TOWN OF YUCCA VALLEY

PLANNING COMMISSION MEETING

The Mission of the Town of Yucca Valley is to provide a government that is responsive to the needs and concerns of its diverse citizenry and ensures a safe and secure environment while maintaining the highest quality of life

TUESDAY
MAY 14, 2013
6:00 p.m.

YUCCA VALLEY COMMUNITY CENTER, YUCCA ROOM
57090 - 29 PALMS HIGHWAY
YUCCA VALLEY, CALIFORNIA 92284

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PLANNING COMMISSION MEMBERS

Tim Humphreville, Chairman
Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Warren Lavender, Commissioner
Steve Whitten, Commissioner

AGENDA

MEETING OF THE
TOWN OF YUCCA VALLEY PLANNING COMMISSION
6:00 P.M., TUESDAY, MAY 14, 2013

The Town of Yucca Valley complies with the Americans with Disabilities Act of 1990. If you require special assistance to attend or participate in this meeting, please call the Town Clerk's office at (760) 369-7209 at least 48 hours prior to the meeting.

If you wish to comment on any subject on the agenda, or any subject not on the agenda during public comments, please fill out a card and give it to the Planning Commission secretary. The Chair will recognize you at the appropriate time. Comment time is limited to 3 minutes.

CALL TO ORDER:

ROLL CALL:
Vickie Bridenstine, Vice Chairman
Jeff Drozd, Commissioner
Tim Humphreville, Chairman
Warren Lavender, Commissioner
Steve Whitten, Commissioner

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Action: Move by_____2nd by_____Voice Vote_____.

PUBLIC COMMENTS

In order to assist in the orderly and timely conduct of the meeting, the Planning Commission takes this time to consider your comments on items of concern, which are not on the agenda. When you are called to speak, please state your name and community of residence. Please limit your comments to three minutes or less. Inappropriate behavior, which disrupts or otherwise impedes the orderly conduct of the meeting, will result in forfeiture of your public comment privileges. The Planning Commission is prohibited by State law from taking action or discussing items not included on the printed agenda.

PUBLIC HEARINGS:

1. DEVELOPMENT CODE AMENDMENT, DCA 02-13, DENSITY BONUS

Proposed Development Code Amendment to add Chapter 11, Division 7, Title 8 of the Town of Yucca Valley Municipal Code to establish density bonuses for affordable housing and other similar projects consistent with State law requirements

RECOMMENDATION: That the Planning Commission finds that the proposed ordinance is exempt from CEQA under Section 15061 (b) (3) and recommends that the Town Council adopt the Ordinance.

Action: Moved by _____ 2nd by _____ Voice Vote _____

DEPARTMENT REPORT:

2. DRAFT DEVELOPMENT CODE

RECOMMENDATION: That the Planning Commission reviews the Draft Development Code, Article 3 and provides feedback to staff.

CONSENT AGENDA:

3. MINUTES–

A request that the Planning Commission approve as submitted the minutes of the meeting held on April 09, 2013.

Action: Moved by _____ 2nd by _____ Voice Vote _____

All items listed on the consent agenda are considered to be routine matters and may be enacted by one motion and a second. There will be no separate discussion of the consent agenda items unless a member of the Planning Commission or Town Staff requests discussion on specific consent calendar items at the beginning of the discussion. Public requests to comment on consent calendar items should be filed with the Deputy Town Clerk before the consent agenda is called.

STAFF REPORTS AND COMMENTS:

FUTURE AGENDA ITEMS:

Appeal, A 01-13 Hubbard

COMMISSIONER REPORTS AND REQUESTS:

Commissioner Drozd
Commissioner Lavender
Commissioner Whitten
Vice Chairman Bridenstine
Chairman Humphreville

ANNOUNCEMENTS:
The regular meeting of the Yucca Valley Planning Commission scheduled for Tuesday, May 28, 2013 has been cancelled.

The next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, June 11, 2013.

ADJOURN

PLANNING COMMISSION STAFF REPORT

To: Honorable Chairman & Commissioners
From: Shane Stueckle, Deputy Town Manager
Date: May 08, 2013
For Commission Meeting: May 14, 2013

Subject: Development Code Amendment, DCA 02-13
Ordinance No.
Housing Element Update
State Mandated Regulations
Density Bonus & Development Incentives

Prior Commission Review: There has been no prior Commission review of this matter.

