peak	Total Trips/ 3-hour peak	Trips/ peak hour
60	1.83	3.66	30	8	38	12.7
75	1.83	3.66	37.5	10	47.5	15.8
90	1.83	3.66	45	12	57	19
115	1.83	3.66	57.5	15	72.5	24.2
140	1.83	3.66	70	18	88	29.3

As can be seen from the above tables, estimated average daily traffic (ADT) is very low. Even at full build-out (roughly 140 students), estimated ADT will be only 18.2. By

comparison, the City's Traffic Study by Urban Crossroads estimates that a single residence in the low-density districts generates 7.72 vehicle trips per day. See City of Twentynine Palms Citywide Traffic Study, March 6, 2007, Table 4-7. (While the Traffic Study has since been updated, the estimated trips for residences do not seem to have been changed.) Thus the meditation center, even at full build-out many years from now, will have average daily traffic counts slightly more than two residences, clearly a very low traffic impact.

III. Benefits of Non-Paved Surfacing

In our request to the Community Development Director to use an acrylic polymer treatment as an alternative to asphalt paving, we provided the following information:

A. Proposed Surfacing – Acrylic Co-Polymer Treatment

We are proposing to meet our low intensity traffic demand with an acrylic co-polymer treatment that will create a hard, all-weather surface for the parking areas and access ways. One of the compounds we are considering is Envirotac II, a product manufactured and sold by Environmental Products & Applications, Inc., headquartered in Palm Desert. Envirotac II is marketed as a soil stabilizer, mostly for military uses. Surface spraying of Envirotac II is used for dust and erosion control. However, heavier applications where the ground is scarified prior to application of the co-polymer will build durable and waterproof surfaces, creating a road surface similar to class 2 road base. In fact, some of the co-polymer manufacturers specifically market their product as a substitute for road base.

Our plan is to make use of a heavy application of Envirotac II or a suitable equivalent to create a hard surface for our parking areas and access ways. We have visited the site of the Sky's the Limit project where test applications of Envirotac II demonstrate the hardness of the surface (Sky's the Limit is planning to use this surface for accessible pathways.) We have discussed our application with representatives of Environmental Products & Applications, Inc. and they recommend applying Envirotac II to a depth of 3-inches of scarified native soil. The application method would consist of the following steps:

1. Scarify soil to 3" depth.
2. Soak thoroughly with water using water truck.
3. Soak thoroughly with co-polymer solution, again with water truck.
4. Compact to 95%, with crown.

Such an application would require follow-up surface spraying after a 2- to 3-year period, but this would require just 20 percent of the amount of the initial application. Because of the relatively inexpensive cost of Envirotac II, this maintenance cost would still be a far better solution economically than traditional

asphalt, which also needs regular maintenance through seal-coating, or recycled asphalt road base.

B. Environmental, Maintenance and Aesthetic Advantages of Acrylic Co-Polymer Treatments

1. Environmental and Maintenance Advantages

An important advantage for the use of an acrylic co-polymer treatment is that it avoids the “heat island” phenomenon of asphalt. Asphalt is well known as a source of heat absorption and retention, and in the desert environment, any additional heat retention is obviously undesirable. When asphalt is sealed or coated, heat retention increases dramatically as the exposed aggregate in the asphalt concrete is coated with black asphalt or asphalt emulsion, sealing the cracks in the existing asphalt. This results in increased heat absorption and retention, primarily because of the darker surface that results.

In the case of the acrylic co-polymer treatment, the surface takes on the light color of the native soil with which it is mixed, and heat absorption and retention are significantly reduced as compared with asphalt. We do not expect the heat absorption and retention of the treated road surface to be significantly higher than the undisturbed native soils on the site.

