

**MINUTES OF THE  
REGULAR MEETING OF THE  
TOWN OF YUCCA VALLEY PLANNING COMMISSION  
7:00 P.M., TUESDAY, FEBRUARY 9, 2010**

**CALL TO ORDER:** There being no appointed Chairman of the Planning Commission and in the absence of the vice-chairman, Deputy Town Manager Shane Stueckle called the meeting to order at 7:00 pm.

**ROLL CALL:** Commissioners present were Tim Humphreville, Dennis McKoy, Dawn Rowe, and Margo Sturges. Vice-chairman Robert Lombardo requested and received an excusal due to family matters.

Ms. Sturges moved that Commissioner McKoy be elected temporary chairman to conduct this meeting. The motion was seconded by Ms. Rowe and passed unanimously by voice vote of the Commissioners present.

**PLEDGE OF ALLEGIANCE:** Mr. McKoy led the pledge of allegiance.

**APPROVAL OF AGENDA:** Ms. Sturges moved that the Agenda be approved, which motion was seconded by Ms. Rowe and passed unanimously by voice vote of the Commissioners present.

**PUBLIC COMMENTS:**

Lou Poist of Yucca Valley, representing the Rancho Mesa Homeowners Association, stated they have reviewed the proposed plans for the Burrtec project on Skyline Ranch Rd. They have concerns with a facility across the street from their residences. They are aware that Burrtec indicated they want to meet with the Rancho Mesa HOA to work out some of the indifferences. Burrtec has been at the current location since before city-hood and they don't know if an Environmental Impact Report was done at that time. Their property values may be impacted by a trash facility being right next to them. In the lower desert block walls are used to block this type of thing from residential properties. The HOA wants to open lines of communication with the Planning Commission so if it has to go there, which they are not in favor of at all and they want to work with the Commission and Burrtec.

**PUBLIC HEARINGS:**

- 1. DEVELOPMENT CODE AMENDMENT DCA 01-10 - EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15061(B) (3) DISCUSSION OF TEMPORARY SPECIAL EVENTS (ORD. 100), ADDITIONAL USES (ORD. 110) AND DEFINITIONS (ORD. 112)**

A request from staff that the Planning Commission recommends approval of DCA 01-10 modifying Temporary Special Event Permits, removing all references to Farmers Markets in the Additional Uses Section, adding a definition for Certified Farmers Markets into the Definitions Section and forwards a recommendation for approval to the Town Council.

With reference to the complete printed staff report contained in the meeting packet, copies of which are preserved in the meeting and project files, Associate Planner Robert Kirschmann presented the project discussion to the meeting.

At the Planning Commission meeting of January 26, 2010 The Planning Commission approved the recommended changes to Ordinance 100, Temporary Special Event Permit, Ordinance 110 Additional Uses and Ordinance 112 Definitions with minor changes. The changes included allowing 12 special events per year, multiple events to be combined under one permit as demonstrated on P14 of the meeting packet in the table and item (c) as follows: Multiple Temporary Special Events may be combined into a single permit, however Certified Farmers Markets shall comply with the California Code Of Regulations, section 1392 and obtain all required permits from the County of San Bernardino.

That language was included after review of the CA Code of Regulations on Direct Marketing and a staff conversation with the Supervising Agricultural Standards Officer for San Bernardino County because Certified Farmers Markets, in order to be certified, are not allowed to have items sold at the event that is not grown by the farmer. Farmers Markets can be doubled up with other events if they are separated by a driveway, traffic barricades or cones, etc. The events can be adjacent but not intermingled.

Staff recommends that the Planning Commission recommends approval of DCA 01-10 modifying Temporary Special Event Permits, removing all references to Farmers Markets in the Additional Uses Section, adding a definition for Certified Farmers Markets into the Definitions Section and forwards a recommendation for approval to the Town Council.

Ms. Rowe thanked staff for making the previously discussed changes.

Ms. Sturges requested and received confirmation that Planning Division is used throughout for consistency.

