

**TOWN OF YUCCA VALLEY
SPECIAL TOWN COUNCIL MEETING MINUTES
JANUARY 26, 2009**

The special meeting of the Town Council was called to order at 6:00 p.m. by Mayor Luckino with Council Members Herbel, Huntington, Mayes, Neeb and Mayor Luckino present.

The Pledge of Allegiance was led by Mayor Luckino.

PUBLIC HEARING

1. Development Code Amendment, DCA 01-08, Ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, REPEALING AND REENACTING CHAPTER 6 OF DIVISION 7, OF TITLE 8, OF THE COUNTY OF SAN BERNARDINO DEVELOPMENT CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY (PARKING REGULATIONS)

Associate Planner Kirschmann reported this item is as the result of a variance request for Sonic Burger to allow breaks in the curbed landscaped median strip which abuts the drive-thru lane. By allowing breaks in the landscape median it will allow the restaurant to move customers through much more efficiently. The breaks also eliminate or substantially reduce the number of vehicles waiting in line to only order a drink. The carhop will be able to run the drink to the car and that vehicle can exit the line instead of sitting and idling while the order in front of them is being processed. In addition to being more efficient for the business it will help reduce emissions from vehicles sitting and idling.

Mayor Luckino opened the Public Hearing, and as no one appeared to speak, he closed the Hearing.

Council Member Huntington commented that the recommended change is generated for a Conditional Use Permit for Sonic Burger which has no indoor seating area, and questioned how the parking is calculated. Associate Planner Kirschmann advised the parking is based on outdoor seating, noting that it does not deal with the rest of the building, however no public will be inside the building, it is strictly for service and food preparation. Council Member Huntington commented that it seems like a small amount of parking and not adequate to accommodate the restaurant.

Council Member Neeb expressed concern regarding the parking. Associate Planner Kirschmann commented the parking ordinance is specific as to how many parking spaces are required per seating area and does not differentiate whether that seating is indoor or outdoor.

Town Clerk Anderson read the title of the Ordinance.

Council Member Mayes moved to approve Development Code Amendment, DCA-01-08, modifying the language of Section 87.0610, required off-street parking for restaurants to: “The drive-thru lane shall be protected and/or defined by a curbed landscape strip not less than 3 ft. wide or the driveway shall be segregated so as to not interfere with pedestrian or vehicle traffic and parking as approved by the Planning Commission.” and introduce the ordinance. Council Member Neeb seconded. Motion carried 5-0 on a roll call vote.

AYES: Council Member Herbel, Huntington, Mayes, Neeb and Mayor Luckino.
NOES: None
ABSTAIN: None
ABSENT: None

2. Appeal 04-08 of Site Plan Review SPR 04-08

Council Member Huntington advised that he heard this item as a member of Planning Commission and excused himself from the dais.

Associate Planner Kirschmann reported the subject property currently contains an oil change business in the building closest to the highway, and an auto parts store in the other structure. The applicant proposes an addition of 3,300 square feet for a storage area for the auto parts store. In addition, the applicant proposes a third structure to the rear of the auto parts store consisting of a 6,540 square foot building. The applicant intends to rent the space to multiple tenants. The Planning commission approved the item on October 7, 2008 with conditions of approval. On November 24, 2008 the applicant filed an appeal requesting that condition of approval No. 28 and 29, which requires that the applicant pay in lieu fees for the future improvement of Highway 62 to its ultimate half width, be deleted by the Town Council

Mayor Luckino opened the Public Hearing

Bob Doremus, Property Owner, commented he does not think it is fair to the property owner who has already made improvements along Highway 62. It would be one thing if he was being asked to make the improvements and he could put the cost of the improvements into his construction loan, but he does not have \$57,000 to pay in lieu fees up front for improvements that may not happen in his lifetime. He questioned why the development can't be considered off of Pima Trail, noting he is not doing improvements on the SR 62 side except to spruce up the landscaping. He is the landlord for CARQUEST and they agreed to renew the

lease if improvements were made. He put a business plan together but the in lieu fee has created a hardship. This is a key moment in the project and if the appeal isn't successful, he will have to notify CARQUEST they will have to wait until the Town decides that he doesn't have to pay the fee.

There being no one else wishing to speak, Mayor Luckino closed the Public Hearing.

Council Member Herbel questioned if there was a traffic impact analysis done. Deputy Town Manager Stueckle advised there was not. Council Member Herbel commented that it is not known if the improvements will have an impact on Pima Trail or SR 62. Deputy Town Manager Stueckle advised that the standard approach, when there is a through lot, is to require that both frontages be improved.

Council Member Neeb commented that the applicant brought up a point about financing, and questioned if all these fees come through in a package where they can be wrapped up in financing. Deputy Town Manager Stueckle advised that the Town does not become involved in private construction loans or how to put together financing. In terms of these conditions, the "in lieu of fee" is required to be paid, and is typically required prior to final inspection and certificate of occupancy.

