PLANNING COMMISSION STAFF REPORT

To: Honorable Chairman & Commissioners
From: Diane Olsen, Planning Technician
Date: July 31, 2014
For Commission Meeting: August 12, 2014

Subject: Extension of Time for Conditional Use Permit, CUP 09-07 Lupine Plaza

Prior Commission Review: The Planning Commission reviewed and approved this project at their meeting of May 06, 2008. On May 25, 2010, the Planning Commission approved a four year extension for the project, expiring on May 06, 2014.

Recommendation: That the Planning Commission approves the Extension of Time request for 3 years, expiring May 06, 2017.

Executive Summary: The original approval was for the construction of two office buildings, one of 6,460 square feet and one of 8,520 square feet on a two acre parcel. The project is located on the north side of Lupine Dr, approximately 95 feet north of Yucca Trail and is identified as APN's 595-172-01 thru 07. The property has a zoning designation of Office Commercial (C-O) and a General Plan Land Use designation of Mixed Use (MU). Pursuant to Development Code Section 9.63.110 staff is recommending a three year extension.

Order of Procedure:

Request Staff Report
Request Public Comment
Commission Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question (Roll Call Vote)

Discussion: The original project was approved by the Planning Commission at their meeting of May 06, 2008. At that meeting the project was approved for two years, expiring on May 06, 2010. On May 25, 2010, the Planning Commission approved a four year extension for the project, expiring on May 06, 2014. Because the original approval was for two years, an additional year was approved with the first extension request. Development Code Section 9.63.110, Extension of Time allows for a three year extension of the project.

The Conditions of Approval have been updated to conform to the current format, but no additional infrastructure improvements are being required. Condition P2 has been modified to reflect the changes made to the Utility Undergrounding Ordinance and the language has been removed that required the undergrounding of utilities on the north property line.

____ Department Report	____ Ordinance Action	____ Resolution Action	____ Public Hearing
Consent	Minute Action	____ Receive and File	____ Study Session

Therefore, staff is recommending that the extension request be approved and the new expiration date will be May 06, 2017.

Alternatives: None recommended

Fiscal impact: N/A

Attachments:

1. Applicant's request
2. Planning Commission Staff Report and Minutes from May 06, 2008
3. Planning Commission minutes from May 25, 2010
4. Project Site Plan, Elevations and Aerial Photo
5. Development Code Section 9.63.110

TOWN OF YUCCA VALLEY
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT

This approval is for Conditional Use Permit, CUP 09-07 Lupine Plaza, an approval to allow the development of two single story office building, one of 6,460 square feet and one of 8,520 square feet, on a two acre parcel. The project is located on the north side of Lupine Drive, north of Yucca Trail. APN: 595-172-04 thru 07

GENERAL CONDITIONS

G1. The applicant shall agree to defend, indemnify and hold harmless the Town of Yucca Valley, its agents, officers and employees, at his sole expense, against any action, claim or proceedings brought against the Town or its agents, officers or employees, to attack, set aside, void, or annul this approval or because of the issuance of such approval, or in the alternative, to relinquish such approval, in compliance with the Town of Yucca Valley Development Code. The applicant shall reimburse the Town, its agents, officers, or employees for any court costs, and attorney's fees which the Town, its agents, officers or employees may be required by a court to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve applicant of his obligations under this condition. The Town shall promptly notify the applicant of any claim, action or proceedings arising from the Town's approval of this project, and the Town shall cooperate in the defense.

G2. This Conditional Use Permit shall become null and void if construction has not commenced within three (3) years of the Town of Yucca Valley date of approval. Extensions of time may be granted by the Planning Commission, in conformance with the Town of Yucca Valley Development Code. The applicant is responsible for the initiation of an extension request.

Approval Date: August 12, 2014
Expiration Date: May 06, 2017

G3. The applicant shall ascertain and comply with requirements of all State, County, Town and local agencies as are applicable to the project. These include, but are not limited to, County of San Bernardino Environmental Health Services, County of San Bernardino Transportation/Flood Control, County of San Bernardino Fire Department, Yucca Valley Building and Safety, Caltrans, High Desert Water District, Airport Land Use Commission, California Regional Water Quality Control Board, Colorado River Region, the Federal Emergency Management Agency, MDAQMD-Mojave Desert Air Quality Management District, Community Development, Engineering, and all other Town Departments.

G4. All conditions are continuing conditions. Failure of the applicant to comply with any or all of said conditions at any time may result in the revocation of any construction permits for the project.

G5. No on-site or off-site work shall commence without obtaining the appropriate permits for the work required by the Town and the appropriate utilities. The approved permits shall be readily available on the job site for inspection by Town personnel.

G6. The applicant shall pay all fees charged by the Town as required for application processing, plan checking, construction and/or inspections. The fee amounts shall be those which are applicable and in effect at the time work is undertaken and accomplished. Fees for entitlement prior to construction permits are based on estimated costs for similar projects. Additional fees may be incurred, depending upon the specific project. If additional fees for services are incurred, they must be paid prior to any further processing, consideration, or approval(s).

G7. All improvements shall be inspected by the Town as appropriate. Any work completed without proper inspection may be subject to removal and replacement under proper inspection.

G8. All refuse shall be removed from the premises in conformance with Yucca Valley Town Code 33.083.

G9. During construction, the Applicant shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town to eliminate any site related dirt and debris within the roadways. During business activities, the applicant shall keep the public right-of-way adjacent to the property in a clean and sanitary condition.

G10. No staging of construction equipment or parking of worker's vehicles shall be allowed within the public right-of-way of streets or other public improvements that have been accepted into the Town's maintained system

G11. All existing street and property monuments within or abutting this project site shall be preserved consistent with AB 1414. If during construction of onsite or offsite improvements monuments are damaged or destroyed, the applicant shall retain a qualified licensed land surveyor or civil engineer to reset those monuments per Town Standards and file the necessary information with the County Recorder's office as required by law (AB 1414).

G12. Each phase of the project shall function independently of all other phases. All improvements shall be completed for each phase to ensure that each phase functions separate from the remainder of the project, and shall include, but not be limited to, street improvements, drainage and retention/detention facilities, water delivery systems, fire suppressions systems, post construction erosion and

sediment control systems, all utilities necessary to serve the project, and those improvements deemed necessary by the Town. All phasing plans shall be illustrated on rough and precise grading plans, erosion and sediment control plans, all plan required for obtaining native plant plan approval, and on any other plan as deemed necessary by the Town.

G13 At least one sign per fronting street shall be posted on the site and must contain the following information: the grading permit number, the project name, map number (if appropriate), the authorized dust controller phone number(s), the Town phone number and the Mojave Desert Air Quality Management District (MDAQMD) phone number. The signs must be obtained and installed by the developer using the sample format to be provided. The signs must be present at the pre-construction meeting or the grading permit will not be issued. The developer must keep the contact name and phone number active and current at all times. Failure of the contact system may be considered grounds for revocation of the permit.

G14. At the time of permit issuance the applicant shall be responsible for the payment of fees associated with electronic file storage of documents

G15. The Applicant shall reimburse the Town for the Town's costs incurred in monitoring the developer's compliance with the Conditions of Approval including, but not limited to, inspections and review of developer's operations and activities for compliance with all applicable dust and noise operations. This condition of approval is supplemental and in addition to normal building permit and public improvement permits that may be required pursuant to the Yucca Valley Municipal Code.

G16. Prior to the issuance of a Certificate of Occupancy for any habitable structure in each phase of the project, all improvements shall be constructed, final inspection performed, punch-list items completed, and all installations approved by the appropriate agency.

G17. After final plan check by the Town, original mylars (4 mil) shall be submitted to the Town for signature by the Town Engineer. All original mylars submitted for Town Engineer's signature must contain the design engineer's wet signature and stamp and all other required signatures.

G18. For any import or export of material, the Project proponent shall provide the following for review by the Town Engineer: the route of travel, number of trucks, daily schedule, and length of time required. No hauling of material shall begin without the Town Engineer's approval.

G19. Prior to any work being performed within the public right-of-way, the Project proponent shall provide the name, address, telephone, facsimile number, and e-mail address of the Contractor to perform the work. A description of the location,

purpose, method of construction, and surface and subsurface area of the proposed work shall be supplied. A plat showing the proposed location and dimensions of the excavation and the facilities to be installed, maintained, or repaired in connection with the excavation, shall be provided and such other details as may be required by the Town Engineer.

G20. The site shall be developed in accordance with the approved plans on file with the Town of Yucca Valley, in accordance with the Conditions of Approval approved for the project, and in accordance with the General Plan and Development Code. Prior to any use of the project site or business activity being commenced thereon, all Conditions of Approval shall be completed to the satisfaction of the Town.

G21. Prior to issuances of building permits, all site plans, grading plans, landscape and irrigation plans, drainage/flood control plans, public improvement plans, erosion and sediment control plans, shall be coordinated for consistency with this approval.

G22. The Town may allow phased constructed of the project provided that the improvements necessary to adequately serve or mitigate the impacts of each phase of development are completed prior to the issuance of a Certificate of Occupancy for that phase.

G23. The applicant or the applicant's successor-in-interest shall be responsible for maintaining any undeveloped portion of the site in a manner that provides for the control of weeds, erosion and dust.

G24. If archaeological, paleontological or historical resources are uncovered during excavation or construction activities at the project site, work in the affected area will cease immediately and a qualified person with appropriate expertise shall be consulted by the applicant regarding mitigation measures to preserve or record the find. Recommendations by the consultant shall be implemented as deemed necessary and feasible by the Town before work commences in the affected area. If human remains are discovered, work in the affected area shall cease immediately and the County Coroner shall be notified. If it is determined that the remains might be those of a Native American, the California Native American Heritage Commission shall be notified and appropriate measures provided by State law shall be implemented.

G25. All street dedications shall be irrevocably offered to the public and shall continue in force until the Town accepts or abandons such offers. All dedications shall be free of all encumbrances as approved by the Town Engineer.

G26. The street design and circulation pattern of this project shall be coordinated with adjoining developments.

G27. The final conditions of approval issued by the approving authority shall be photographically or electronically placed on bond (blue/black line) paper and included in the Grading and Street Improvement plan sets on 24" x 36" bond (blue/ black line) paper and submitted with the plans for plan check. These conditions of approval shall become part of these plan sets and the approved plans shall be available in the field and during construction. Plan check fees shall not be charged for sheets containing the Conditions of Approval.

G28. Prior to issuance of a certificate of occupancy, the applicant shall submit all improvement plans on compact disks in digital format acceptable to the Town Engineer.

G29. Violations of any condition or restriction or prohibition set forth in these conditions, including all approved construction plans, public and private, for this project and subject to the Town's overall project approval and these conditions of approval, shall subject the owner, applicant, developer or contractor(s) to the remedies as noted in the Municipal Code. In addition, the Town Engineer or Building Official may suspend all construction related activities for violation of any condition, restriction or prohibition set forth in these conditions until such time as it has been determined that all operations and activities are in conformance with these conditions.

PLANNING CONDITIONS

P1. The development of the property shall be in conformance with FEMA and the Town's Floodplain Management Ordinance requirements. Adequate provision shall be made to intercept and conduct the existing tributary drainage flows around or through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed. Protection shall be provided by constructing adequate drainage facilities, including, but not limited to modifying existing facilities or by securing a drainage easement.