Mr. McKoy requested clarification on Church Tent Revivals. Deputy Town Manager Shane Stueckle replied each individual church can have one revival per year for a period of 10 days.

Mr. McKoy opened the public hearing. There being no one wishing to comment on the item, Mr. McKoy closed the public hearing.

Ms. Rowe moved that the Planning Commission recommends approval of DCA 01-10 modifying Temporary Special Event Permits, removing all references to Farmers Markets in the Additional Uses Section, and adding a definition for Certified Farmers Markets into the Definitions Section and forwards a recommendation for approval to the Town Council. The motion was seconded by Ms. Sturges and passed unanimously by voice vote of the Commissioners present.

**2. DEVELOPMENT CODE AMENDMENT DCA 01-09 - EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15061(B) (3) DEVELOPMENT STANDARDS TO BE APPLIED TO DEVELOPMENT PROJECTS PROPOSING PHYSICAL EXPANSION OF EXISTING DEVELOPED COMMERCIAL AND INDUSTRIAL PROPERTIES – DRAFT ORDINANCE**

A request from staff that the Planning Commission recommends approval of proposed DCA 01-09 establishing development standards and thresholds and forwards a recommendation for approval to the Town Council.

With reference to the complete printed staff report contained in the meeting packet, copies of which

are preserved in the meeting and project files, Associate Planner Robert Kirschmann presented the project discussion to the meeting. The Commission has discussed the draft at several meetings and at the January 12<sup>th</sup> meeting requested that staff make changes which have been included in the Draft this evening.

The primary changes were to the Land Use Compliance Review (LUCR) section to address Commissioner concerns and direction to add a 3 year provision from the time of the final inspection to prohibit piecemeal additions to circumvent the requirements for a Conditional Use or other major permit. It also states: Should an additional expansion be necessary during the three (3) years following final inspection the project will require a Conditional Use Permit or Site Plan Review, consistent with the use classification charts for the appropriate land use district.

Staff requests discussion and direction from the Commission regarding utility undergrounding. The current ordinance states that when a building or structure is enlarged, altered or expanded which results in the installation of new service or distribution lines, or when the existing electrical capacity to the building or structure requires the existing service line and/or distribution line to be replaced or relocated, the service and or distribution line shall be placed underground.

In previous discussions of LUCR the Commission expressed the concern that businesses doing a certain percent of expansion should not be subject to the requirements of the utility undergrounding ordinance. If the Commission does not feel that projects subject to a Land Use Compliance Review should be required to install utilities underground under any circumstances, Ordinance 169, Utility Undergrounding, may need to come before the Planning Commission for revision. The Planning Commission should have a discussion and provide direction to Staff on this issue.

Staff recommends that the Planning Commission recommends approval of DCA 01-09 establishing Land Use Design Procedures and forwards a recommendation to the Town Council.

Deputy Town Manager Shane Stueckle stated staff understood the Commission's intention to be to find areas or relief or easing of the process with this code amendment. It would be staff's understanding that the Commission does not desire these types of expansion projects be required to underground main utility distribution lines. The question staff has for the Commission this evening is if an expansion of a Commercial or Industrial property includes installation of new electrical service, new services lines, panel, risers or service drop etc., could that be a new overhead service or should it go underground. This question is specifically for the new service drop, separating it from the main distribution lines.

Ms. Rowe asked how many projects like that would come through the process and require a new service line stating none of us probably wants to see any more overhead but we also don't want to stick it to the little guy during the LUCR process. Mr. Kirschmann replied not that many for Commercial and he could not think of any that would have had to go underground in recent history.

Mr. McKoy requested and received confirmation that the discussion is strictly about commercial projects.

Mr. Humphreville commented he doesn't see a problem with undergrounding just the service line but if you have overhead lines going over a building undergrounding those does not make sense. It makes no sense to tear up a parking lot for small additions to underground lines that go over a building. He believes the Underground Utility ordinance should come back to the Commission for revision.

Mr. McKoy stated for new applications undergrounding should be required if we're ever going to change.