Recommendation: That the Planning Commission finds the proposed ordinance exempt from CEQA under Section 15061 (b) (3) and recommends that the Town Council adopt the Ordinance.

Executive Summary: The state requires that cities establish density bonus and development incentive standards and regulations for projects of 5 units or more which provide affordable housing units within the development. The Town is required to update its regulations for consistency with state law.

Order of Procedure:

Request Staff Report
Open the Public Hearing, Request Public Comment
Close the Public Hearing
Commission Discussion/Questions of Staff
Motion/Second
Discussion on the Motion
Vote

Discussion:

State Density Bonus Law History

California first passed the Density Bonus Law in 1979. The law was subsequently amended in 1989. It mandated that every city and county adopt a density bonus ordinance and required all local governments to give developers who offer affordable residences in their new developments a 25% density bonus. The law provided that local governments shall grant density bonuses of at least 25%, plus an additional incentive(s) or equivalent financial incentives, to housing developers who agree to construct at least:

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

- 20% of the units affordable to lower income households;
- 10% of the units affordable to very low-income households, or senior citizen housing.

The density Bonus Law stated that local governments may allow a developer permission to build at a higher density than the zoning permits if the developer offers affordable residences inside the development.

In 2004, the State enacted significant changes to the State's Density bonus law, which went into effect on January 1, 2005. The legislation, SB 1818, required cities and counties to overhaul their ordinances to bring them into conformance with the new State mandates. The new law significantly reduces the amount of units that a developer must provide in order to receive a density bonus and requires cities and counties to provide between one to three concessions or incentives, depending upon the percentage of affordable units that the developer provides. It also imposes a new land donation rule and statewide parking standards.

Summary of the SB 1818 (State Density Bonus Law)

The overall purpose of SB 1818 was to encourage developers to build affordable housing by requiring local governments to provide meaningful incentives. A density bonus means an increase of at least 20% over the maximum allowable residential density under the applicable zoning ordinance and general plan. There are four components to SB 1818, including:

(1) The bonus that must be granted to affordable housing developments that meet prescribed affordability levels;

(2) Waiver of development standards;

(3) Imposition of maximum parking standards; and

(4) Land donation.

A summary of the major provisions is as follows:

Land Uses Qualifying for Density Bonus:

A density bonus applies to housing developments with five or more dwelling units. These bonuses reach a maximum density bonus of 35% when a project provides either 11% Very Low units, 20% Low income units, or 40% Moderate income units. An applicant may opt to accept a lower percentage. Local agencies cannot require a general plan amendment, zoning change, or discretionary approval when granting a density bonus.

The amount of the density bonus is based on a sliding scale of the amount and affordability level of the units. The following residential project types qualify for the benefits of the density bonus statute:

- Minimum of 5% affordable to Very Low income households, or
- Minimum of 10% affordable to Low income households, or
- A qualifying Senior development or mobile home park, or
- Minimum of 10% of units in a condominium or planned development project affordable to Moderate income households.

Calculating the Bonus

The amount of the density bonus varies by the affordability target and by the percentage of affordable units as a percentage of the overall development. The density bonus is calculated on the maximum allowable density under the applicable zoning ordinance. These numbers are set in the following table:

1. The density is calculated on maximum allowable density (not based on the number of existing units)

Income Level*	Minimum Inclusionary	Minimum Bonus	Bonus Density Increase for Each Additional 1% of Inclusionary Units (Total Maximum 35%)
Very Low	5%	20%	2.5%
Low	10%	20%	1.5%
Seniors	All	20%	N/A
Moderate-Condo/Planned Developments	10%	5%	1%

*The income categories are defined by the U.S. Department of Housing and Urban Development (HUD) as adjusted by the area median household income San Bernardino County.

The Bonus/Incentive Mix

For qualifying projects, the developer is entitled to a density bonus and an incentive or concession. The number of incentives and concessions increase as the developer increases the percentage of affordable units.