P2. Utility undergrounding shall be in accordance with Ordinance 233, or as amended.

P3. All exterior lighting shall comply with the Ordinance 90, Outdoor Lighting and shall be illustrated on all construction plans.

P4. **All mitigation measures identified in the Initial Study and included in the Mitigation Monitoring Program are included as conditions of approval by this reference.**

P5. A final plan identifying all protected plants as well as a Native Plant Relocation Plan with any area proposed to be disturbed in accordance with the Town's Native Plant Protection Ordinance shall be submitted for approval prior to issuance of any construction permits, including grading and utility installations, for the project. **The applicant shall make every effort to relocate the native plants back onsite. The adoption of native plants shall be consistent with**

the Native Plant Ordinance in effect at the time of grading permits. The final native plant plan shall be reviewed and approved by the Planning Commission prior to the issuance of any construction permits for the project site.

P6. Prior to the issuance of any permits the applicant/owner shall provide three (3) copies of a landscape and irrigation plan showing the size, type and location of all plant and irrigation systems. Said irrigation system shall incorporate a permanent automatic irrigation system, and all landscaping and irrigation systems shall be maintained in good condition at all times. All ground within proposed landscape planter areas shall be provided with approved ground cover. This shall include but not be limited to drought-tolerant plant materials or colored desert rock. The Landscape Plan shall be approved by Hi-Desert Water District. The Landscape and Irrigation review requires a separate application and a current Town fee of $685. **The final Landscape and Irrigation Plan shall be reviewed and approved by the Planning Commission prior to the issuance of any permits.**

P7. Unless additional parking can be provided, medical and dental office uses are prohibited in the project.

ENGINEERING CONDITIONS

E1. **Construct curb and gutter, twenty (20) feet from centerline on Lupine Drive per Town of Yucca Valley Standard Drawing 102. Any existing pavement on Lupine Drive shall be removed and replaced to centerline. Construct a six (6) foot wide sidewalk along Lupine Drive per Town of Yucca Valley standard 220**

Construct alley improvements per Town of Yucca Valley Standard Drawing 231 along the rear of the project. Alley improvements shall include new A.C. pavement and ribbon gutter.

E2. **Install one street light(s) at the project entrance on Lupine Drive per Yucca Valley Standard Drawing No. 302**

E3. If any buildings are proposed to cross existing property lines, a Lot Line Adjustment or Parcel Merger shall be submitted to the Town for approval.

E4. If the lots are not merged, cross lot easements for access and parking shall be recorded on each lot.

E5. Prior to the issuance of a Grading Permit, a Grading Plan prepared by a recognized professional Civil Engineer shall be submitted, and the corresponding fees shall be paid to the Town prior to any grading activity. The rough and precise Grading Plans shall be reviewed and approved by the Town Engineer prior to issuance of grading permits. The applicant/owner is responsible for all

fees incurred by the Town. Prior to Certificate of Occupancy, the Engineer-of-Record shall survey and certify that the site grading was completed in substantial conformance with the approved Grading Plans.

E6. **All manufactured slopes over the height of 3 feet shall be irrigated and landscaped immediately following grading. Prior to issuance of a grading permit for any portion of the site, the applicant/owner shall submit, for review and approval, an irrigation and landscaping plan or other appropriate treatment for all slope areas.**

E7. The rough grading shall be certified by a civil engineer that it was completed in substantial conformance with the approved rough Grading Plans. Prior to the issuance of any building permits the project Engineer shall certify the finished lot was graded in conformance to approved plans.

E8. The Engineer-of-Record or other civil engineer shall survey and provide pad certification for the site prior to issuance of building permits.

E9. Prior to the issuance of Permits, the Applicant shall comply with the recommendations of a site-specific Geotechnical and Soils Report which shall be reviewed and subject to Town approval. The report shall include recommendations for any onsite and offsite grading, foundations, compaction, structures, drainage, and existence of fault zones. It shall include recommendations for retention basins, slope stability and erosion control. The soils engineering report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures, when necessary and opinions and recommendation covering the adequacy of sites for development. The report shall identify if the site contains any areas susceptible to landslide risk, liquefaction potential and/or subsidence potential on the project site. The report shall identify and include the location of major geologic features, topography and drainage, distribution and general nature of rock and soils, a reasonable evaluation and prediction of the performance of any proposed cut or fill in relation to geological conditions, and the capability of soils and substrata to support structures.

E10. All property corners, lots, easements, street centerlines, and curve radii shall be monumented and horizontally tied to identified control points. A copy of the monumentation survey and centerline tie notes shall be provided to the Town Engineer prior to certificate of occupancy.

E11. All recommended approved measures identified in the Soils Report shall be incorporated into the project design.

E12. A retention basin **and/or underground storage system** shall be constructed and functional prior to the issuance of certificate of occupancy for the any structure within the project. The applicant shall provide on-site retention for the incrementally larger flows caused by development of the site, pursuant to a final drainage report, subject to review and approval by the Town Engineer.

E13. A **final** drainage report, prepared by a registered Civil Engineer, shall be prepared to determine the flows exiting the site under current undeveloped conditions compared to the incrementally larger flows due to the development of the site. The retention basin size will be determined, per County of San Bernardino Flood Control methodology, such that incremental 100 year 24-hour storm volume, plus 10%, is retained on-site.

E14. In lieu of an engineered drainage report the retention basin and/or underground storage system shall be sized to retain 550 cubic feet of storm water for each 1,000 square feet, and increments thereof, of impervious area proposed (structures, driveways, parking areas, etc.).

E15. Basin(s) shall be designed to fully dissipate storm waters within a 48 hour period.

E16. A pre-filtration system shall be installed for all drain lines connected to any underground storage system to collect sediment and hydrocarbon material prior to discharge into the underground system.

E17 Any grading or drainage onto private off-site or adjacent property shall require a written permission to grade and/or a permission to drain letter from the affected property owner. **The final grading plan shall show how the drainage in the alley will drain. If required by the Town Engineer a drainage acceptance letter from the downstream property shall be obtained.**

E18. In conjunction with precise grading certification, all retention/detention basins shall be certified by a civil engineer that they have been constructed in substantial conformance with the approved plans, and shall be certified that they have the required capacity and will operate in accordance with the approved drainage reports for the project.

E19. In conjunction with precise grading certification, all drainage systems, both public and private, shall be certified by a civil engineer that they have been constructed in substantial conformance with the approved plans, and shall be certified that they have the required capacity and will operate in accordance with the approved drainage reports for the project.

E20. No on-site or off-site work shall commence without obtaining the appropriate permits for the work involved from the Town. The approved permits shall be readily available on the job-site for inspection by the Town personnel.

E21. All grading activities shall minimize dust through compliance with MDAQMD Rules 402 and 403.

E22. Prior to issuance of a grading permit, a Fugitive Dust and Erosion and Sediment Control Plan shall be submitted and approved by the Town Engineer. The Fugitive Dust and Erosion and Sediment Control Plan shall illustrate all proposed phasing for construction of the project.

E23. Prior to any work being performed in the public right-of-way, fees shall be paid and an encroachment permit shall be obtained from the Town. The Applicant

shall apply for an encroachment permit from the Town for utility trenching, utility connection, or any other encroachment onto public right-of-way. The Applicant shall be responsible for the associated costs and arrangements with each public utility.

E24. The Applicant shall restore any pavement cuts required for installation or extension of utilities for his project within the public right-of-way. In all cases where cuts are allowed, the Applicant is required to patch the cuts to Town standards and the approval of the Town Engineer. The patching shall include a grinding of the pavement to a width 4 feet beyond the edge of the trench on each side, or as determined by the Town Engineer, and replacement with a full-depth asphalt concrete recommended by the Soils Engineer.

E25. In conjunction with the rough grading plan submittal, street plans prepared by a recognized professional Civil Engineer shall be submitted, and the corresponding fees shall be paid to the Town. The final street plans shall be reviewed and approved by the Town Engineer. The applicant/owner is responsible for all fees incurred by the Town. Prior to Certificate of Occupancy, the Engineer-of-Record shall survey and certify that the site grading was completed in substantial conformance with the approved Grading Plans.

E26. The Applicant shall accept and properly dispose of all off-site drainage flowing onto or through the site.

E27. The Applicant shall construct the replacement of any identified damaged curb and gutter, sidewalk, drive approach, asphalt concrete pavement, meter boxes, and other infrastructure that may be required by the Town Engineer or another Agency.

E28. The Applicant shall install all water and sewer systems required to serve the project. All water and sewer systems shall be completed to the requirements of the Hi Desert Water District.

E29. The Applicant shall observe the construction of this project to make certain that no damage or potential for damage occurs to adjacent roadway, existing improvements, adjacent property and other infrastructure. The applicant shall be responsible for the repair of any damage occurring to offsite infrastructure and/or property damage as determined by the Town Engineer. The applicant shall repair any such damage prior to certificate of occupancy. If the damage is such that it is not repairable within a reasonable amount of time as determined by the Town Engineer, the applicant may petition the Town Engineer for additional conditions that may allow him the time, amount of surety and other requirements to repair the damage.

E30. The Applicant shall be responsible for all improvements constructed within the public right-of-way as required by the conditions of approval. The improvements shall be constructed to the standards and requirements as determined and approved by the Town Engineer. Any improvements not considered to be to the required standards shall be replaced by the Applicant. The Applicant shall be required to maintain and repair those improvements prior to and after acceptance

by the Town Council for the length of time required by the applicable conditions, standards and ordinances.

E31. All improvement plans shall be designed by a Registered Civil Engineer.

E32. Any area which remains undeveloped for a period of more than 30 days shall be stabilized using either chemical stabilizers or a desert wildflower mix hydroseed on the affected portion of the site.

E33. Prior to the issuance of any grading permit to disturb, expose or stockpile an aggregate of more than one acre of land, an erosion and sediment control plan for the project shall be submitted to and approved by the Town Engineer.

E34. The Applicant shall be responsible for inspection, modification, and proper maintenance of the erosion control devices as necessary. If the Applicant fails or refuses to properly maintain the erosion control devices, the Town official may cause emergency maintenance work to be done in order to protect potentially impacted property. The cost shall be deducted from the erosion control security posted for the project and shall include all costs related to the emergency maintenance including initial mobilization and performance of the work in addition to applicable administrative costs.

E35. If construction of erosion control systems outside of the project boundaries is necessary, permission to construct such systems from the owner of such off-site property is required. Plans for the off-site system shall be included with the on-site plans submitted to the Town Engineer. The plans for the off-site erosion control system shall include permission to grade and maintain the erosion control system from all affected property owners and letters of clearance and/or permits from all appropriate governmental entities.

E36. The Applicant shall submit a post construction erosion and sediment control plan which identifies and illustrates all necessary improvements to prevent the movement and or loss of any soil and sediment materials from the project site, including all individual lots for construction of habitable structures, all slope banks, and all areas of the site capable of resulting in the deposit of soils and sediments with the street or storm drain system. The post construction erosion and sediment improvements shall be certified by a civil engineer that they were constructed in substantial conformance with the approved plans and specifications.

