

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
September 9, 2014**

Chair Humphreville called the regular meeting of the Yucca Valley Planning Commission to order at 6:00p.m.

Commissioners present were, Drozd, Lavender, Whitten and Chair Humphreville. Commissioner Bridenstine was excused.

The Pledge of Allegiance was led by Chair Humphreville.

Commissioner Whitten moved to approve the agenda. Commissioner Drozd seconded, and the motion passed unanimously.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENTS

None

With no further individuals wishing to speak, Chair Humphreville closed public comments.

CLOSE PUBLIC COMMENTS

DISCUSSION ITEMS

1. ADULT ORIENTED BUSINESSES

Deputy Town Manager Stueckle provided the staff report. Staff asked the Planning Commission discuss Ordinance 71, Adult-Oriented Businesses and provide direction to staff. Ordinance 71 amended the County Development Code in 1996, and has not been updated since then. There was Town Council Discussion in 2009 on this topic as well as a memo written the Town Attorney at that time. The Council had in general discussed making the ordinance more restrictive. The Town Attorney at the time had stated in his memo that the Town was prohibited under the United States Constitution from banning or effectively banning adult oriented businesses, and that the Town had to provide sufficient permitted locations. The 2009 memo from the then Town Attorney also recommended that the Council consider modifying the ordinance to remove the requirement for adult-oriented businesses to obtain a Conditional Use Permit, and instead require them to meet a set of objective application requirements and zoning criteria. The Council's discussion in 2009 was driven by a specific business, which at the time did not meet the ordinance's requirement of greater than 20% of the face value of the stock-in-trade or floor area consisting of adult oriented materials. Staff also stated that currently there were not any businesses in Yucca Valley that meet the standard of adult oriented business as defined by the ordinance. Commissioner Lavender asked for clarification whether or not a store

located on Hwy 62 with a sign that reads XXX qualified as an adult oriented business. Staff said that it did not, as it did not meet the 20% requirement.

Staff said that the current ordinance limits Adult Oriented Businesses to the industrial land uses district and prohibits them within 2,000 feet of another such business or within 1,000 feet of a religious institution, school, public park or any property designated for residential use or used for residential purposes. The introduction of the Old Town Specific General Plan and the New General Plan reduced the amount of industrial zones within the Town. Staff asked the commission to discuss what, if any, changes should be made to the existing regulations.

PUBLIC COMMENTS

- Susan Simmons, Yucca Valley, spoke against a store in Town which might not meet the requirement to be considered adult oriented, but is advertising itself as an adult business.

CLOSE PUBLIC COMMENTS

Commissioner Drozd said that he thinks that limiting to industrial is fine and that what is currently in place is appropriate. He also agreed with Ms. Simmons that businesses that did not meet the standard of adult oriented businesses but advertised themselves as adult created a loophole in the ordinance.

He also mentioned that Cathedral City was discussing requiring background check for massage parlors as a way to deter those businesses.

Commissioner Lavender said that he thought the regulations should be as strict as possible.

Commissioner Whitten said that he thought Yucca Valley's ordinance was thin. He also said that he understood how the store with a sign reading XXX could operate under the current ordinance. Commissioner Whitten said that he thought that the massage parlor section has some merit, but there are legitimate businesses therapeutic businesses which might be effected. He said that he would like paragraphs D and E removed, and that he liked the definitions in Twentynine Palms ordinance. Commissioner Whitten also said that he likes the distances currently in the Yucca Valley code, and he said that allowing adult oriented businesses in commercial zones, but with the same limits on distances from the highways and sensitive land uses could provide a few more permissible locations, but might be acceptable. He also suggested adding "anywhere minors gather" to the list of sensitive land uses. He also said he thought the sections in the county code addressing inspections as well as the section addressing adult movies should be added.

Chair Humphreville asked staff if it would be legally allowable to reduce the percentage of merchandise value or floor space devoted to adult merchandise required to qualify as an adult oriented business from 20% to 10%. He also asked if a business advertising itself as XXX could be required to operate in the zones allocated for adult businesses. He felt that it was a public safety issue, given potential proximity to schools, etc. He also said that he approves of the idea of requiring background checks for massage parlors.

Commissioner Whitten said that massage parlors have to be state certified.

Commissioner Drozd said that background checks may deter illegitimate businesses from applying.

Commissioner Whitten said that including a section in the code stating that they may be inspected at any time without notice would better deter illegal activity.

