

ORDINANCE NO. 91

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 8, DIVISION 3, CHAPTER 3, OF THE COUNTY OF SAN BERNARDINO DEVELOPMENT CODE AS ADOPTED BY THE TOWN OF YUCCA VALLEY BY ADDING A NEW ARTICLE 12 ESTABLISHING A SITE PLAN REVIEW PERMIT PROCESS

The Town Council of the Town of Yucca Valley, California, does ordain as follows:

SECTION 1. Code Amended

Title 8, Division 3, Chapter 3, of the San Bernardino County Development Code as adopted by the Town of Yucca Valley is amended by adding thereto a new Article 12 to read as follows:

“Article 12. Site Plan Review Permit.

Sections:

83.031205	Purpose and General Plan Consistency
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83.031205 Purpose and General Plan Consistency.

The Site Plan Review procedure is intended to protect and enhance the visual appeal, environmental, economic stability and property values of the Town’s residential, commercial, and industrial areas through the application of the provisions of this Code and the General Plan. The Site Plan Review procedure allows the Town to evaluate proposed development and determine its consistency with the General Plan and applicable Town ordinances. Review of such uses is necessary and specific conditions of approval may be necessary to ensure that the uses are developed, operated, and located properly with respect to their effects on surrounding properties and so that any and all potentially adverse impacts are mitigated, and to ensure the general health, safety and welfare of the community through implementation of the General Plan through this Chapter. The Site Plan Review process is intended to implement the General Plan by creating a built environment that is consistent and

compatible with the desert environment and to preserve the Town of Yucca Valley’s unique character.

83.031210 Applicability.

- (a) General. A Site Plan Permit shall be required for all applicable uses and structures permitted by this Code and listed in the use charts for the various zoning districts, including the following:
 - (1) New structures, including accessory structures and uses;
 - (2) Expansion or conversion of an existing use or structure;
 - (3) Construction or conversion of a structure (s) to allow a mixed-use development;
 - (4) The enlargement of an existing structure for which a Site Plan Permit has not been issued and exceeds the standards as established in Section 83.030305, Land Use Compliance Review.

83.031215 Authority.

- (a) Level of Review:

<u>APPLICABILITY</u>	<u>LEVEL OF REVIEW</u>	<u>NOTICE REQUIREMENTS</u>
New structures, including accessory structures and uses;	Planning Commission	Pursuant to CEQA
Expansion of an existing structure in conformance with Section 83.030305;	Land Use Compliance Review (Staff Level)	None
Expansion of an existing structure which exceeds the standards as established in Section 83.030305;	Planning Commission	Pursuant to CEQA
Conversion of an existing structure	Director	None
Construction or conversion of a structure(s) to allow a mixed-use development.	Planning Commission	Pursuant to CEQA

Where the authority for Site Plan Review is not specified, the Director shall determine the appropriate review authority.

- (b) Referral to Next Higher Review Authority. The Director may refer an application for a Site

Plan Permit to the Planning Commission or in the case of the Planning Commission, the Commission may refer an application for a Site Plan Permit to the Town Council based upon the following criteria:

- (1) Impact upon public services and facilities greater than typical for the type of project proposed;
 - (2) Impact upon surrounding properties greater than typical for the type of project proposed;
 - (3) Floor or site square footage greater than typically found in the type of project;
 - (4) Intensity of use greater than typically found in the type of projects;
 - (5) Operating Characteristics not typical of the type of project proposed.
 - (6) Other factors including but not limited to public opposition to development of the project.
 - (7) The need for Planning Commission and or Town Council interpretation of the General Plan and/or Development Code as related to the project.
- (c) General Authority. The Director and/or Commission is authorized to approve, approve with conditions, or deny applications for Site Plan Permits in compliance with the procedures established in this Section. In approving an application for a Site Plan Permit, the Director and/or Commission may impose conditions to ensure compliance with this Code. Conditions may include, but shall not be limited to:
- (1) Requirements for special structure setbacks;
 - (2) Open spaces;
 - (3) Buffers;
 - (4) Fences;
 - (5) Walls and screening;
 - (6) Control of the installation and maintenance of landscaping and erosion control measures;
 - (7) Control of street improvements, other public infrastructure and related dedications;
 - (8) Control of vehicular ingress and egress;
 - (9) Control of traffic circulation;