E37. The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a DEHS permitted pumper. Soil testing for the subsurface disposal system shall meet the requirements of the Department of Environmental Health Services. Applicant shall submit a minimum of three (3) copies of percolation reports for the project site and an appropriate fee to DEHS for review and approval, a copy of the cover sheet with an approval stamp to Building and

Safety Division at the time of building permit application, and two (2) copies of the approved percolation report to the Building and Safety Division at the time of construction plan check. The location of the septic system shall be shown on the project grading plans. **It shall be the developer's responsibility to ensure that the location of the septic system and any proposed underground stormwater collection system meet applicable codes related to separation distances.**

E38. It is understood that the **Conditional Use Permit** plans correctly shows all existing easements, traveled ways and drainage courses, and that their omission may require the Conditional Use Permit plans to be resubmitted for further consideration.

E39. A construction area traffic control plan, including temporary and final permanent striping, shall be designed by a registered Civil Engineer or Traffic Engineer for review and approval by the Town Engineer for any street construction, closure, detour or other disruption to traffic circulation.

E40. All street closures must be approved by Town Council action.

E41. The following shall information regarding the presence of the Marine Corps Air Ground Combat Center (MGAGCC) shall be recorded on the title of each property contained within the boundaries of the Conditional Use Permit.

"The Marine Corps Air Ground Combat Center is located in the Morongo Basin. To prepare Marines for future conflicts, the MGAGCC carries out realistic training with military munitions, both day and night. As a result, Military aircraft fly over the area, and military vehicles drive on and off the base every day. This property is located directly under two aircraft flying routes and is located approximately 13 miles from the installation boundary. Consequently, you should expect to hear military training, see low-flying military aircraft, and encounter other experiences associated with the important mission of the MCAGCC".

E42. After final plan check by the Town, original mylars (4 mil) shall be submitted to the Town for signature by the Town Engineer. All original mylars submitted for the Town Engineer's signature must contain the design engineer's wet signature and stamp and all other required signatures.

E43. Improvement plans shall be based upon a centerline profile, extending beyond the project boundaries a minimum distance of 300 feet at a grade and alignment approved by the Town Engineer.

E44. In conjunction with the preparation of improvement plans, the Applicant shall cause to be formed or shall not protest the formation of a maintenance district(s)

for landscape, lighting, streets, drainage facilities or other infrastructure as required by the Town. The Applicant shall initiate the maintenance and benefit assessment district(s)formation by submitting a landowner petition and consent form (provided by the Town of Yucca Valley) and deposit necessary fees concurrent with application for street and grading plan review and approval and said maintenance and benefit assessment district(s) shall be established concurrent with the approval of the final map in the case of subdivision of land, or prior to issuance of any certificate of occupancy where there is no subdivision of land.

E45. The Applicant shall record a non-opposition agreement to the future formation of a public safety assessment district on the property.

BUILDING AND SAFETY CONDITIONS

B1. Prior to the delivery of combustible materials, the following items shall be accepted as complete:

a. The water system is functional from the source of water past the lots on which permits are being requested (i.e. All services are installed, valves are functional and accessible, etc.); and

b. Fire hydrants are accepted by the County Fire Department and the Hi Desert Water District. The fire hydrants associated with each phase shall be functioning prior to issuance of building permits.

B2. The applicant shall submit three sets of plans to the Building and Safety Dept. for plan check and approval.

B3. At the time of building plan check submittal, the applicant shall provide approval from the San Bernardino County Fire Dept.

B4. Prior to final inspection, all required improvements shall be constructed and finalized and accepted by the appropriate agency prior to the issuance of a Certificate of Occupancy.

B5. The applicant shall pay Development Impact Fees in place at the time of pre-final inspection.

FIRE CONDITIONS

F1. Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.

F2. Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. .

F3. The Applicant shall be responsible for all fees required by San Bernardino County Fire Department.

F4. The Development shall have a minimum of two points of vehicular access. These are for fire/emergency equipment access and evacuation routes.

F5. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.

F6. Not less than 2 complete sets of Building Plans shall be submitted to the Fire Department for review and approval.

F7. The applicant shall provide the Fire Department with a letter from the serving water company, certifying that the required water improvements have been made or that the existing fire hydrants and water system will meet distance and fire flow requirements. Fire flow water supply shall be in place prior to placing combustible materials on the job-site.

F8. An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The plans (minimum 1/8" scale) shall include hydraulic calculations and manufactures specification sheets. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.

I HEREBY CERTIFY THAT THE APPROVED CONDITIONS OF APPROVAL WILL BE SATISFIED PRIOR TO OR AT THE TIMEFRAMES SPECIFIED AS SHOWN ABOVE. I UNDERSTAND THAT FAILURE TO SATISFY ANY ONE OF THESE CONDITIONS WILL PROHIBIT THE ISSUANCE OF ANY PERMIT OR ANY FINAL MAP APPROVAL.

Applicant's Signature _____ Date _____

Larry Fluet
56540 Chipmunk Trail
Yucca Valley, CA 92284

April 9, 2014

Town of Yucca Valley
58928 Business Center Dr.
Yucca Valley, CA 92284

Attn: Planning Department

Project- Lupine Professional Center
Yucca Valley, CA 92284

RE: EXTENSION OF TIME FOR CUP 09-07 LUPINE PLAZA

Dear Sirs,

I would like to request an extension of three (3) more years. I am investigating the market, and it seems to be improving somewhat. I have had some potential tenants showing some interest.

Thank you for your consideration,

Larry Fluet
Phone-(208) 676-8571
Fax (208) 771-2221

Planning Commission: May 6, 2008
TOWN OF YUCCA VALLEY
COMMUNITY DEVELOPMENT DEPARTMENT
CURRENT PLANNING DIVISION
STAFF REPORT-LUPINE PLAZA

Case: CONDITIONAL USE PERMIT 09-07
ENVIRONMENTAL ASSESSMENT 22-07

Request: A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF TWO OFFICE BUILDINGS, ONE OF 6,460 SQUARE FEET, AND ONE OF 8,520 SQUARE FEET, ON A 2 ACRE PARCEL

Applicant: LARRY FLUET
56540 CHIPMUNK TRAIL
YUCCA VALLEY, CA 92284

Property Owner: LARRY FLUET
56540 CHIPMUNK TRAIL
YUCCA VALLEY, CA 92284

Representative: NONE

Location: THE NORTH SIDE OF LUPINE DRIVE, APPROXIMATELY 95 FEET NORTH OF YUCCA TRAIL, ASSESSOR'S PARCEL NUMBER 595-172-04 THROUGH -07

Surrounding Land Use:
NORTH: EXISTING COMMERCIAL AND OFFICE DEVELOPMENT
SOUTH: LUPINE DRIVE, VACANT LANDS
WEST: EXISTING COMMERCIAL DEVELOPMENT
EAST: VACANT LANDS

Surrounding General Plan Land Use Designations:
NORTH: GENERAL COMMERCIAL
SOUTH: RESIDENTIAL MULTI-FAMILY, 10 UNITS PER ACRE (RM-10)
WEST: GENERAL COMMERCIAL
EAST: OFFICE COMMERCIAL AND RM-10

Existing General Land Use Designation:

OFFICE COMMERCIAL

Division Approvals:
Engineering _____ Building & Safety _____ Public Works_____

Surrounding Zoning Designations:

NORTH: GENERAL COMMERCIAL
SOUTH: RESIDENTIAL MULTI-FAMILY, 10 UNITS PER ACRE (RM-10)
WEST: GENERAL COMMERCIAL
EAST: OFFICE COMMERCIAL AND RM-10

Existing Zoning Designation:

OFFICE COMMERCIAL

Public Notification:

PURSUANT TO SECTION 83.010330, LEGAL NOTICE IS REQUIRED TO BE GIVEN TO ALL PROPERTY OWNERS WITHIN A THREE (300) HUNDRED FOOT RADIUS OF THE EXTERIOR BOUNDARIES OF THE SUBJECT SITE. AS REQUIRED, THIS PROJECT NOTICE WAS MAILED TO ALL PROPERTY OWNERS WITHIN A 300 FOOT RADIUS OF THE PROJECT SITE ON APRIL 23, 2008 AND PUBLISHED ON APRIL 23, 2008. PROPERTY OWNERS WITHIN 300 FEET WERE NOTIFIED. THERE HAS BEEN NO RESPONSE TO THE PUBLIC NOTICE FROM THE PROPERTY OWNERS AT THE WRITING OF THIS STAFF REPORT.

RECOMMENDATIONS:

CONDITIONAL USE PERMIT 09-07: That the Planning Commission approve CUP 09-07, based on the findings and conditions of approval in the staff report.

PROJECT MANAGER: NICOLE SAUVIAT CRISTE

REVIEWED BY: SHANE STUECKLE

Appeal Information:
Actions by the Planning Commission, including any finding that a negative declaration be adopted, may be appealed to the Town Council within 10 calendar days. Appeal filing and processing information may be obtained from the Planning Section of the Community Development Department. Town Staff cannot modify Planning Commission Actions except for substantial conformance determinations.

I. GENERAL INFORMATION

PROJECT DESCRIPTION: The applicant proposes the construction of two office buildings, one of 6,460 square feet, and one of 8,520 square feet, on a 2 acre site.

LOCATION: The parcel is located on the north side of Lupine Drive, approximately 95 feet north of Yucca Trail.

PROJECT SYNOPSIS:	SITE COVERAGE
PROJECT AREA	2 Acres
FLOOD ZONE	Zone B
ALQUIST PRIOLO ZONE	Yes
OFF-SITE IMPROVEMENTS REQ.	**Half width of Lupine Drive; and improvements to Alley in rear, both to Town standard.**
ON-SITE IMPROVEMENTS REQ.	**Yes, on site drainage facilities.**
ASSESSMENT DISTRICTS	**Yes, street and drainage, landscape and lighting, and public safety assessment districts**
RIGHT-OF-WAY DEDICATION REQ.	**No**

II. PROJECT ANALYSIS

GENERAL PLAN CONSIDERATION: The project is designated Office Commercial in the General Plan, and the applicant proposes the construction of 2 multi-tenant office buildings. The project is therefore consistent with the General Plan.

ENVIRONMENTAL CONSIDERATIONS: The project was reviewed under the California Environmental Quality Act (CEQA) and the Town's Guidelines to Implement same. The Town determined that the proposed project is exempt from CEQA under Guidelines Section 15332, Infill Development.

ADJACENT LAND USES: The site is located in an area which is the Town's central business core. There are existing commercial and office projects on the north and west. Lands to the south and southeast are vacant, and designated for multi-family development.

SITE CHARACTERISTICS: The site is flat and currently vacant. A number of paths or trails have been cut through the site as a result of off road and pedestrian use of the property.

BUILDING ELEVATIONS: The Applicant proposes a contemporary architectural style, discussed further below.

ON-SITE IMPROVEMENTS: **The project will be required to retain the 100 year storm on site.**

OFF-SITE IMPROVEMENTS: Conditions of approval include the half width improvement of Lupine Drive for the entire frontage of the project site, and the improvement of the Alley to the north and west. Both are conditioned to meet Town standards.

MAINTENANCE ASSESSMENT DISTRICTS: The approval is the project includes the requirement to form maintenance assessment district(s) for the purpose of maintaining such public improvements as pavement, drainage facilities, curb and gutter, sidewalk, landscaping, lighting, and other public improvements. In the case of this project, the maintenance district would include Lupine Drive, the Alley and other public improvements.