Ms. Sturges asked if staff is questioning when Edison requires them to put in a brand new line should those be underground.

Mr. Stueckle replied correct and he believes staff has heard from the Commission that the desire is to make the process as easy as possible for these small expansions. The language in the draft is generic for utility undergrounding being exempt. Staff recommends that Section 83.030305 (e) (5) be amended to read "Utility undergrounding of distribution and service lines".

Ms. Rowe asked if the Commission could request that the Underground ordinance be brought to it. Mr. Stueckle replied the way the process works is if the Commission adopts the draft tonight and forwards it to the Town Council and they adopt it, the newest ordinance on that regulatory issue is the rule that is in place. Even without bringing back the Utility Undergrounding ordinance, this rule takes affect for these types of projects. As a clean up item, probably with the Development Code update, the Utility Undergrounding code would be amended.

Ms. Rowe identified typos on P194 that need correction. She also questioned the 3 year time period between LUCR applications asking if that would apply when there was a change in ownership or tenancy. In that circumstance, could staff allow a new LUCR within the 3 years?

Mr. Stueckle replied not if the Commission has adopted it by code. Specifically this is in reference to Commercial and Industrial, Residential projects are separate. As currently written, based on the language provided by the Commission at the last meeting, there could be no additional permits within 3 years from the date of final inspection of the last addition. Staff has no discretion.

Ms. Rowe commented her request at the last meeting was to dissuade people from waiting 6 months and trying to circumvent avoid a CUP or SPR. Is it possible to add language to cover a change of ownership?

Mr. Stueckle replied it reads 3 years and "should an additional expansion be necessary during the 3 years following final inspection, the project will require a CUP or SPR consistent with the use classification charts." If the Commission would like to see different language there, staff would suggest adding "Should an additional expansion be necessary during the 3 years following final inspection, the applicant or project owner shall present to the Planning Commission those circumstances, facts and issues for special consideration of additional construction within that 3 year time period." If the Commission desires that then staff will work on cleaning up that language before it goes to Town Council.

Ms. Rowe stated she likes that. As long as that is the only change it would be undesirable to bring it back to the Commission.

Ms. Sturges questioned on P132 why "Dedication of easements" had been separated from "Improvements" to drainage facilities. She noted that the dedication of easements was not consistent throughout the chapters. She also asked why language was added requiring the approval by the Hi Desert Water District (HDWD) to (7) Landscaping. Does that mean if it is 400 square feet they don't have to get it approved?

Mr. Kirschmann replied that is correct. In the current HDWD ordinance is they have less than 500 square feet they are not required to submit a plan for review.

Ms. Sturges commented not even for 495 square feet. She noted on P133 "Pursuant to CEQA" had been added after "Public Hearing" to some but not all items in Table 2 and asked why.

Mr. Kirschmann replied it was not added to expansion of an existing structure below the thresholds because that would be a LUCR and at those square footages they should qualify for an exemption from CEQA and they are reviewed at a staff level. Expansion of an existing structure that exceeds the thresholds will be subject to either a CUP or SPR and would be evaluated under CEQA to determine the required process.

Ms. Sturges noted that all of them are pursuant to CEQA but just wondered why we had to have a public hearing and why it wasn't included on all of them.

Mr. Stueckle commented this language came from the SPR ordinance which is a little different from the CUP. For example, for new structures including accessory structures and uses, if someone files a CUP application for a new commercial structure, State law mandates that a public hearing be held. There is no discretion. Expansion of an existing structure in conformance with Table 1 moves the project to a LUCR. In that case there is small if any chance of significant on-site improvement changes taking place. When the purpose is streamlining we don't want to take those types of projects to public hearing. If for some circumstance there is a CEQA issue which has to be addressed by State law the minimum review for Mitigated Negative Declarations and Negative Declarations is 20 days and notice has to be given for that action. The far right column in table 2 could state "Public Hearing, if applicable".