Council Member Mayes commented that the Town needs to make sure there is a process in place so that the applicant knows of the fees beforehand. Associate Planner Kirschmann advised that there is a Development Review Committee meeting before projects are sent to the Planning Commission to inform the applicant of issues. Council Member Mayes commented that he understands the Town's role, and the need for widening, but he has always had a difficult time charging an applicant for the median island. For discussion he would be willing to give up the median island. Even though this project is an addition of over 150% and doesn't fit with his views, he does not feel that projects adding 25% or less should be required to go through the conditional use permit process. There are circumstances where the Town shouldn't have to make small businesses go through all this. He would be willing to cut the bill in half and charge for widening, but not the median island.

Mayor Luckino commented that looking at all our projects, when you look at smaller projects we put an undue burden on smaller developers. It doesn't make sense that they should have to pay a higher cost than a big developer who can save by doing the work themselves. We need to come up with a mechanism to finance widening. The fees that are collected can't possibly pay for the project. This is a policy issue and we need mechanisms of accomplishing our goal, and

not penalizing smaller developers.

Council Member Neeb commented the Town has a terrible infrastructure deficit, and he feels badly for putting it on the small developer, but when do we step up to the plate to deal with the huge deficit issues. Most development isn't going to be that big on the highway, but we are going to have smaller developments like this.

He questioned if we are going to give them all a free pass. Is the Town going to take responsibility to come up with part of that money or are we going to say that because we want sales tax we are going to stand back and let everyone build.

Deputy Town Manager Stueckle advised that the Town Council, over the last 4-5 years, has been making significant strides to address the infrastructure deficits, noting the Town is the first in the basin to impose impact fees, and assessment districts. He noted it is not an easy issue to deal with and there have been a number of changes over the years in California that has affected how public agencies can construct public improvements. Changes have left many cities in a position where there are very few options and they are requiring development projects to construct improvements and/or pay development impact fees. The lack of infrastructure improvements required by the County prior to incorporation has exacerbated the issue.. Alternatives are very limited. Council Member Neeb commented the Planning Commission was unanimous , and if we widen the highways but fail to put in safety mechanisms there will be an issue.

Council Member Mayes move to delete COA #29 for the median island. Motion died for lack of second.

Council Member Herbel questioned who we have collected in lieu fees from, and how many small businesses have we collected from. Deputy Town Manager Stueckle advised that the Town does not have a tracking system for in lieu fees separate from development projects. Council Member Herbel questioned if staff can recall anyone we have charged less or exempted except for Art Miller.

Deputy Town Manager Stueckle advised that in terms of giving an exemption there have been none.

Mayor Luckino commented that we don't know when we are going to start construction and we are asking for a cash payment when we don't have all the financing in place. He questioned, because it is a cash flow issue, if we can record a mortgage on the property and collect payments over 30 years. Is there payment arrangement we can record on the property to be able to collect these fees. Contract Planner Criste stated that since the applicant is going to be creating an assessment district, it may be possible to add the in lieu fees to the district. Deputy Town Manager Stueckle advised that is not possible because the assessment district is for Pima Trail and not the highway.

Mayor Luckino questioned if the Town can put a lien on the property. Deputy Town Manager Stueckle advised there are a lot of financing issues, and questioned what mechanisms could be used to secure payment.

Council Member Neeb commented he is amenable to some kind of creative financing. It would be negligent of the Town to fail to address the issue. Council Member Herbel questioned if there is a way to require the money when we actually widen the highway. Deputy Town Manager Stueckle questioned how the Town would secure and guarantee that payment is made.

Contract Planner Criste commented that she believes this property is in the Redevelopment Agency area and noted that the Town or RDA could enter into a development agreement that would spell out payments of some kind.

Upon further discussion regarding possible financing mechanisms, Council Member Neeb moved to table item in order to let staff look into the issues. Deputy Town Manager Stueckle advised the item could potentially be brought back to the second meeting in February. Council Member Mayes seconded. Motion carried 4-0-1-0 on a voice vote. Council Member Huntington was absent.

3. General Plan Amendment 01-08, Rezone 01-08, Tentative Parcel Map 18967, Environmental Assessment 04-08, Resolution and Ordinance.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ADOPTING GENERAL PLAN AMENDMENT GPA-01-08 AMENDING THE GENERAL PLAN LAND USE MAP FROM HILLSIDE RESERVE, SPECIFIC PLAN (RHR-SP) TO RURAL LIVING, 2.5 ACRE MINIMUM (RL-2.5)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING THE OFFICIAL ZONING DISTRICT MAP FOR LANDS LOCATED AT THE SOUTHERN TERMINUS OF VALLEY VISTA DRIVE, AND IDENTIFIED AS ASSESSOR PARCEL NUMBER 587-252-12, FROM HILLSIDE RESERVE SPECIFIC PLAN (RHR SP) TO RURAL LIVING 2.5 (RL-2.5) ACRE MINIMUM

Contract Planner Criste advised the request is a General Plan Amendment and Rezone to change the land use and zoning designation from Residential Hillside Reserve, Specific Plan to Rural Living, 2.5 acre minimum for a 17.1 acre parcel, and a Tentative Parcel Map to subdivide the parcel into four lots for single family homes. She advised correspondence was received regarding the no build zone, and explained that it is a recorded instrument, not a policy. It is made a part of the legal record for that lot and nothing can be built upon the area, including

ancillary facilities. The Planning Commission believes the General Plan does support a slight increase in density and the Tentative Parcel Map would impose a recorded no build area on the parcel. The division is into four lots, and only the flat portion of the property adjacent to Valley Vista will be built upon, with the rest remaining as permanent open space. The project was reviewed under CEQA and there were no comments received. The Planning Commission recommended approval of the item.