DISCUSSION: The proposed land use is a general office building. The project is located in a primarily office and commercial area of Town. The land uses proposed are consistent with the land uses contemplated in the General Plan, permitted in the Development Code, and currently existing in the area. The Conditional Use Permit findings can therefore be supported.

The site is located within an Alquist-Priolo Earthquake Fault Zone. The applicant contracted for extensive trenching on the property, and received approval of the investigation from the County Geologist. There is no fault on the site, although faulting does occur immediately east of the site.

The property currently consists of four small lots. The project is conditioned to merge lots if building structures cross existing lot lines (they currently do not); and to provide cross lot easements for access and parking if the lots are not merged. The property is also irregular in shape, making site planning challenging. The applicant has worked diligently to address staff issues associated with these challenges, and has submitted a plan for a unified site which will result in two office buildings with a centralized parking area.

Building A, located in the south end of the parcel, will be 6,460 square feet, and single story. Building B is proposed for the northern end of the site, will be 8,520 square feet, and will also be single story. The mass of the buildings will be 17 feet in height, with the central entry extending to 23'4" in height. The architectural style is contemporary, but reminiscent of southwestern styles. Windows will be covered by galvanized steel awnings, on stucco walls. The entry of each building will be finished with a stone veneer, which is proposed to extend around the base of the building. Finally, the "fins" or separators that extend to 18 feet in height at regular intervals in each building will also be of galvanized steel. The architecture is finished on all sides, so that an attractive view will be seen no matter the perspective.

A drought tolerant landscape palette has been selected for the project. The palette, however, does not include the relocation of any of the Joshua trees which currently occur on site. Although there are not many (23 shown on the grading plan) on the site, the Town's policies, and Native Plant Protection Ordinance, require their preservation or relocation wherever possible. A condition of approval is included which requires that as many Joshua trees as possible be translocated in the landscaping plan.

Between the two buildings will be a central common parking area, which will accommodate 63 parking spaces. For a total of 14,980 square feet of general office space, the project site requires 60 parking spaces. As the Planning Commission is aware, general or professional offices require less parking than medical or dental offices. Because the site does not

have room to accommodate additional parking, a condition of approval has been included which prohibits medical or dental offices within the project. A three foot wall is proposed along the Alley to screen parking. On the Lupine Drive side, a landscaped area is proposed. Trash enclosures are proposed adjacent to each of the buildings.

The primary access to the site will be from a central driveway located on Lupine Drive. Secondary access will also be available from the Alley, at the north and south ends of the site,. However, the applicant has configured all parking stall against the alley to face inward, so that no direct backing of vehicles will occur here. The Alley will be improved to Town standards, and improvements on the north half of the Alley will be shared with the Courtyard Commercial project, which was recently approved by the Commission.

As required by the Town, the applicant is required to underground utilities on or within 10 feet of the project site. The utility poles located on the west side of the Alley are outside that distance, and therefore are not required to be undergrounded. However, poles located on the south and north boundary are conditioned to be undergrounded prior to of pre-final building inspection. This includes the poles which occurs at the midpoint of the project at the post office, and the existing service on the northern line. The applicant has agrred to underground the poles on the north, and the service from the post office pole to the east, under Lupine to the single family home, but has expressed concern about undergrounding the utilities from the post office pole to the west, and may wish to address the Commission on the issue of a waiver.

FINDINGS:

1. The site for the proposed office complex is adequate in size and shape to accommodate the proposed use and all yards, open spaces, setbacks, walls and fences, parking areas, landscaping and other features pertaining to the application.

2. The site for the proposed use has adequate access, insofar as Lupine Drive is a local Town street with access for the property.

3. The proposed use will not have a substantial adverse effect on abutting property or the permitted use thereof, insofar as it is consistent with the Office Commercial land uses existing and potentially occurring in the area. In addition, the use will not substantially interfere with the present or future ability to use solar energy systems.

4. The proposed use is consistent with the goals, policies, standards and maps of the General Plan, insofar as the General Plan specifically lists general or professional offices as appropriate in the Office Commercial land use designation.

5. The conditions stated in the approval are deemed necessary to protect the public health, safety and general welfare.

6. The design of the site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities.

Attachments:

1. Standard Exhibits
2. Application materials
3. Site Plan
4. Grading Plan
5. Black and White Elevations (24x36)
6. Color Elevations (8x11)
7. Landscaping Plan

CONDITIONS OF APPROVAL
Conditional Use Permit 09-07 – Lupine Plaza

This approval is for Conditional Use Permit 09-07, an application to allow the development of two single story office buildings, one of 6,460 square feet and one of 8,520 square feet, on a two acre parcel. The property is identified as Assessor Parcel Number 595-172-04, -05, -06, &-07.

1. The Applicant/owner shall agree to defend at his sole expense any action brought against the Town, its agents, officers, or employees, because of the issuance of such approval, or in the alternative, to relinquish such approval, in compliance with the Town of Yucca Valley Development Code. The Applicant shall reimburse the Town, its agents, officers, or employees for any court costs, and attorney's fees which the Town, its agents, officers or employees may be required by a court to pay as a result of such action. The Town may, at its sole discretion, participate at its own expense in the defense of any such action but such participation shall not relieve Applicant of his obligations under this condition.

2. This Conditional Use Permit shall become null and void if substantial construction has not occurred within two (2) years of the Town of Yucca Valley date of approval. Extensions of time may be granted by the Planning Commission and/or Town Council, in conformance with the Town of Yucca Valley Development Code. The Applicant is responsible for the initiation of an extension request.

   Approval date: May 6, 2008
   Expiration date: May 6, 2010

3. The Applicant/owner shall ascertain and comply with requirements of all State, County, Town and local agencies as are applicable to the project area. These include, but are not limited to, Environmental Health Services, Transportation/Flood Control, Fire Department, Building and Safety, State Fire Marshal, Caltrans, High Desert Water District, Airport Land Use Commission, California Regional Water Quality Control Board, the Federal Emergency Management Agency, MDAQMD-Mojave Desert Air Quality Management District, Community Development, Engineering, and all other Town Departments.

4. All conditions are continuing conditions. Failure of the Applicant to comply with any or all of said conditions at any time shall result in the revocation of the approval on the property.

5. After final plan check by the Town, original mylars (4 mil) shall be submitted to the Town for signature by the Town Engineer. All original mylars submitted for Town

Engineer's signature must contain the design engineer's wet signature and stamp and all other required signatures.

6. An exterior lighting plan, in conformance with Town Outdoor Lighting Ordinance, and including a photometric plan, shall be submitted to the Town for approval prior to the issuance of building permits.

7. The Applicant shall pay all fees charged by the Town as required for processing, plan checking, construction and/or electrical inspection. The fee amounts shall be those which are applicable and in effect at the time the work is undertaken and accomplished.

8. All improvements shall be inspected by the Town's Building and Safety Division, as appropriate. Any work completed without proper inspection may be subject to removal and replacement under proper inspection.

9. Site shall be kept clean at all times. Scrap materials shall be consolidated, and a container must be provided to contain trash that can be carried away by wind.

10. At the time of permit issuance the Applicant shall be responsible for the payment of fees associated with electronic file storage of documents.

11. The Applicant shall pay Development Impact Fees in place at the time of pre-final inspection.

12. A plan identifying all protected plants as well as a Joshua Tree Relocation Plan with any area proposed to be disturbed in accordance with the Town's Native Plant Protection Ordinance shall be submitted for approval prior to issuance of grading permits for the project. A minimum 60 day adoption period before land disturbance in accordance with the grading plan may commence.

13. An irrigation system shall be installed in the landscaping areas around the project site, with an electric timer.

14. A final landscaping and irrigation plan shall be submitted to the Town for review and approval.

15. Prior to the delivery of combustible materials, the following items shall be accepted as complete:

    a) The water system is functional from the source of water past the lots on which permits are being requested (i.e. All services are installed, valves are functional and accessible, etc.); and

b) Fire hydrants are accepted by the Fire Marshal and the Department of Public Works.

16. In conjunction with the preparation of improvement plans, the Applicant shall cause to be formed or shall not protest the formation of a maintenance district(s) for landscape, lighting, streets, drainage facilities or other infrastructure as required by the Town. The Applicant shall initiate the maintenance and benefit assessment district(s)formation by submitting a landowner petition and consent form (provided by the Town of Yucca Valley) and deposit necessary fees concurrent with application for street and grading plan review and approval and said maintenance and benefit assessment district(s) shall be established concurrent with the approval of the final map in the case of subdivision of land, or prior to issuance of any certificate of occupancy where there is no subdivision of land.

17. The Applicant shall form a public safety assessment district on the properties subject to Town Council adoption of a fiscal impact model.

18. Utility undergrounding shall be required for all new service and distribution lines that provide direct service to the property being developed; existing service and distribution lines that are located within the boundaries being developed that provide direct service to the property being developed; existing service and distribution lines between the street frontage property line and the centerline of the adjacent streets of the property that provide direct service to the property being developed ; existing Service and Distribution lines located along or within 10 feet of the lot lines of the property that provide direct service to the property being developed; or existing service and distribution lines being relocated as a result of a project.

19. **The final landscaping plan shall be amended to include as many Joshua trees as possible from the site, based on the native plant survey required above.**

20. **Unless additional parking can be provided, medical and dental office uses are prohibited in the project.**

21. **Construct curb and gutter and sidewalk 20 feet from centerline on Lupine Drive per Town of Yucca Valley Standard Drawing 102 and 220. The existing pavement on Lupine Drive shall be removed and replaced to centerline.**

22. **Construct alley improvements per Town of Yucca Valley Standard Drawing 231 along the rear of the project. Alley improvements shall include new A.C. pavement and ribbon gutter.**

23. **Install one street light at the project entrance on Lupine Drive per Town of Yucca Valley Standard Drawing 302.**

24. **If any buildings are proposed to cross existing property lines a lot line adjustment or parcel merger shall be submitted to the Town for approval.**

25. **If the lots are not merged, cross lot easements for access and parking shall be recorded on each lot.**

26. During construction, the Contractor shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town staff to eliminate any site related dirt and debris within the roadways. During his business activities, the Applicant shall keep the public right-of-way adjacent to his property in a clean and sanitary condition.

27. No staging of construction equipment or parking of worker's vehicles shall be allowed within the public right-of-way.

28. Prior to the issuance of a Grading Permit for the onsite paved areas, a Grading Plan prepared by a recognized professional Civil Engineer shall be submitted, and the corresponding fees shall be paid to the Town prior to any grading activity. The final Grading Plan shall be reviewed and approved by the Engineering Division prior to issuance of grading permits. The applicant/owner is responsible for all fees incurred by the Town. Prior to Certificate of Occupancy, the Engineer-of-Record shall survey and certify that the site grading was completed in substantial conformance with the approved Grading Plans.

29. Prior to the issuance of Permits, the Applicant shall comply with the recommendations of a site-specific Geotechnical and Soils Report which shall be reviewed and subject to Town approval. The report shall include recommendations for any onsite and offsite grading, foundations, compaction, structures, drainage, and existence of fault zones. It shall include recommendations for retention basins, slope stability and erosion control.