Ms. Sturges commented the Expansion was on the same line in the January 12<sup>th</sup> draft, and now has been separated in this Table. Mr. Kirschmann requested a page number for reference. Ms. Sturges replied she would have to get back to him on that.

Ms. Sturges stated additional language has been added on P133 to (b) and wondered why staff felt the need to expand that language compared to the first draft in "Referral to Next Higher Review Authority." Mr. Kirschmann requested more specifics regarding the added language. Ms. Sturges replied: "in the case of the Planning Commission; the Commission may refer an application for a Conditional Use Permit to the Town Council based upon the following criteria:" Did staff feel that the original language was not specific enough?

Mr. McKoy stated this looks like a check and balance more than anything else.

Mr. Kirschmann replied the only difference between this language and the language in the current ordinance is that "Director" has been replaced with "Planning Division."

Ms. Sturges referenced P134 under Control of Hours of Operation asking why language was removed for "other maintenance of buildings and grounds" and number 13 prescribing was changed to establishing.

Mr. Kirschmann replied the only changes in this area were clean-up to make sure the SPR section matched the CUP section.

Mr. Stueckle commented that hours of maintenance and grounds and hours of operation were one line item and they are two separate issues that don't belong together so they were separated.

Ms. Sturges asked if we are not also regulating the maintenance of buildings and grounds and the hours. Mr. Kirschmann replied number 11 is Control of hours of operation and number 13 is

establishing standards for maintenance of buildings and grounds. Both issues are addressed.

Ms. Sturges stated in her mind it means hours of operation, the 7/11 is open from 9 in the morning to 9 at night. Standards for maintenance of buildings and grounds would control when the leaf blowers come out.

Mr. Stueckle stated this language, under the authority the State confers on the Planning Commission, if adopted will allow the Commission to establish hours of operation for a specific land use. For example if a commercial land use abuts a residential land use, that is a sensitive noise receptor and you want to establish hours of operation for that commercial business. This gives you the authority as conferred by the State to establish a limit on the house of operation of that business. This ordinance would also give you the authority to establish conditions of approval that the same business can't store their cargo containers and supplies along the property line. In the past the Commission has rarely regulated business hours but it is important to have the authority. You will want to have those tools in the future when the need arises.

Ms. Sturges requested that the word prescribed be replaced with established in all instances for consistency. She also requested that the Section headings appear on the same page as the section language. She requested an explanation of why equestrian was added on P136 (j)

Mr. Kirschmann replied it is in the original ordinance but was left out of one of the drafts.

Ms. Sturges requested that all notices sent to the applicant and/or property owners pursuant to this ordinance be mailed Certified not just first class so we would have proof of mailing because of the reputation our post office has. Mr. Stueckle replied going to this type of hearing we would probably mail it certified anyway so that change would be appropriate.

Ms. Sturges asked why the performance guarantee was removed from P138 and why we're not protecting the Town of Yucca Valley by asking them to post a completion bond or whatever needs to be done for major improvements.

Mr. Stueckle replied staff's thinking was that the Town should follow State law which implements the requirements for bonds for subdivisions with public improvements under the Subdivision Map Act. Communities do not typically require the posting of performance sureties where there is no subdivision activity. The bonds only protect the public infrastructure improvements.

Ms. Sturges stated she would like to take that extra step for the Town on the large projects. It was removed in two places.

Mr. McKoy asked where the line would be drawn between large and small. That should be defined.

Ms. Sturges asked if we could leave it up to staff to determine.

Mr. McKoy replied it can't be subjective, we have to set the parameters.

Mr. Stueckle commented that language specifically refers back to the subdivision code and would typically be applied if a SPR had a subdivision attached, which is possible.

Mr. Kirschmann stated P134 (d) "Providing Required Improvements" states "Whenever a Conditional Use Permit is approved or modified subject to the condition that specified public improvements shall be installed by the applicant to meet Town standards and be accepted by the

Town, the applicant may be required to execute an agreement approved by the Town to make such improvements prior to the time/construction events specified in the Conditional Use Permit.