- (10) Control of signs;
 - (11) Control of hours or other maintenance of buildings and grounds;
 - (12) Control of potential nuisances;
 - (13) Prescribing standards for maintenance of buildings and grounds;
 - (14) Prescription of development schedules and development standards;
 - (15) Control of periodic review;
 - (16) Control of architectural and/or building design
 - (17) Any other conditions as may be deemed necessary to ensure the compatibility with surrounding uses, to preserve the public health, safety and welfare, and to enable the Director and/or Commission to make the findings required by Section 83.031240 of this Chapter, *Required Findings*.
- (d) Performance Guarantee. In order to ensure implementation of conditions attached to a Site Plan Permit, the applicant may be required to furnish a surety in a form of an instrument of credit, money or surety bond in the amount fixed by the authority granting or modifying the Site Plan Permit.
- (e) Providing Required Improvements. Whenever a Site Plan Permit is approved or modified subject to the condition that specified improvements shall be installed by the applicant, where such improvements shall be installed by the applicant and approved and accepted by the Town, the applicant shall execute an agreement approved by the Director to make such improvements prior to the time events specified in the Site Plan Permit.
- (f) Conditions Declared Void. Whenever any final judgement of a court of competent jurisdiction declares one or more of the conditions of a site plan permit to be void or ineffective, or enjoins or otherwise prohibits the enforcement or operation of one or more of such conditions, said action shall be cause for revocation or modification of the Site Plan permit as stated in Section 83.031260 of this Code, *Revocation of Permits*.
- (g) Violation of Condition. Whenever a Site Plan Permit is approved or modified by the Director and/or Commission subject to a condition or conditions, use of the Site Plan Permit approval of without complying with such conditions shall constitute a violation of this Code. Conditions which are not observed or which are violated may be enforced as provided in Section 81.0210 of this Title or said Site Plan Permit may be revoked or modified under Section 83.031260 of this Chapter, *Suspension/Revocation*.

83.031220 Application Submittal Requirements.

Applications for Site Plan Permits shall be filed with the Planning Section on a form prescribed by

the Director and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Director in order for the Director and/or Commission to make the required findings.

83.031225 Application Fee.

The application shall be accompanied by a fee established by resolution of the Council to cover the cost of handling and processing the application as prescribed in this Chapter.

83.031230 Investigation and Report.

The Director shall cause to be made an analysis of each application for a Site Plan Review. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Director and/or Commission. The analysis shall examine the application's consistency with the content, intent and purpose of the General Plan, this Code, and any other applicable Town standards or policies. To insure effective implementation of General Plan policies and the provisions of this Code, applications shall be reviewed by the Development Review Committee prior to consideration by the Director and/or Commission. As a result of the analysis, the Director shall cause a report to be completed which shall include a listing of proposed conditions necessary to guarantee the public health, safety and welfare, should the proposed project be approved.

83.031235 Action by Review Authority.

Director and/or Planning Commission Action. Pursuant to Section 83.031215, the Director and/or Planning Commission shall review each application for a Site Plan Review. The applicant shall be provided with a copy of the Planning Section's report regarding the application prior to the Director's and/or Commission's consideration. The Director and/or Commission shall approve, deny, or conditionally approve applications for Site Plan Review. The Director's and/or Commission's decision shall be final unless appealed as provided in Section 83.010605 of this Code, *Appeals*.

83.031240 Required Findings.

Before approving a Site Plan Permit, the Director and/or Commission shall find that the circumstances prescribed below apply;

- (a) That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;
- (b) That the location, size, and design of the proposed structures and improvements are compatible with the site's natural landform, surrounding sites, structures and streetscapes;
- (c) That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of the development between adjacent land uses;

- (d) That the building site and architectural design is accomplished in an energy efficient manner;
- (e) That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures.
- (f) That the development proposal does not unnecessarily block views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
- (g) That the amount, location, and design of open space and landscaping conforms to the requirements of the Code, enhances the visual appeal and is compatible with the design and functions of the structure (s), site and surrounding area;
- (h) That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;
- (i) That there are public facilities, services, and utilities available at the appropriate levels or that these shall be installed at the appropriate time to serve the project as they are needed;
- (j) That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists;
- (k) That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets;
- (l) That traffic improvements and or mitigation measures are provided in a manner adequate to maintain a Level of Service C or better on arterial roads, where applicable, and are consistent with the Circulation Element of the Town General Plan.
- (m) That there will not be significant harmful effects upon environmental quality and natural resources;
- (n) That there are no other relevant negative impacts of the proposed use that cannot be mitigated;
- (o) That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity or be contrary to the adopted General Plan;
- (p) That the proposed development will comply with each of the applicable provisions of this code, and applicable Town policies; except approved variances.