30. All recommended approved measures identified in the Soils Report shall be incorporated into the project design.

31. Developer shall comply with NPDES requirements as applicable. The Applicant shall install devices on his property to keep erodible material, rocks, and gravel on the site. To eliminate any site related dirt and debris within the roadways, the Applicant shall be responsible to sweep public paved roads adjacent to the project as necessary and as requested by the Town Staff. It is recommended that the paved entranceway be extended to the south end of the truck scale.

32. The development of the property shall be in conformance with FEMA and the Town's Floodplain Management Ordinance requirements. Adequate provision shall be made to

intercept and conduct the existing tributary drainage flows around or through the site in a manner that will not adversely affect adjacent or downstream properties at the time the site is developed.

33. The Applicant shall be required to retain the incremental increase of water from improved surfaces, including but not limited the roof and any paved areas. A licensed Engineer shall submit a report which provides this information to the Town prior to occupancy. Prior to issuance of a Building Permit, a final Drainage Report shall be submitted that provides the following information:
    a. A final drainage map of the property's tributary area, volume of property run-off, and location of drainage "pick-up" points. The project shall detain the required incremental increase in runoff generated by the improvements and conforming to the San Bernardino County Hydrology Manual.
    b. Show how the drainage will be handled on the site and how the storm water will reach the retention basin **or underground storage system.** No runoff from one property is to enter adjacent property without an easement.
    c. The retention basin **or underground storage system** will require ongoing maintenance by the Owner.

34. Any grading or drainage onto private off-site or adjacent property shall require a written permission to grade and/or a permission to drain letter from the affected property owner. **The final grading plans shall show how the drainage in the alley will drain. If required by the Town Engineer a drainage acceptance letter from the downstream property owner shall be obtained.**

35. No on-site or off-site work shall commence without obtaining the appropriate permits for the work involved from the Town. The approved permits shall be readily available on the job-site for inspection by the Town personnel.

36. All grading activities shall minimize dust through compliance with AQMD Rule 403.

37. Prior to any work being performed in the public right-of-way, fees shall be paid and an encroachment permit shall be obtained from the Town. The Applicant shall apply for an encroachment permit from the Town for utility trenching, utility connection, or any other encroachment onto public right-of-way. The Applicant shall be responsible for the associated costs and arrangements with each public utility.

PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

38. The Applicant shall restore any pavement cuts required for installation or extension of utilities for his project within the public right-of-way. In all cases where cuts are allowed, the Applicant is required to patch the cuts to Town standards and the approval of the Town Engineer. The patching shall include a grinding of the pavement to a width 4 feet

beyond the edge of the trench on each side, or as determined by the Town Engineer, and replacement with a full-depth asphalt concrete recommended by the Soils Engineer.

39. The retention basin **or underground storage system** shall be constructed and functional prior to the issuance of certificate of occupancy for the project.

40. The Applicant shall submit written proof to the Building Official that the Applicant has complied with all conditions of approval or comments, as required, from the High Desert Water District, and Colorado Regional Water Quality Control Board. Applicant shall comply with applicable requirements of NPDES (Non-Point Pollution Discharge Elimination System).

41. The Applicant shall construct the replacement of any identified damaged curb and gutter, sidewalk, drive approach, asphalt concrete pavement, meter boxes, and other infrastructure that may be required by the Town Engineer or another Agency.

42. The Applicant shall install all water and sewer systems required to serve the project. **The location of the proposed septic system(s) shall be shown on the project grading plan.**

43. Prior to the issuance of a Certificate of Occupancy all improvements shall be constructed, final inspection performed, punch-list items completed, and all installations approved by the appropriate agency.

44. All existing street and property monuments within or abutting this project site shall be preserved consistent with AB 1414. If during construction of onsite or offsite improvements monuments are damaged or destroyed, the Applicant/ Developer shall retain a qualified licensed land surveyor or civil Engineer to reset those monuments per Town Standards and file the necessary information with the County Recorder's office as required by law (AB 1414).

45. The Developer and his Contractor(s) shall observe the construction of this project to make certain that no damage or potential for damage occurs to adjacent roadway, existing improvements, adjacent property and other infrastructure. The Developer shall be responsible for the repair of any damage occurring to offsite infrastructure and/or property damage as determined by the Town Engineer. The Developer shall repair any such damage prior to certificate of occupancy. If the damage is such that it is not repairable within a reasonable amount of time as determined by the Town Engineer, the Developer may petition the Town Engineer for additional conditions that may allow him the time, amount of surety and other requirements to repair the damage.

46. The Developer and his Contractor(s) shall be responsible for all improvements that he has constructed within the public right-of-way as required by the conditions of approval. The improvements shall be constructed to the standards and requirements as determined and

approved by the Town Engineer. Any improvements not considered to be to the required standards shall be replaced by the Developer. The Developer shall be required to maintain and repair those improvements prior to and after acceptance by the Town Council for the length of time required by the applicable conditions, standards and ordinances.

47. The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a DEHS permitted pumper. Soil testing for the subsurface disposal system shall meet the requirements of the Department of Environmental Health Services. Applicant shall submit a minimum of three (3) copies of percolation reports for the project site and an appropriate fee to DEHS for review and approval, a copy of the cover sheet with an approval stamp to Building and Safety Division at the time of building permit application, and two (2) copies of the approved percolation report to the Building and Safety Division at the time of construction plan check.

48. All exterior lighting shall comply with the Outdoor Lighting Ordinance and shall be illustrated on all construction plans.

49. Prior to Certificate of Occupancy, the Applicant shall cause the beginning of proceedings or shall not protest the formation of a maintenance district(s) for landscape, lighting, streets, drainage facilities and/or other infrastructure as required by the Town.

50. The Applicant shall record a non-opposition agreement to the future formation of a public safety assessment district on the property.

51. The Applicant shall pay Development Impact Fees in place at the time of issuance of Building Permits.

I HEREBY CERTIFY THAT THE APPROVED CONDITIONS OF APPROVAL WILL BE SATISFIED PRIOR TO OR AT THE TIMEFRAMES SPECIFIED AS SHOWN ABOVE. I UNDERSTAND THAT FAILURE TO SATISFY ANY ONE OF THESE CONDITIONS WILL PROHIBIT THE ISSUANCE OF ANY PERMIT OR ANY FINAL MAP APPROVAL.

Applicant's Signature _____ Date _____

This project without the wall, due to the orientation of the houses, leaves it open for a mixture of rear yard fencing and the aesthetics along Acoma will be destroyed. The block wall will provide continuity. Also, no one will be able to back out onto Acoma Dr. Given that the land owners have some development rights and they have attempted to do it in accordance with the General Plan and the Development Code, he has a couple of apprehensions. The Commission asked the developer three time to provide some means and alternates to this project. None were forthcoming. In accordance with the Native Plant ordinance, a development must take into account and try to preserve native plants in their present location. When you have over 1,200 trees on a property and not one is going to be maintained in its present location that is out of compliance with the ordinance. For that sole instance he would not vote for approval of the project.

Mr. Willman agreed with Mr. Huntington in that the Commission asked the applicant three times to come back with alternatives. Not once did the applicant do that. These 3 properties are very dense with native plants and trees and not one is going to remain in its native habitat. It is a pristine area and one of the most beautiful corridors in Town. He would vote for denial.

Mr. McKoy commented the applicants have been put through hoops, been to several meetings and have accommodated what the Commission has asked them to do. He is asking himself if the applicant was led down the wrong path in doing that. He would vote for approval.

Mr. Goodpaster stated he would be in favor of approving the project. This applicant brought forth a native plant plan which is not required anywhere in the ordinance. Something else to be acknowledged is that proper curb, gutters and drainage could not be accomplished if this project were just made consistent with the other communities in the area. This is the only way to properly grade these parcels to be consistent with the zoning and all the requirements. This body does not make policy and policy making issues have been raised tonight. The policy making body is the Town Council. The Planning Commission is the instrument of that policy. Based on that, he is in favor of the project.

Mr. Lombardo stated he does not feel that the Commission has seen alternatives or best efforts. There has to be some way to mitigate for aesthetics and the native plant problems. The buffer zone was a good alternative and was never looked at. He would like to see pad grading to leave the vegetation as natural as possible. He would deny the project.

Mr. Huntington moved that the Planning Commission adopt the Mitigated Negative Declaration for EA 17-05 and deny Tentative Tract Maps13738 and 17379 based on the findings contained within the staff report finding that the project does not comply with Ordinance 140. The motion was seconded by Mr. Willman and passed by voice vote of 3 to 2. Mr. McKoy and Mr. Goodpaster voted no.

Mr. McKoy recessed the meeting at 8:45 p.m. and reconvened the meeting at 8:55 p.m.

3. CONDITIONAL USE PERMIT 09-07 – LUPINE PLAZA ENVIRONMENTAL ASSESSMENT EA 22-07

A request to allow the construction of two office buildings, one of 6,460 square feet, and one of 8,520 square feet, on a 2 acre parcel located on the north side of Lupine Drive, approximately 95 feet north of Yucca Trail, and identified as APN's 595-172-04 through -07

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Contract Planner Nicole Criste presented the project discussion to the meeting. MS. Criste stated the existing zoning is commercial, the site backs onto an alley and the project is conditioned to improve the alley and Lupine Dr. to Town standards. The project is located on 4 small lots, none of the buildings will cross a lot boundary and the project is conditioned to have cross lot parking and access easements recorded so no one lot can block parking or access to any other lot.

Both buildings are proposed to be single story and the mass of the buildings is proposed to be 17 feet which is consistent with the design guidelines. The entry accesses are 23.4 feet wide. The architecture is contemporary southwestern in style with interesting finishes. The entryway will have a covered portico area. Awnings will be installed on the windows. The architecture is detailed and interesting on all sides of the buildings. Drought tolerant landscaping is proposed but it does not currently include the Joshua Trees on the property. A condition has been added to incorporate the Joshua Trees into the landscape plan.

For the total square footage, 60 parking places are required and 63 are proposed. No specific tenants have been identified to staff; however, the project is conditioned to prohibit medical uses which have a higher parking requirement unless the applicant can demonstrate that additional parking can be provided.

Extensive fault trenching was conducted and no faults were found on site. Parking is oriented within the site so parking along the alley will not back onto the alley. There are two access points from the alley and one central driveway from Lupine Dr. The applicant is required to underground the utilities. The utilities extend on the north and south sides of the property. The applicant has begun conversations with Edison and there are issues with a portion of the undergrounding at the SW portion of the site. The applicant may request a waiver of the ordinance because of those issues. If the applicant is persuasive the COA for undergrounding will need to be amended. The project was reviewed under CEQA and was determined to be exempt under the in-fill provisions for a property of less than 5 acres. Staff recommends approval of the CUP.

Mr. Goodpaster questioned the 4 lots not being combined into 1 lot and the sufficiency of the access easement.

Ms. Criste replied as long as the structures don't cross lot lines the access and parking easements are recorded against all of the properties and is a formal document.

Mr. Goodpaster asked if the awnings are solid or perforated in some manner. Ms. Criste replied they appear to be shadowed in some manner and suggested he ask the applicant.