Ms. Sturges replied she read that and it doesn't say anything about posting of any surety. She would like to see it spelled out because it was in there before in the January 12<sup>th</sup> draft. She doesn't want to burn the Mom and Pops but also make sure Yucca Valley has some protection.

Mr. McKoy stated we have done that in the past under conditions.

Mr. Stueckle replied only for subdivisions. That language was recommended for removal because the Town had never required and it is not typical to require posting of sureties when subdivisions are not involved. It is at the discretion of the Commission if you would like to include that in your recommendation. That language in the existing code was totally discretionary, it was not mandatory language.

Ms. Sturges agreed it was discretionary but she would like to see it included.

Ms. Rowe stated she would defer to staff's expertise in this area.

Mr. Stueckle commented the language from the current ordinance could be included in this draft at the discretion of the Commission.

Consensus of the Commission was to add the discretionary language from the current ordinance.

Ms. Sturges referred to P147 item (b) requesting confirmation that the section numbers quoted are correct. Staff confirmed that all the section numbers are correct.

Ms. Sturges questioned the addition of dedication of easements for drainage facilities asking if that will be in all cases. Mr. Stueckle replied correct. Staff believed the goal is not to require any of the expensive construction but if we do have a project where one of the regional facilities is located at a minimum we should be asking for the dedication of easements.

Ms. Sturges asked why the improvements are not required.

Ms. Rowe commented this is the LUCR not a CUP or SPR. We were trying to simplify this process for small expansions. Letter (e) on P147 says it shall not be required for expansions which fall within the thresholds of the LUCR. This whole Article starts on P144 and is the Land Use Compliance Review not a Conditional Use Permit.

Ms. Sturges commented that is where we had the most changes.

Ms. Rowe commented the intent of this review was to simplify the LUCR for a small addition so it should reflect the most changes. Staff replied that is correct.

Ms. Sturges referred to P148, extension of time, stating the requirement of requesting an extension 60 days prior to expiration was removed asking why. Mr. Stueckle replied that was language from prior codes. Typically people walk in the door one day before expiration. Staff discussed the purpose of the 60 days asking if this was a bureaucratic roadblock or is it necessary language. We encourage permit holders to come in before the expiration date but under State law the permit does not expire until a hearing is held and the permit is revoked. Staff saw the 60 days as unnecessary language that had no benefit.

Ms. Sturges questioned the deletion of the Special Use Permit and was informed it was just renumbered, as were others according to the list on P129. Some of the Articles were just retyped. (See Lists below)

**Current Ordinance**

**Articles:**

1. Conditional Use Permit
2. Planned Development
3. Land Use Compliance Review
4. Planning Use Permit
5. Certificate of Land Use Compliance
6. Special Use Permit
7. Temporary use Permit
8. Sign Location Plan
9. Variance Review
10. Flood Hazard Development Review
11. Preconstruction Inspection
13. Specific Plans

**12. Site Plan Review**

**Proposed Draft Ordinance**

**Articles:**

1. Conditional Use Permit
2. Planned Developments
3. Land Use Compliance Review
4. Special Use Permit
5. Temporary Use Permit
6. Variance Review
7. Site Plan Review
8. Specific Plans

Ms. Sturges asked why Flood Hazard was removed. Mr. Kirschmann replied we have an ordinance in place which covers that.

Ms. Sturges noted the Certified mail change needed to be made on P148 as well.

Ms. Rowe stated she has marked all the changes for consistency on a Draft ordinance which she will provide to staff.

Ms. Sturges asked why the language “to the extent consistent with law” was removed?

Mr. Stueckle replied it was unnecessary language because everything the Commission does must be consistent with the State Planning laws. It goes without saying. Council direction on any revision to the codes has been to keep it simple in laymen’s terms and as brief as possible. When staff reviewed that language the decision was made to take it out because we are mandated to make findings and take all actions consistent with State Planning laws.

Mr. McKoy opened the public hearing, there being no one wishing to comment on the item he closed the public hearing.