Commissioner Lavender asked staff if there were any standards established with regards to population or other factors which establish how many locations need to be provided. Staff said that they had not seen any.

Chair Humphreville asked staff to look into the legality of requiring business with signs such as XXX be required to operate in zones designated for adult oriented businesses as well as reducing the percentage of stock or floor space from 20% to 10%. Staff said that they would, but also noted that the Town Attorney would most likely state that the Town was not able to regulate the content of signs.

Staff spoke about massage parlors. He said that the Coachella Valley area has had a huge massage industry and so those municipalities have had massage ordinances in place with stringent requirements. However, in 2009 the State passed a law that said municipalities were not allowed to treat a massage parlor any differently than any other professional service. This has caused problems in many cities, including in the Morongo Basin area. There was proposed state legislation to return more control to municipalities, but staff will have to check the current status of that legislation. Staff provided an explanation of the current process for receiving a massage technician license and massage parlors. The requirements currently in place are limited to what is allowed under State law.

Commissioner Whitten asked if the Town could limit the number of massage parlors under State law. Staff said that they could not.

Chair Humphreville asked staff for clarification about the suggestion to eliminate the CUP requirement. Staff said that the Town Attorney in 2009 had suggested removing the CUP requirement and instead require the businesses to meet an objective standard. The Conditional Use Permit process grants the Planning Commission significant discretionary authority, but the Attorney had suggested that the Commission step away from the use of unfettered discretion when dealing with adult orientated businesses and potential litigation. The Attorney suggested instead adopting a clear set of criteria, and if the potential business meet that criteria they would be approved by the Town. Staff said that establishing that criteria and creating an adult oriented business permit would be completely feasible. Staff did suggest that that this be a permit which would come before the Commission of administrative action.

Staff said that their understanding of the Commission discussion was that staff should look at the industrial area with the understanding that some commercial zoning might have to be included, and to keep such businesses away from the highway and from sensitive locations such as schools with some possible modification to the language to included locations such as Boys and Girls clubs. There was an overall desire to make the regulations stricter. Staff also suggested types of criteria such as lighting and security.

Commissioner Drozd asked staff about looking into background checks. Staff said that the Town currently uses live scan which would bring up any criminal records. Currently live scans are evaluated by Risk Management. Staff will have a conversation with Risk Management about the current criteria for rejecting an application based upon live scan results.

PUBLIC HEARINGS

**2. DEVELOPMENT CODE AMENDMENT, DCA 03-14
ARTICLE 5, ADMINISTRATION**

Deputy Town Manager Stueckle provided the staff report. He provided an overview of the item. Staff had included, based upon Commission Direction, a tiered notification requirement based on the size of proposed development. The Commission asked for clarification over the methodology used to determine the radius around a property, and staff explained the process currently used. Commissioner Whitten asked about a question which had been raised in an email. Staff said that there might not be a clear enough break at 5 acres in the language.

Staff said that they had made no other changes to this article, and said that the only article which has not been updated is the definitions. Staff asked that the Commission start reviewing the draft code in its entirety, with a mind to the guiding principles adopted by the Town Council.

PUBLIC COMMENTS

None

CLOSE PUBLIC COMMENTS

MOTION

Commissioner Whitten moved that the Planning Commission find the project exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act, and that the Planning Commission recommends that the Town Council adopt the ordinance and repeal Sections 83.010605-83.010630, Section 81.0150, Sections 81.0205-81.0235 and Sections 87.1201-87.1202 of Title 8 of the Town of Yucca Valley Development Code. The motion was seconded by Chair Humphreville and passed unanimously.

**3. DEVELOPMENT CODE AMENDMENT, DCA 01-14
ARTICLE 2, ZONING DISTRICTS AND DEVELOPMENT STANDARDS
CEQA EXEMPTION, SECTION 15061(b)(3)**

Deputy Town Manager Stueckle provided the staff report, and provided an overview of the ordinance and the changes that had been made in the draft code. Staff requested that the Commission consider the lot coverage table and the accessory building standards. Staff asked the Commission to consider the standards for maximum floor area for a single accessory structure

and the maximum number of accessory structures. Staff also asked the Commission to consider architectural compatibility standards for accessory structures.

Chair Humphreville opened the floor to public comments.