Mr. Goodpaster commented, on the plot plan, it looks as if both of the buildings cross into the set-backs. Ms. Criste commented the commercial zoning allows zero lot line development unless it is adjacent to residential areas so there is no problem with the Development Code.

Mr. Lombardo questioned the access from Lupine Dr. and was informed that it is a 2-way access point. He questioned the underground water storage and was informed that it is storm run-off which is retained there until it seeps into the ground and that solids are removed periodically.

Mr. Willman requested and received confirmation that the existing wall on the south of the project is the Post Office wall. He asked if the recently approved westerly adjoining project will also make improvements or are the improvements collective between these two projects.

Ms. Criste replied they would be done collectively if the development occurs simultaneously. They can be done separately if the two property owners agreed together to do that.

Mr. Huntington noted that the last sentence of COA #31 on page 268 is irrelevant to this project and should be deleted. Ms. Criste agreed and requested that it be amended in the motion, should the Commission act to approve the project.

Mr. McKoy opened the public hearing.

Applicant Larry Fluet of Yucca Valley stated all of the easements necessary to underground utilities already exist. The issue he has is two-fold, one of which is with the water district and the 4 inch water line currently in Lupine Dr. He will have to replace that water main from Yucca Trail to the edge of his last lot. That is a major cost. Because of that cost he has a major problem with the undergrounding. The pole directly west of lot 102, according to Edison, is full and nothing else can be added to it. He would have to go across the alley and then underground behind the Post Office to reconnect to the pole on the east side of Lupine Dr. In order to do that he would have to provide temporary service, probably with a generator, and possibly disrupt service to the Post Office which is 3 phase electrical while a manhole was installed. That would be a major inconvenience to the Post Office and cost to him. The expense of the water main installation and undergrounding all utility lines would make the project infeasible. He proposes that he underground all utilities except those on the south side at the back of the Post Office. He will install the conduit underground for future undergrounding when adjacent properties are developed but the wires in that area would stay above ground on the existing poles. The service drop will be underground.

Mr. Huntington commented he looked at the power situation there and it's a mess with lines that jog, go under a wall and cross at odd angles. He appreciates the problem .

Mr. Goodpaster asked if the awnings are open or solid.

Project architect Robert Carter stated the awnings are perforated metal shade material which blocks the sun but allows water through. Regarding medical usages and parking requirements, they have not integrated any compact spaces into the parking plan. That

inclusion would increase the total number of spaces. The setback lines were included on the plans as a drafting point of reference only.

Mr. McKoy closed the public hearing.

MS. Criste commented that if the Commission is inclined to modify COA #18 staff would propose that the condition read:

> Undergrounding shall be required on the north property line. The applicant shall install conduit from the Post Office pole easterly but not drop the line. The service drop to Building A shall be underground. The applicant shall participate in his fair share for future undergrounding of the utility lines on the south property line.

Mr. Willman commented the project is well thought-out with pleasing architecture and aesthetics. He would like to see the Joshua Trees put back on the property pursuant to the COA.

Mr. Lombardo agreed that it is a beautifully designed project stating the applicant said the buildings were designed to keep the Joshua Trees in place. It is important that the lighting be appropriate and it seems to be well designed with nice looking fixtures. It's a good project.

Mr. Goodpaster commented it is a wonderfully designed project and will do wonders for that street and the area.

Mr. Huntington stated he is in favor of modifying COA #18 as stated above.

Mr. McKoy commented this project is a rose and we need more like it.

Mr. Willman moved that the Planning Commission approve CUP 09-07, based on the findings and conditions of approval in the staff report as amended, with the deletion of the last sentence in COA #31. The motion was seconded by Mr. Lombardo and passed unanimously by voice vote.

DISCUSSION ITEMS: None

4. CONSENT AGENDA: MINUTES –

Mr. Goodpaster moved that the Planning Commission approve as submitted the minutes of the Regular Planning Commission Meeting held on March 18, 2008. The motion was seconded by Mr. Lombardo and passed unanimously by voice vote.

Mr. Willman moved that the Planning Commission approve as submitted the minutes of the Special Planning Commission meeting held on April 8, 2008. The motion was seconded by Mr. Goodpaster and passed unanimously by voice vote.

STAFF REPORTS AND COMMENTS:

TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES **MAY 25, 2010**

Chair Lombardo called the regular meeting of the Yucca Valley Planning Commission to order at 7:00 p.m.

Commissioners present: Chair Robert Lombardo, Commissioners Mike Alberg, Tim Humphreville and Dawn Rowe.

Chairman Lombardo led the Pledge of Allegiance.

APPROVAL OF AGENDA:

Mr. Alberg moved that the Agenda be approved, which motion was seconded by Ms. Rowe and passed unanimously by voice vote.

PUBLIC COMMENTS:

Margo Sturges of Yucca Valley commented on the lack of an audio tape from the previous Planning Commission meeting and requested that the meetings be videotaped. She also requested that the Commissioners be given an update on the Burrtec project.

PUBLIC HEARINGS: None

DISCUSSION ITEMS:

1. CONDITIONAL USE PERMIT CUP 09-07 LUPINE PLAZA EXTENSION OF TIME

A request for a 4 year extension of time until May 6, 2014 pursuant to Development Code Section 83.010350 for the original project to allow the construction of two office buildings, one of 6,460 square feet and one of 8,520 square feet on a two acre parcel. The project is located on the north side of Lupine Dr, approximately 95 feet north of Yucca Trail and is identified as APN's 595-172-01 thru 07.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Deputy Town Manager Shane Stueckle presented the project discussion to the meeting. The original project was approved by the Planning Commission at their meeting of May 06, 2008. At that meeting the project was approved for two years, expiring on May 06, 2010. The Development Code allows for a total time period of 6 years, including the original approval and one extension. Staff recommends that the Planning Commission approves the Extension of Time request for 4 years, expiring May 06, 2014.

Mr. Lombardo opened the discussion to public comments. There being no one wishing to comment on the item, Mr. Lombardo closed the discussion to public comments.

Ms. Rowe moved that Conditional Use Permit CUP 09-07 extension of time be approved. The motion was seconded by Mr. Humphreville and passed unanimously by voice vote.

2. CONDITIONAL USE PERMIT CUP 02-04 SUPER WAL-MART EXTENSION OF TIME

A request for a 4 year extension of time until June 25, 2014 pursuant to Development Code Section 83.010350 for the original project to develop a Super Wal-Mart of 184,146 square feet, and two pads allowing 3,500 square feet of retail use and 4,000 square feet of fast food restaurant use on a 28 acre parcel. The southeast corner of Highway 62 and Avalon Ave. and identified as APN 601-201-37.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Deputy Town Manager Shane Stueckle presented the project discussion to the meeting. The project was approved by the Town Council. A request has been filed for an extension of that Conditional Use Permit. The Development Code allows for a maximum of 6 years between the original approval and one extension.

Staff distributed a copy of a letter regarding the "Negotiated Resolution of consolidated Civil Action, Coalition for Environmental Integrity in Yucca Valley, Center for Biological Diversity v. Town of Yucca Valley (San Bernardino County Superior Court, Case No.: CIVSS 810232) Walmart Supercenter, Yucca Valley Retail Specific Plan. The letter states that an agreement has been reach between the parties and as such the Town is not a party to that settlement agreement. We have no more information about what was included in that settlement than the letter.

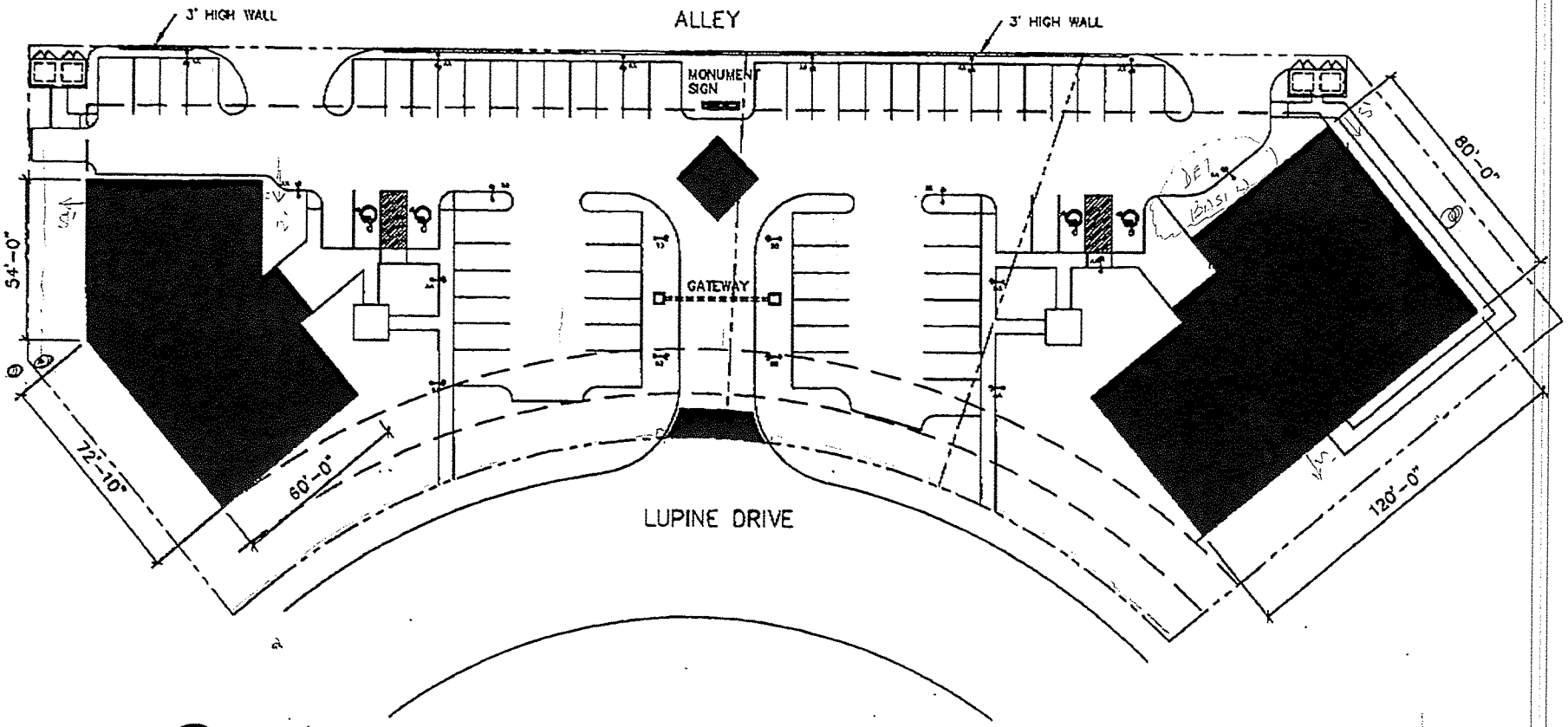
In terms of the administration of the Town's process all Conditional Use Permits are to be treated consistent with each other and the language of the Development Code. The recommendation is that the Planning Commission approves the Extension of Time request for 4 years, expiring June 25, 2014.

Mr. Lombardo opened the discussion to public comments.

David Fick of Joshua Tree, representing the MBCA, stated they are in favor of the motion because they agreed in the settlement not to oppose this. This is honoring the agreement in that they cannot meet their time-line without honoring the initiative.