83.031245 Modification of Pre-Existing Site Plan Permits.

To the extent consistent with law, an approved Site Plan Permit may be modified upon the request of the current permit holder, or by the Commission. Minor Revisions may be approved by the Director if it is determined that the changes would not affect the findings prescribed in Section 83.031240 of this Code, *Required Findings*, and that the subject of the proposed changes were not items of public controversy during the review and approval of the original permit.

83.031250 Lapse of Permits/Permit Expiration.

- (a) Expiration. A Site Plan Permit approval shall expire within two (2) years of the date the permit is issued unless it is otherwise conditioned or unless prior to the expiration of the two (2) years:
 - (1) A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Site Plan Permit application. In addition, if after construction is commenced, work is discontinued for a period of two (2) years, then the Site Plan Permit shall become null and void; or
 - (2) A certificate of occupancy is issued for the structure which was the subject of the Site Plan Permit application.
- (b) Phase Projects. Projects may be built in phases if so approved by the Commission. If a project is built in pre-approved phases, each subsequent phase shall have two (2) years from the previous phase's date of construction commencement to the next phase's date of construction commencement unless another phasing schedule is approved, or the Site Plan Permit shall be followed or the Permit shall become subject to revocation, unless extended by mutual agreement by the Director and the applicant.

83.031255 Extension of Time.

The original review authority (Commission or Director) may, upon an application being filed at least sixty (60) days prior to expiration and for good cause, grant a time extension not to exceed two (2) years. Applications shall be made on a form to be provided by the Planning Section. Upon granting of an extension, the Director shall ensure that the previously approved project is consistent with all current Development Code provisions and that the findings for approval of a Site Plan Permit in compliance with Section 83.031240 of this Chapter, *Required Findings*, can be made.

83.031260 Revocation/Modification.

- (a) Town Council Action. The Town Council shall hold a hearing as provided by State law to revoke or modify a Site Plan Permit granted in compliance with the provisions of this Chapter. Ten (10) days prior to the hearing notice shall be delivered in writing to the applicant and/or property owner for which such Site Plan Permit was granted. Notice shall be deemed delivered two (2) days after being mailed, first class postage paid, to the owner as shown on the current tax rolls of the County of San Bernardino and the project applicant.
- (b) Required Findings. To the extent consistent with law, a Site Plan Permit may be revoked or

modified by the Town Council if any of the following findings can be made:

- (1) That the circumstances have changed so that one or more of the findings contained in Section 83.031240 of this Chapter can no longer be made;
- (2) That the Site Plan Review was obtained by misrepresentation or fraud;
- (3) That the use for which the Site Plan Review was granted has ceased or was suspended for six (6) or more consecutive calendar months;
- (4) That one (1) or more of the conditions of the Site Plan Review have not been met;
- (5) That the use is in violation of any statute, ordinance, law or regulation; or
- (6) That the activity permitted by the Site Plan Review is detrimental to the public health, safety or welfare, or constitutes a nuisance.

83.031265 Performance Guarantee.

The Permit may be conditioned to require the posting of performance surety as provided for in Division 3, Chapter 4 of this Code, *Division of Land Procedures*, for the faithful performance of any or all conditions of approval.

83.031270 Development of Property Before Final Decision.

A building permit shall not be issued for, and no person shall commence to use, any structure until that structure and its accompanying development has received a Site Plan Review in compliance with the provisions of this Chapter. In addition, no permit shall be issued for any use or structure requiring a Site Plan Review unless and until the applicable use or structure has been approved and become final.”

SECTION 2. NOTICE OF ADOPTION. Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this ____ day of _____, 1998.

MAYOR

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

APPROVED AS TO CONTENT:

Town Manager

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February 19, 1998 TC