Ms. Rowe moved that the Planning Commission recommends approval of DCA 01-09 establishing Land Use Design Procedures, as amended, and forwards a recommendation for approval to the Town Council. The motion was seconded by Mr. Humphreville and passed unanimously by voice vote of the Commissioner present.

**DEPARTMENT REPORTS:**

**3. COMMERCIAL DESIGN GUIDELINES. RESOLUTION PC 10-01 - EXEMPT FROM CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15061(B) (3)**

A request from staff that the Planning Commission discusses revision of the Color Section language of the Commercial Design Guidelines to allow for an expanded range of color selection, adopts Resolution PC-10-01 and forwards the Resolution to the Town Council for ratification.

With reference to the complete printed staff report contained in the meeting packet, copies of which are preserved in the meeting and project files, Associate Planner Robert Kirschmann presented the project discussion to the meeting.

At the January 12, 2010 Commission meeting a random color pallet was presented. The Commission requested that staff include that pallet as part of the Commercial Design Guidelines as an attachment. It will also be available at the Community Development counter as part of the Guidelines. Modifications were requested by the Commission to the Guidelines under Colors which language shall read: Colors should be chosen from the attached color pallets. Primary, bright and fluorescent colors or any variation should be avoided. Sharp contrast in colors should also be avoided. Color changes shall be reviewed and approved by the Planning Division. If the proposed colors are bright, bold, unusual or sharply contrast with surrounding businesses, desert or other colors on the building the Planning Division may forward the request to the Planning Commission for approval. Number 5 in that same section was changed from "Choose colors which compliments..." to read "Colors should compliment..." The final modification was to change "Town staff" to read "the Planning Division or Planning Commission".

Ms. Sturges stated the Commission requested confirmation that this does not interfere with the Old Town Specific Plan (OTSP). Mr. Kirschmann replied the OTSP is a stand alone document which contains its own regulations and requirements for colors so is not affected by this action.

Mr. Humphreville stated his understanding is that if someone disagrees with a staff decision it comes to the Commission at no charge. Mr. Kirschmann agreed.

Ms. Rowe stated it looks great.

Mr. McKoy agreed stating it is exactly what was previously discussed by the Commission.

Mr. McKoy opened the discussion to public comments. There being no one wishing to comment, he closed the discussion to public comments.

Ms. Sturges moved that the Planning Commission recommends approval of DCA 01-09 establishing Land Use Design Procedures and forwards a recommendation for approval to the Town Council. The motion was seconded by Ms. Rowe and passed unanimously by voice vote of the Commissioners present.

#### **4. CONSENT AGENDA:**

Ms. Rowe moved that the Consent Agenda including the minutes as submitted of the regular Planning Commission meeting held on January 26, 2010 be approved. The motion was seconded by Ms. Sturges and passed unanimously by voice vote of the Commissioners present.

#### **STAFF REPORTS AND COMMENTS:**

**FUTURE AGENDA ITEMS:**

Mr. Kirschmann stated the next Commission meeting agenda will include an extension of time for a mini-storage project on SR247, an extension of time for another commercial project, the General Plan annual report and the revision to the Native Plant ordinance.

**COMMISSIONER REPORTS AND REQUESTS:**

Commissioner Sturges requested the revised language in the Native Plant ordinance "Purpose and Intent" be made available to the Commissioners as soon as possible. Mr. Stueckle replied staff would be happy to circulate that to the Commissioners by the end of this week.

Commissioner Humphreville commented staff did a great job trying to streamline this process.

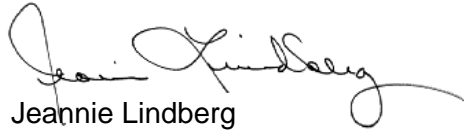
Commissioner McKoy agreed stating they always do.

**ANNOUNCEMENTS:**

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, February 23, 2010 at 7:00 p.m.

**ADJOURN:** The meeting adjourned at 8:25 pm.

Respectfully submitted by,



Jeannie Lindberg  
Administrative Assistant III