There being no others wishing to comment on the project, Mr. Lombardo closed the discussion to public comments.

Ms. Rowe moved that the extension of time for Conditional Use Permit CUP 02-04 Super Wal-Mart be approved. The motion was seconded by Mr. Humphreville and passed unanimously by voice vote.



NORTH

SITE PLAN

SCALE: 1" = 40'-0"

LUPINE PROFESSIONAL CENTER
YUCCA VALLEY, CA

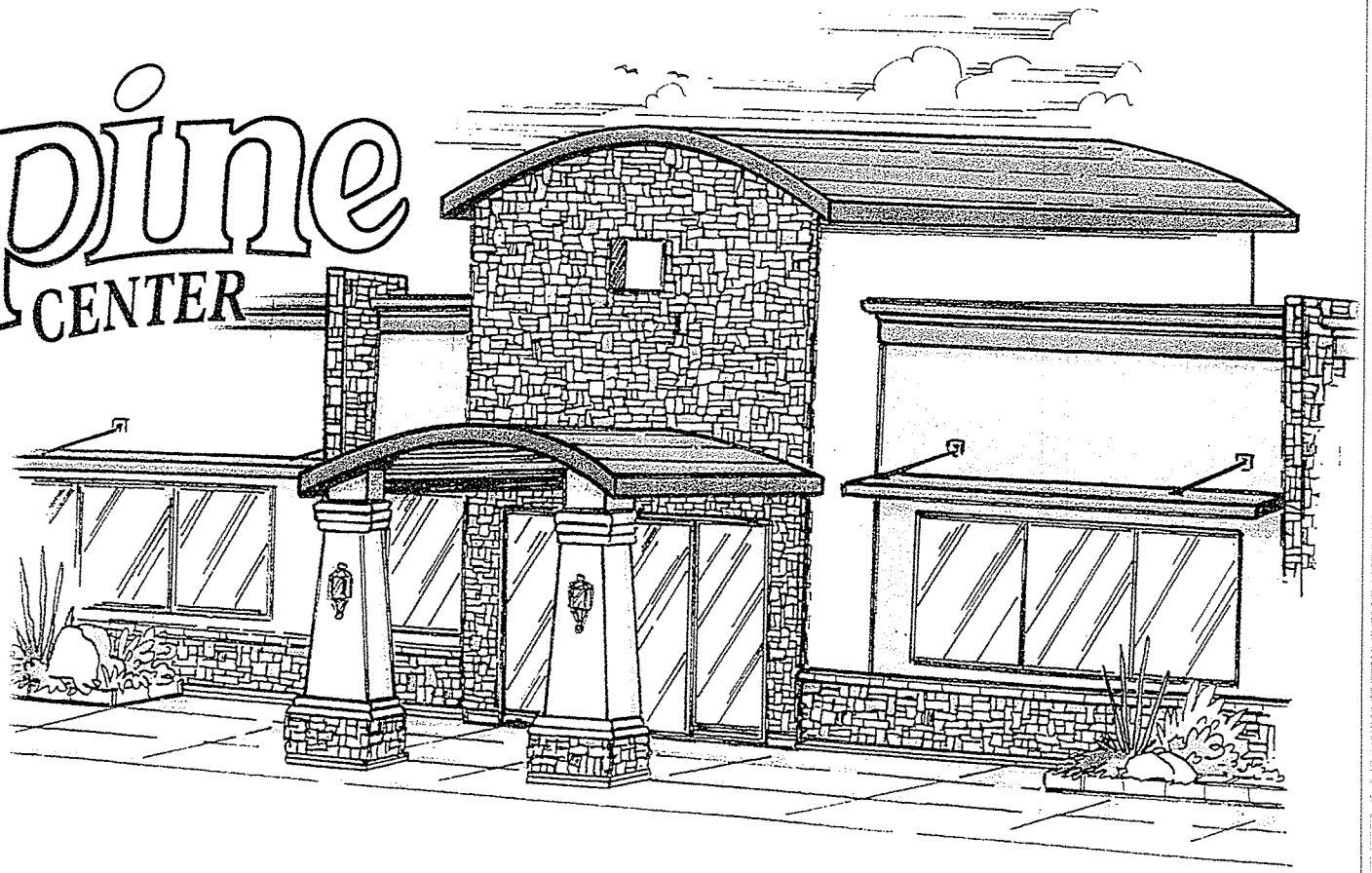
BUILDING AREA

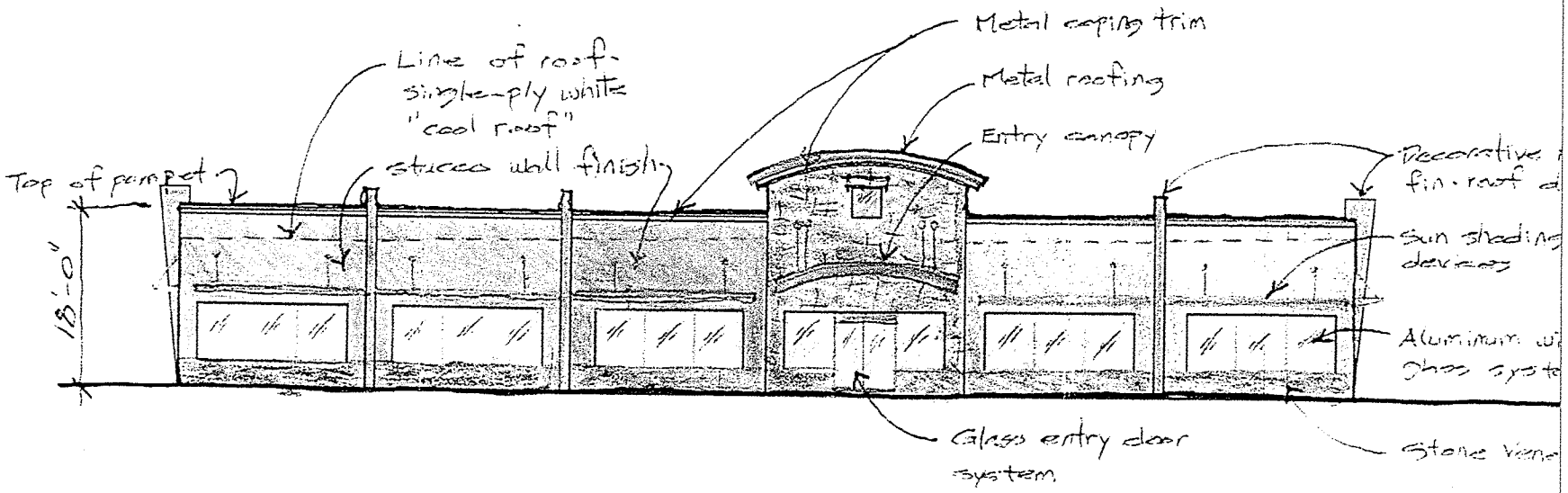
BUILDING A	6,460 SQ. FT.
BUILDING B	8,520 SQ. FT.
TOTAL	14,980 SQ. FT.

PARKING
REQUIRED 60
PROVIDED 64

11/07/07

Lupine PROFESSIONAL CENTER



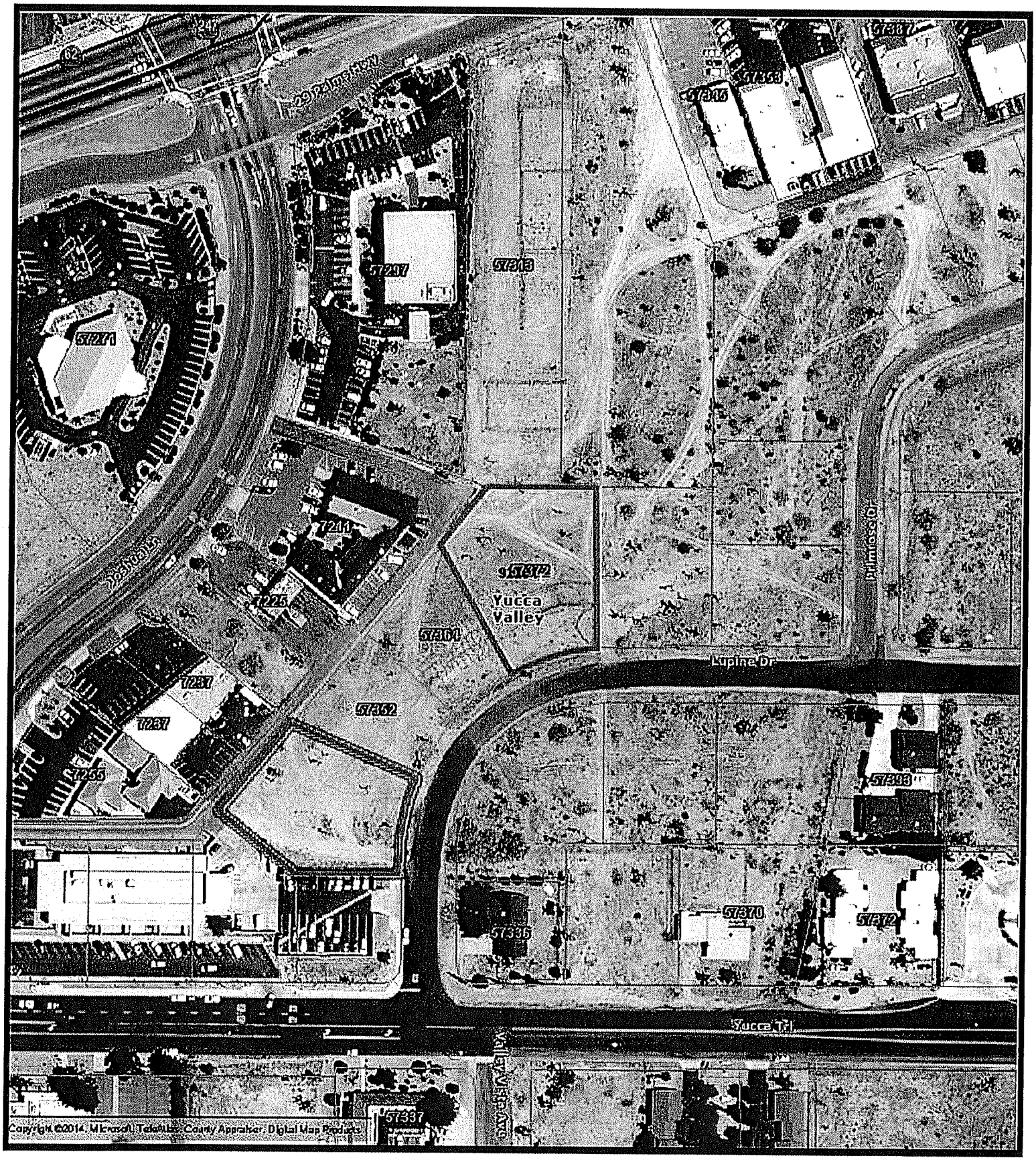


Color Study

Preliminary Elevation - Bldg. B

08.15.07

1/16" = 1'-0" Fluet commercial


29 Palms Hwy
57387
57353
57345
57297
57313
57271
7211
57372
Yucca Valley
7225
57364
Lupine Dr
Primrose Dr
7237
7237
57352
7255
57393
57370
57372
57336
Yucca Trl
Valley Vista Ave
57337
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Chapter 9.63 Conditional Use Permit

Sections:

9.63.010 – Purpose and General Plan Consistency
9.63.020 – Applicability
9.63.030 – Authority
9.63.040 – Application Submittal Requirements
9.63.050 – Application Fee
9.63.060 – Investigation and Report
9.63.070 – Action by Review Authority
9.63.080 – Required Findings
9.63.090 – Minor Modifications of Previously Approved Conditional Use Permit
9.63.100 – Lapse of Permits/Permit Expiration
9.63.110 – Extension of Time
9.63.120 – CUP Amendment
9.63.130 – CUP Revocation
9.63.140 – Development of Property Before Final Decision
9.63.150 – Alteration to Nonconforming Use
9.6344.160 – Surface Mining and Reclamation

9.63.010 – Purpose and General Plan Consistency

The Conditional Use Permit Review procedure allows the Town to evaluate proposed development and determine its consistency with the General Plan, the Development Code and applicable Town ordinances. The Conditional Use Permit Review procedure is intended to protect and enhance the visual appeal, environment, 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. 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.