The superiority of the acrylic co-polymer treatment in terms of heat absorption and retention is magnified by the fact the Center’s estimated traffic load is so low. It is well-known that asphalt degrades much faster under very low traffic loads because traffic is necessary to “knead” the aggregates contained in asphalt to prevent cracking. Because cracking occurs more rapidly, it is necessary to seal the asphalt more often. This results in even greater heat absorption and retention as explained above. By using the acrylic co-polymer treatment the Center can avoid the more expensive maintenance costs of seal-coating, and at the same time reduce heat absorption and retention.

2. Aesthetic Advantages

The application of the acrylic co-polymer provides a surface that looks almost identical to the native soils with which it is made. We feel this is far superior aesthetically to the use of either asphalt or recycled asphalt base, as it preserves the rural character of the area.

IV. Consistency with Draft General Plan

The Land Use Element of the Draft General Plan contains the following Goal:

“Goal LU-3

Promote a high quality of life by encouraging attractive high quality development that is compatible with existing uses and the City’s desert environment”

The draft Land Use Element also contains the following Implementation Policy:

“Implementation Policy LU-6.2

Require that new development protect the City’s natural resources by implementing sustainable design principles.”

In addition, throughout the documents prepared and testimony given during the General Plan revision process there is consensus regarding the need to preserve the small-town and rural character of the City. However, for projects in the Rural Living districts, the current Parking Ordinance fails to make a distinction between uses that have high traffic impacts and uses that have low impacts, and requires paving according to the use only. As a result, paving is being unnecessarily required for non-residential projects with low traffic impacts, and this, in turn, unnecessarily degrades the rural character of the area. An amendment to the Parking Ordinance would remedy this inconsistency.

V. Temporary Waiver of Paving Requirement

We feel that the above information makes a compelling case for amending the Development Code to provide an alternative to asphalt paving for parking areas and access driveways serving projects with low traffic impacts in Rural Living districts. However, because the process for obtaining a decision on the proposed amendment, (as part of the City’s revision of the Development Code) will extend beyond April, we are requesting a temporary waiver of the requirement of paved parking.

While we do not have draft language for an amendment at this time, we believe the best alternative approach would be to require paving in rural areas based on the traffic impact of the project. This could be done by either mandating specific traffic count thresholds, or by delegating the decision to the Planning Commission with guidelines.

During the duration of the temporary waiver we are willing to provide proper protection against dust and soil erosion through application of an acrylic polymer or similar means, and this duty can be made a condition of the waiver. Once the City Council has made its decision regarding the proposed amendment to the Parking Ordinance, we will install surfacing in accordance with Code, whether amended or not. We would hope that we could be given 45 days to install surfacing, following notice by the City.

VI. Conclusion

I hope that the above information is sufficient for you to make a favorable decision on this request. If additional information is desired, please do not hesitate to contact me by email at philipablock@gmail.com or by phone, 323-496-1193.

Sincerely,

Philip Block
Southern California Vipassana Center



**CITY OF TWENTYNINE PALMS
PLANNING COMMISSION STUDY SESSION REPORT**

6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 – Fax (760) 367-5400

To: Planning Commission
From: Community Development Director
Date Prepared: January 24, 2011
For Commission Meeting Of: February 1, 2011

Subject: **PC 11-04** - Study Session to review the City's standards and requirements for the installation of block walls.

RECOMMENDATION: Conduct the Study Session, receive comments from the public and provide guidance to staff for an additional Study Session or to set/advertise a Public Hearing for a Development Code Amendment.

Attachment None.

ORDER OF PROCEDURE

- Request Staff Report (Charles LaClaire presenting)
- Commission Questions of Staff
- Accept Public Comments
- Commission Discussion
- Commission Guidance to Staff

PROJECT DESCRIPTION

At the direction of the Commission, a Study Session has been set to discuss and evaluate the City's current standards and requirements for the installation of block walls between differing zoning districts, and possible clarification of language relating to the walls and parking requirements, for properties City-wide.