Mayor Luckino opened the Public Hearing.

Margo Sturges, Yucca Valley, read a letter in opposition to the request, citing flooding issues and no clear definition of the “no build zone”.

David Fick, Joshua Tree, spoke in opposition to up zoning the property.

There being no one else wishing to speak, Mayor Luckino closed the Hearing.

Council Member Herbel expressed concern regarding the comments made by Mrs. Sturges, and questioned if there is an ordinance or definition of what “no build” is. Deputy Town Manager Stueckle advised that the use of the word “zone” has been misinterpreted, noting that “no build area” or “no disturbance area” is a better term. It is not a zoning district; the term is being used to define the area under the Tentative Parcel Map as a “no disturbance zone”. The project has specific conditions of approval recommended by staff and the Planning Commission that creates a nexus between the hillside area and that portion of the property. When looked at individually, some of the property has steep slopes and some does not. Contract Planner Criste advised that the term is used through the subdivision map act. It will show on the map, and when recorded, will state that the area is a “no build zone”, not a zoning district. It was volunteered by the applicant when he introduced the project. He does not want to build on the hillside and wants to restrict it as open space. Council Member Herbel expressed concern regarding preservation of the hillsides, and read the portion of the General Plan regarding Hillside Reserve. She stated the staff report says the properties to the south, west and east are also Hillside Reserve, and questioned if the Town is setting a precedent for someone to buy the surrounding property and ask for a rezone if this property is up zoned. Contract Planner Criste advised that the lands surrounding this property are entirely hillside property and do not have any flat areas like this property does. Council Member Herbel asked what the Commissions concerns were regarding flooding. Contract Planner Criste stated that there are hillsides behind the flatlands of this property, and in one particular drainage area it was clear that there was flooding coming down the hillsides. She noted that the lots will be required to include retention basins so that the water does not exceed the amount of water that leaves the property now. Deputy Town

Manager Stueckle added that the requirement on this project is actually increment plus 10%. Council Member Herbel commented that this property was zoned Hillside Reserve in the General Plan and she is not sure why the Council would want to up zone any Hillside Reserve since it is to preserve the Town’s rural character.

Council Member Huntington commented when the General Plan was developed the lines didn’t take into account all the nuances of each zoning area and there will always be a lot of tweaking. Properties will be down zoned or up zoned based on topography. In this case you have a property that has a large flat area at the bottom and the land use line should have been back farther to protect the hillside. The hillsides will remain intact, because it will be very difficult to develop the property to the south. Overall this property warrants a RL- 2.5 to accommodate those 4 lots, and the conditions of approval will do nothing but improve that area. It is a benefit to the community to approve the zoning.

Council Member Herbel questioned if the “no build zone” means that the property owners can have horses and corrals on their land. Contract Planner Criste stated that the Council can add a condition that requires recordation of the zone on this property as a whole, and it can be done by a separate instrument..

Council Member Neeb commented there is confusion regarding the “no build zone” and questioned if the property owner can run a horse corral up the side of the mountain. Contract Planner Criste commented the area south and east of the no build line would be permanent open space.

Mayor Luckino agreed with the recordation of the instrument.

Contract Planner Criste requested that the Negative Declaration, General Plan Amendment and Rezoning be acted on separately from the Tentative Parcel Map.

Town Clerk Anderson read the title of the ordinance.

Council Member Mayes moved to approve the Mitigated Negative Declaration; Adopt Resolution No. 09-04, and approve General Plan Amendment 01-08, based on the findings in the staff report; and introduce the Ordinance, approving Rezone 01-08, based on the findings in the staff report. Council Member Neeb seconded. Motion carried 5-0 on a roll call vote.

- AYES:** Council Member Herbel, Huntington, Mayes, Neeb and Mayor Luckino.
- NOES:** None
- ABSTAIN:** None
- ABSENT:** None

Planner Criste advised that the amended condition on the Tentative Map will read “The applicant shall record the No Build Zone on the existing parcel (APN 587-252-12), as illustrated on the Tentative Parcel Map, within 90 days of approval of the Tentative Parcel Map. Proof of recordation shall be provided in writing to the Town”.

Council Member Mayes moved to Approve Tentative Parcel Map 18967, based on the findings in the staff report and the conditions of approval as amended. Council Member Herbel seconded. Motion carried 5-0 on a roll call vote.

AYES: Council Member Herbel, Huntington, Mayes, Neeb and Mayor Luckino.
NOES: None
ABSTAIN: None
ABSENT: None

ADJOURN

There being no further business, the meeting was adjourned at 7:10 p.m.

Respectfully submitted

Jamie Anderson, MMC
Town Clerk