9.63.020 – Applicability

A. All new construction which is listed in the use classification charts for the underlying land use districts that require a Conditional Use Permit Review.

B. Expansions which exceed the thresholds of Table 4.2 and are permitted subject to a Conditional Use Permit Review as specified in the use classification charts for the underlying land use district shall require a Conditional Use Permit.

TABLE 4.2
CONDITIONAL USE PERMIT
EXPANSION THRESHOLDS

SQUARE FOOTAGE OF EXISTING BUILDING	MAXIMUM SQUARE FOOTAGE	MAXIMUM PERCENTAGE
up to 5,000	1250 sq ft	50%
5,001 – 10,000	2000 sq ft	40%
10,001 +	2500 sq ft	25%

C. Change in use of an existing structure

D. Projects which fall within the thresholds of the Conditional Use Permit shall comply with the General Plan, the Development Code and applicable Town Ordinances and regulations, including but not limited to:

1. Half-width (½) street Improvements (curb, gutter, sidewalk, street lights, and pavement) on all streets fronting the project, except as defined by the parameters of the Council policies regarding Street Reconstruction

2. Onsite water retention of incremental increase

3. Dedication of easements for drainage facilities, streets, trails, avigation easements as required by this code and any adopted plans

4. Improvements to drainage facilities except as defined by the parameters of the Council policies regarding drainage facilities

5. Assessment Districts formation (including Landscape and Lighting, Street and Drainage, Community Facility District, and Public Safety)

6. Utility Undergrounding, pursuant to adopted standards

7. Landscaping and Landscaping Plan regulations (greater than 500 square feet of landscape area requires approval by Hi Desert Water District)

8. Commercial Design Guidelines

9. Outdoor Lighting regulations

10. Parking and screening requirements

11. Sign regulations

12. All other Development Code regulations

13. California Environmental Quality Act (CEQA) and any required mitigation measures

E. Expansions which fall within the thresholds specified in Table 4.2 shall be processed as a Land Use Compliance Review, pursuant to Chapter 9.66.

9.63.030 – Authority

A. Level of Review:

TABLE 4.3
CONDITIONAL USE PERMIT
LEVEL OF REVIEW

APPLICABILITY	LEVEL OF REVIEW	NOTICE REQUIREMENTS
New structures, including accessory structures and uses;	Commission	Public Hearing
Expansion of an existing structure in conformance with Table 4.2;	Director	None
Expansion of an existing structure which exceeds the thresholds in Table 4.2;	Commission	Public Hearing
Conversion of an existing structure (i.e. change in use);	Commission	Public Hearing
Construction or conversion of a structure(s) to allow a mixed-use development.	Commission	Public Hearing

Where the review for a Conditional Use Permit is not specified, the Director shall determine the appropriate review authority.

B **Referral to Next Higher Review Authority.** ; The Commission may refer an application for a Conditional Use Permit to the 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 Council interpretation of the General Plan and/or Development Code as related to the project.

C. **General Authority.** The Commission is authorized to approve, approve with conditions, or deny applications for Conditional Use Permits in compliance with the procedures established in this

Section. In approving an application for a Conditional Use Permit, the 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. Requirements for 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 of operation;

12. Control of potential nuisances;

13. Establishing standards for maintenance of buildings and grounds;

14. Establishing 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 Commission to make the findings required by Section 9.63.080, *Required Findings.*

D. **Performance Guarantee.** In order to ensure implementation of conditions attached to a Conditional Use 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 Conditional Use Permit.

E. **Providing Required Improvements.** 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.

F. **Conditions Declared Void.** Whenever any final judgment of a court of competent jurisdiction declares one or more of the conditions of a Conditional Use Permit to be unconstitutional or invalid, such decision shall not affect the validity of the approval as a whole, or any portion thereof other than the section so declared

G. **Violation of Condition.** Whenever a Conditional Use Permit is approved or modified by the Commission subject to a condition(s), non-compliance with such condition(s) shall constitute a violation of this Code. Conditions which are not observed or which are violated may be enforced as provided in Chapter 9.82, *Enforcement and Violations* or said Conditional Use Permit may be revoked or modified under Chapter 9.83, *Permit Amendments* and 9.84, *Permit Revocations.*

9.63.040 – Application Submittal Requirements

Applications for Conditional Use Permits shall be filed on a form prescribed by the Planning Division and shall contain such information and reports as may be required by the application submittal package or by other applicable ordinances or by the Town in order for the Commission to make the required findings.

9.63.050 – 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.

9.63.060 – Investigation and Report

The Director shall cause an analysis of each application for a Conditional Use Permit to be made. The level of detail of the analysis shall be appropriate to the type of project proposed and the needs of the Commission. The analysis shall examine the application's consistency with the content, intent and purpose of the General Plan, the Development Code, and any other applicable Town standards or policies. To insure effective implementation of General Plan policies and the provisions of this Code, applications may be reviewed by the Development Review Committee prior to consideration by the 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.

9.63.070 – Action by Review Authority

Commission Action. Pursuant to Section 9.63.030, *Authority*, the Commission shall review each application for a Conditional Use Permit. The applicant shall be provided with a copy of the Director's report regarding the application prior to the Commission's consideration. The Commission shall approve, deny, or conditionally approve applications for a Conditional Use Permit. Decisions by the Commission shall be final unless appealed as provided in Chapter 9.81, *Appeals.*

9.63.080 – Required Findings

Before approving a Conditional Use Permit, the Town and/or Commission shall find that the circumstances established 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 land use district in which the site is located, and the development policies and standards of the Town;

B. That the location, size, design and architectural design features 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 and consistent 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 Development 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 desert environment of the Town and to protect the economic value of existing structures;

I. That there are existing public facilities, services, and utilities available at the appropriate levels and/or that new or expanded facilities, services and utilities shall be required to 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 required to be safe and convenient for pedestrians, bicyclists, equestrians and motorists;

K. That traffic generated from the proposed project has been sufficiently addressed and mitigated and will not adversely impact the capacity and physical character of surrounding streets;

L. That traffic improvements and/or mitigation measures have been applied or required 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 including endangered, threatened, rare species, their habitat, including but not limited to plants, fish, insects, animals, birds or reptiles;

N. That there are no other relevant or anticipated negative impacts of the proposed use that cannot be mitigated and reduced to a level of non-significance in conformance with CEQA, the California Environmental Quality Act;

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 considered to be detrimental to the public health, safety and welfare of the community or be materially injurious to properties and/or improvements within the immediate vicinity or be contrary to the General Plan; and

P. That the proposed development will comply with each of the applicable provisions of the Development Code and applicable Town policies, except approved variances.

9.63.090 – Minor Modifications of Previously Approved Conditional Use Permit

An approved Conditional Use Permit may be modified upon the request of the property owner, or by the Town. Minor Modifications may be approved by the Director if it is determined that the changes would not affect the findings prescribed in Section 9.63.080, *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; including modifications to phasing schedules for the project.

9.63.100 – Lapse of Permits/Permit Expiration

A. **Expiration.** A Conditional Use Permit approval shall expire three (3) years from the date the permit is approved unless it is otherwise conditioned or unless prior to the expiration of the three (3) years the following have occurred:

1. A building permit is issued and substantial construction is diligently pursued towards completion of the project which was the subject of the Conditional Use Permit application. After construction is commenced, if work is discontinued for a period of two (2) years, the Conditional Use Permit shall require review and reauthorization by the Commission; or

2. A certificate of occupancy is issued for the structure which was the subject of the Conditional Use Permit application.

B. **Phased Projects.** Projects may be built in phases if so approved by the Commission or Director pursuant to Section 9.63.090, *Minor Modifications of Previously Approved CUP*.

9.63.110 – Extension of Time

The Commission may grant a time extension not to exceed three (3) years. Applications shall be made on a form to be provided by the Planning Division. Prior to the granting of an extension, the Planning Division shall review the previously approved project to ensure it is consistent with all current provisions of the General Plan, Development Code and other Town Ordinances and that the findings for approval of a Conditional Use Permit in compliance with Section 9.63.080, *Required Findings*, can be made. Based upon this review, additional Conditions of Approval may be imposed upon the project by the review authority when the Extension of Time is approved.

The Commission may grant additional extensions of time provided that the project is consistent with the General Plan, Development Code, Master Plans and Specific Plans.

9.63.120 – CUP Amendment

Refer to Article 5, Chapter 9.83 Permit Amendments.

9.63.130 – CUP Revocation

Refer to Article 5, Chapter 9.84 Permit Revocations.

9.63.140 – 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 Conditional Use Permit in compliance with the provisions of this Chapter. In addition, no other permits shall be issued for any use or structure requiring a Conditional Use Permit unless and until the Conditional Use Permit has been approved.

9.63.150 – Alteration to Nonconforming Use

A. **Procedure:** **Administrative Review**
Reviewing Authority: Director

The Director shall review and act upon requests to alter nonconforming uses.

B. An existing nonconforming use may be altered to accommodate a new structure or accessory use, except where it is an existing nonconforming use of land with no structure thereon.

C. **Findings.** Before any modification in a nonconforming use may be granted, it shall be found that all of the following conditions shall exist in reference to the alteration being considered:

1. The remaining normal life of the existing nonconforming use shall be determined pursuant to provisions specified in this Code prior to consideration of the proposed alteration if in a residential district.

2. The proposed alteration shall not prolong the normal life of the existing nonconforming use.

3. The alteration of the existing nonconforming use shall not be detrimental to nor prevent the attainment of objectives, policies, general land use and programs specified in the Town General Plan.

4. The granting of permission to alter the nonconforming use shall not be substantially detrimental to the public health, safety or welfare, or injurious to the property or improvements in the vicinity and district in which the use is located.

5. The alteration shall not change the primary use of the land nor increase the intensity of that use.

6. The existing nonconforming use shall comply with all other existing regulations.

7. Any alteration required by governmental or court action shall be exempt from these conditions.

9.63.160 – Surface Mining and Reclamation

State law requires a public hearing review for the Surface Mining and Reclamation process. The Mining and Land Reclamation Plan Application combine a Conditional Use Permit and Reclamation Plan into one application.