BACKGROUND

At its regularly scheduled meeting of January 18, 2011 this item was continued to await discussion when the full Commission could be present to participate in the debate. As was noted within the previous report, at a scheduled meeting on January 4, 2011, the Planning Commission completed its review of a Conditional Use Permit to establish the "Adobe Auto Center", allowing the sale, lease and rental of various vehicles on a 4.6 acre commercial property at the northwest corner of Didsbury and Adobe Roads. At that meeting, the Commission was presented with information illustrating that there was an apparent conflict between two Development Code provisions with regard to the installation of a block wall between a commercial development and an adjoining residential zone. At that time, the Commission initiated a Development Code Amendment and directed staff to agendize a Study Session on the issue at the next available Commission meeting date.

The Development Code requires the following with regard to the installation of walls when a commercial use is proposed which "abuts or is adjacent to the side or rear property line of a residential zone."

19.82.060 Design and Construction of Facilities. The design and construction of all parking facilities shall be in conformance with the criteria set forth herein unless specifically *exempted*

therefrom.

- I. Screening. Parking areas shall be located and screened as follows:
 1. Adjacent to a residential zone. **Wherever a parking lot for a commercial, industrial, or institutional development abuts or is adjacent to the side or rear property line of a residential zone, the parking lot shall be screened by a solid masonry wall not less than six (6) feet in height.** If the parking lot abuts or adjoins the front property line a residential zone, the wall shall be reduced in height to four (4) feet.
 3. Exemptions.
 - a. No such wall or berm need be provided wherever the elevation of that portion of the parking area abutting property located in a residential district, or abutting property designated "P", is six (6) feet or more below the elevation of the abutting property at the common property line.
 - b. No such wall or berm need be provided along a side property line when the side yard is used for access to a parking area in the same zoning district provided, however, a landscaped area not less than five (5) feet in width shall be provided abutting the property line in lieu thereof. Such a landscaped area shall be planted with trees and shrubs of a size and in such a manner that they will provide a screening effect in compliance with the provisions of this Section.

In the matter before the Commission on January 4th, the issue was raised as to whether the placement of vehicle for rental purposes were considered "parked", "stored" or "displayed" upon the property (and depending upon this decision, whether Code Section 19.82.060 "Design and Construction of Facilities:, I "Screening" paragraph 1 would apply). It is further questioned whether these vehicles, regardless of being parked, stored or displayed are located within a "parking facility" as such is not defined within the Development Code.

To further complicate the issue, Development Code Section 19.10.050 "Outdoor Storage and Use Standards" subsection "B" allows stored vehicles to be screened by a "solid wall made of block, masonry, or other similar material **or chain-link fence with slats.**"

19.10.050 Outdoor Storage and Use Standards.

- A. Outdoor storage. Outdoor storage on properties in the CG, CT, CO and CN districts shall be screened so that it is not visible from the public right of way.

Screening shall be provided and maintained by the use of solid walls, wood fencing, or chain link fencing with either shade cloth, slats, or drought tolerant vegetation. If drought tolerant vegetation is utilized to accomplish screening, the vegetation used shall:

1. provide adequate screening within one year of planting, and
2. be maintained to provide continual screening of any outdoor storage, and
3. be watered with an automatic watering system equipped with a timer.

If shade cloth or slats are utilized to accomplish screening, such materials shall be of uniform design and color and shall be maintained in good repair at all times.

- B. Vehicle storage, appliance or vehicle repair or service, and similar uses. A solid wall made of block, masonry, or other similar material or chain-link fence with slats shall be constructed and maintained around the perimeter of the use to substantially block the view of the yard. A minimum of three (3) feet of landscaping shall be provided along the

street frontage to provide aesthetic relief along the wall. The areas of the yard that are visible from offsite shall be paved with concrete or asphalt paving. Suitable Best Management Practices (BMP) shall be constructed and/or practiced to ensure that any vehicle fluids shall not leave the site and shall not contaminate soil.