PUBLIC COMMENT

None

CLOSE PUBLIC COMMENT

Commissioner Whitten asked if staff was suggesting that the standard for maximum floor area for accessory structures in the RS zones should be changed from 50% to 100%. Staff said that they were not suggesting that the 50% be changed for RS. Staff said that in the RHR there are currently buildings which exceed the standard of 100% of the primary structure, and you may run into that in the RL zones as well. Staff said that the philosophy that accessory structures must be smaller than the primary structure may not hold true for the RHR zones, given that individuals who buy those large lots may do so with the intent of having that kind of large accessory structure. Staff also noted that under the current code lots that are larger than 10 acres are exempt from those limits.

Commissioner Whitten said that he thinks the language is fine the way it's written. He suggested modifying the language allowing metal roofs for agricultural buildings to allow multipurpose buildings to follow those same standards.

Commissioner Drozd said that he was fine with metal roofs or other materials as long as the colors matched and it was architecturally compatible with the primary structure. He approved of changing the number of accessory structures allowed in the RHR zones from 2 to 4, but wasn't sure about increasing the allowable floor area. Commissioner Drozd also said that he was fine with the maximum lot coverages in the draft code.

Chair Humphreville said that it is possible that a maximum lot coverage of 20% for RL is too small. Equestrian and other uses can require a lot of storage area. He said he has seen a lot of problems with people wanting to construct garages and being limited by the maximum accessory floor area. He asked if two of the four structures allowed for RL could be combined to increase floor area. Staff suggested adding language that allows either staff or the Planning Commission flexibility to approve cases where the numbers can be exceeded.

Chair Humphreville said that there needs to be flexibility, and he thinks that a total square footage allowance would be better than a set number of accessory structures.

Commissioner Whitten and Chair Humphreville both suggested allow a maximum accessory structure floor area which can be divided among multiple structures. Staff asked if they referring to both the RL and RHR zones. Commissioner Whitten said that they were.

Commissioner Lavender asked for clarification on minimum lot sizes, which staff provided.

Chair Humphreville suggested a standard which allows for metal structures provide they are painted to match the accessory structure.

Commissioner Drozd suggested changing the maximum lot coverage allowed for RL lots of one acer to 30%. Staff said that they will look at other communities and what they have established.

Chair Humphreville asked if staff had prepared information on the juniper and pinyon pine. Staff said that they will have that information for the next meeting.

Commissioner Whitten said that he thought there was consensus that plants young enough to be transplanted could be included in the native plant ordinance. Chair Humphreville agreed as long as it's reasonably done.

Commissioner Drozd said he would like to see the transplant survival rate for pinyon pines, juniper and the manzanita.

Staff said they had also cleaned up some language in the section addressing second dwellings.

Staff assed the commission to consider the commercial land use tables and industrial land uses tables, and the permitting processes associated with those for their next meeting.

Commissioner Drozd asked why massage establishments were listed as requiring a Temporary Special Event Permit in the table for the industrial zoning district. Staff said that it was currently a special license, and they will look into coming up with a different name for the license.

Staff asked for clarification on the Commission on their intent for maximum floor area for accessory structures. Staff suggested establishing a base standard with flexibility for special circumstances at either Director or Commission level.

Chair Humphreville Commissioner Whitten said that they were ok with larger accessory structures as long as they don't exceed maximum lot coverage.

Staff recommended that the Commission continue this item to their September 23, 2014 meeting.

MOTION

Chair Humphreville moved that the Planning Commission continue this item to their September 23, 2014 meeting. Commissioner Whitten seconded, and it passed unanimously.

CONSENT AGENDA

1. MINUTES

A request that the Planning Commission approves as submitted the minutes of the meetings held on August 26, 2014.

PUBLIC COMMENTS

None

END PUBLIC COMMENTS

MOTION

Commissioner Whitten moved that the Commission approve as submitted the minutes of the meetings held on August 26, 2014. Chair Humphreville seconded the motion and it passed unanimously.

STAFF REPORTS AND COMMENTS

Staff provided an overview of the status of private land development projects currently active in the town.

COMMISSIONER REPORTS AND REQUEST:

Commissioner Drozd thanked everyone for their hard work

Commissioner Whitten thanked staff for their efforts. He also asked staff about the construction fencing associated with the Sage Estates project.

ANNOUNCEMENTS:

The next regular meeting of the Planning Commission is scheduled for September 23, 2014 at 6:00pm.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:39.

Respectfully submitted,

Allison Brucker
Secretary

Approved by the Planning Commission on _____, 2014.

DRAFT