Without a definition of a parking facility, and with the possibility that placing vehicles available for rental or sale is interpreted as storage, then it appears clear that customer and employee parking will occur on this same site relative to the business activities taking place. This customer and employee parking will be occurring in a parking lot or facility. As such, this parking will be located on a site that is adjacent to the side or rear property line of a residential zone. Parking within a parking lot/facility located next to a residential zone is subject to Development Code Section 19.82.060 I 1. But what is unclear is whether this apparent requirement would apply if the activity in question (customer or employee parking) is located a significant distance from that side or rear residential property line, and/or separated from that property line by another use.

It is also arguable that the intent of the Code is that a physical barrier is required to protect the residential use from the adjoining commercial, industrial or institutional use. If the intent is to protect the adjoining residential use (whether current or potential future residential use), is that same intent applicable regarding the storage of vehicles?

Please note that within the January 4th Public Hearing report, it is illustrated that under the provisions of Development Code Section 19.02.080 "Conflicting Ordinances" that whenever two or more Code provisions appear to apply to the same situation or circumstances that the more restricted Code provision shall apply. As we do not have a definition of a parking facility, nor whether vehicles available for rent are stored, parked or displayed, and the Code provisions do not address the location of customer/employee parking relative to its placement on a property and the need for the block wall, it would appear that the two Code Sections noted above result in conflicting requirements. Code Section 19.02.080 "Conflicting Ordinances" states the following:

19.02.080 Conflicting Ordinances. In the event the provisions of this Code conflict with any other City Ordinance or regulation, the more restrictive shall govern.

Study Session Analysis

The issue at hand, at its simplest, is an examination of the requirements for walls and/or fences along property lines? Although the Commission has the opportunity to provide guidance to staff on these requirements by changing or interpreting the Development Code on this matter, it must be clear that once guidance is given all subsequent enforcement shall be based upon this interpretation until either the Commission or Council changes the Code or provides an alternative interpretation.

In addressing when and where walls or fences should be required, it also appears that new or modified definitions for a number of terms used within the Development Code must be reviewed and adopted. The Commission's discussion of this issue may focus upon a number of aspects and staff provides below some questions to help frame the Commission's discussion. (Of course, these are only suggested discussion points and the Commission may approach this topic from any direction that it may choose.) It is also noted that although the issue under discussion is primarily the placement of walls and fences, the issue arose because of the Code requirements relative to such walls/fences and parking uses. As such, certain issues relating to parking are questioned below and may need to be addressed within the Commission guidance.

1. What is the intent of the code? (What is the purpose or point of the requirement to install walls or fences between similar or differing land uses?)

2. Should definitions be created for vehicle parking, stored vehicles, displayed vehicles, vehicles housing, vehicle tow yard, etc.?
3. Should wall/fencing standards be modified if physical separation of differing land uses is possible or existing?
4. Does the wall standard apply if the commercial/industrial/institutional use is separated from the residential zone by an alley, public right-of-way or public easement?
5. Should the standards be changed to allow the Commission to impose or modify the wall requirement?
6. Should such wall requirements be automatically required (a specific code requirement as now identified) or should it be under a case by case review by the Commission?
7. What about if the abutting residential property is vacant now, or if the abutting residential property is very large, should a wall/fence still be required?
8. What about if the abutting residential property is vacant, is very large, but has an approved, but not yet recorded map, or is capable of being subdivided, should a wall/fence still be required?
9. What standard should apply if the commercial or industrial use proposed is on a large lot and the parking and or storage associated with that use will be located many or hundreds of feet away from the adjoining residential use; what wall/fence standards should apply?
10. Alternatively, should a wall/fence be automatically required except when a specific request to waive the requirement is submitted for Commission or Council approval when specific circumstances, identified within the Code, are present (such as physical separation between uses, large size of lots, non-conforming uses of property {a commercial use on a residentially zoned property}, unusual property configuration {such as an unusually deep, narrow lot-resulting in an excessively long wall}, physical characteristics of one or the other property that physically separates the possible uses {such as an easement, knoll, wash, etc.}, or a recorded written agreement between properties about waiving the wall requirement?
11. Should a definition be created to explain parking facilities verse parking lots?
12. What, if anything, is the fundamental difference between parking for customers and employees verse temporary and/or short-term storage of vehicles?
13. Is there a difference between vehicle display areas (such as vehicles for sale) and short- or long-term storage (such as an impound lot), or even parking?
14. Is a vehicle available for rental “parked”, “stored” or “on display” at the site?
15. Does the presence of a vehicle placed at a business lead the City to define the physical space where it is located as a parking lot, a parking facility, a storage space, a display space or something else?
16. Regarding a vehicle placed upon a property where that vehicle is for sale, is that vehicle

- “on display” and not subject to parking requirements (using vehicle display requirements instead), or is it stored and not subject to parking standards at all?
17. If vehicle display requirements can be used, should these individual display areas be sized for individual vehicles (such as being the size of a typical parking space) or should a larger area of the site be identified where any number of vehicles may be displayed?
 18. When will the installation of a wall or fence be required; when the commercial/industrial/institutional use is within a specified distance of the residential zone?

Proposed Language

Language is not proposed at this time as staff is awaiting input from the Commission with regard to the above questions. With the provision of Commission guidance, and if requested by the Commission through the initiation of a Code Amendment, staff shall provide draft language for the Commission to discuss and accept or provide further guidance, returning at a later date with subsequently further modified proposed language.

CEQA Environmental Review

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposal has been reviewed for its potential to impact the environment. It has been determined that the proposal, consisting of a Study Session to discuss the language of the Development Code cannot by itself have a direct impact upon the environment. As such, under the provisions of Government Code Section 15306 “Information Collection” a Study Session regarding the narrative of the Development Code is exempt from further CEQA review.

General Plan/Zoning Designations Citywide

Any Development Code Amendment analyzed and considered for adoption by the City Council may affect specific zones or the community as a whole. With guidance from the Commission, staff shall provide the details of the specific zones that shall be affected by the proposed change and thus have the opportunity to address this standard section of Commission Public Hearing reports. At that time, staff shall provide the Commission with Goals and Policies from the General Plan to illustrate how the proposed Amendment does or does not conform to those Goals and Policies.

Site Characteristics

Similar to General Plan and Zoning designations noted above, once the Commission provides guidance to staff and draft language is proposed (if a Code Amendment is pursued), staff shall provide the Commission with appropriate and applicable site characteristics.

Findings

Pursuant to Section 19.22.050 “Findings” of the City’s Development Code, both the Planning Commission and City Council are required to make four (4) “Findings” of approval in a positive manner prior to recommending or adopting a Development Code Amendment. Following receipt of guidance from the Commission and the drafting of proposed language for any future Code Amendment, staff shall provide the Commission with comments to address each Finding for consideration and possible adoption, forwarding its recommendation to the City Council. The required Findings as listed within the Code are provided below for reference:

- A. The Zone Change or Development Code Amendment is consistent with the intent of the goals and policies of the General Plan; and
- B. The Zone Change or Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses; and

- C. The Zone Change or Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and
- D. The Zone Change or Development Code Amendment ensures protection of the general health, safety, and welfare of the community.

Approval Process

Under the provision of Development Code Section 19.22.040 “Approval Authority and Notification” (for Development Code Amendments) the Planning Commission is the Review Authority for any changes to the Development Code, with the City Council being the Approval Authority. With the Commission’s guidance on the above questions, and a possible future Code Amendment to modify existing standards and terms, any such changes to the Code would involve a Public Hearing at which time the Commission may adopt a Resolution forwarding a recommendation to the Council for its final action.

FISCAL IMPACT

No fiscal impact, positive or negative, is expected at this time with the proposed Study Session relative to the definitions, standards and criteria established with regard to parking and walls/fences within the community of Twentynine Palms.