Required Percentage of Total Housing Units for Incentives or Concessions		
Income Level*	% Total Housing Units	Number of Incentives(s) Or Concession(s)
Very Low	5%	1
Low	10%	1
Moderate-Condo/Planned Developments	10%	1

Very Low	10%	2
Low	20%	2
Moderate-Condo/Planned Developments	20%	2
Very Low	15%	3
Low	30%	3
Moderate-Condo/Planned Developments	30%	3

Waiver of Development Standards

A local agency cannot impose a development standard that would make the affordable housing project that qualifies for a density bonus infeasible. A concession or incentive includes a reduction in site standards, such as dimensional standards, architectural standards, parking requirements, and mixed use approvals. The law requires any incentive to "result in identifiable, financially sufficient, and actual cost reductions." Finally, an applicant may request the waiver of an unlimited number of development standards by demonstrating that the waivers are needed to make the project economically feasible.

In some cases, the granting of the density bonus, incentive, or concession may trigger a conflict with other local regulations. In these cases, the law authorizes the applicant to seek a waiver or modification of the standard. The agency shall grant the waiver, concession, or incentive requested by the applicant unless it makes a written finding, based upon substantial evidence, of either of the following:

A. The concession or incentive is not required in order to provide for affordable housing costs.

B. The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to Low-and Moderate-income households.

Finally, the law states that granting of concessions or incentives shall not, by themselves, necessitate a general plan amendment, zoning change, or other discretionary approval.

Maximum Parking Standards

If the project meets the minimum affordability levels and qualifies for a density bonus, upon request of a developer, the maximum parking standards are to be capped as follows:

- 0-1 bedroom = 1 onsite
- 2-3 bedrooms = 2 onsite
- 4 and more bedrooms = 2 and one-half parking spaces

Parking can be tandem and uncovered, but not on street.

Land Donation

A developer's donation of land for affordable housing may also trigger a bonus. There are a number of important tests that must be passed before a project qualifies for a bonus. The amount of land, zoning, and other development requirements must permit 10% of the total project units to be developed for units which are affordable for Very Low income households; all permits must be in place by the time the first parcel map or subdivision map is filed; the site must be one acre or larger or be able to accommodate at least 40 units; and the site is subject to a recorded restriction regarding allowable rents. The affordable site must be within the boundary of the overall development, or within a quarter mile with the approval of the local agency.

Projects meeting these qualifications are entitled to a bonus of 15% above the otherwise maximum allowable density, plus an additional one percent for each percent that the project exceeds the minimum 10%, to a maximum of 35%. This is in addition to any other increase in density and up to a maximum density increase of 35% should the applicant seek both.

Alternatives: Staff recommends no alternative actions. The update to the Town's regulations is necessary for consistency with state law for affordable housing projects.

Fiscal Impact: NA

Attachments: Ordinance No.

ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY CALIFORNIA, AMENDING TITLE 8, DIVISION 7, 3 OF THE TOWN OF YUCCA VALLEY MUNICIPAL CODE BY ADDING CHAPTER 11, SECTIONS 87.1110-87.1180, DENSITY BONUS AND OTHER HOUSING DEVELOPMENT INCENTIVES

Sections:

87.1110 Definitions
87.1120 General density bonus provisions
87.1130 Incentives and concessions
87.1140 Waiver of reduction of development standards
87.1150 Calculation of density bonus
87.1160 Additional density bonus through donation of land
87.1165 Additional density bonus or concession or incentive through provision of child care facility
87.1170 Town's discretion in granting density bonus
87.1180 Parking requirements

87.1110 Definitions

For purpose of this chapter, the following definitions apply:

"Affordable housing cost" has the definition set forth in California Health & Safety Code section 50052.5.

"Affordable rent" has the definition set forth in California Health & Safety code section 50053.

"Child care facility" means a facility other than a family day care home, including but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.

"Common interest development" has the definition set forth in California Civil Code section 1351.

"Concession or "Incentive" means any of the following:

1. A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission, as provided in part 2.5 (the State Building Code commencing with Health & Safety Code 18901) of Division 13 of the Health and Safety Code, including but not limited to, a reduction in setback and square footage requirements, and in the ratio of

vehicular parking spaces that would otherwise be required, that results in identifiable, financially sufficient, and actual cost reductions.

2. Approval of mixed use zoning in conjunction with a housing project, if commercial, office, industrial or other land uses will reduce the cost of a housing development, and if the commercial, office, industrial or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

3. Other regulatory incentives or concessions proposed by the applicant or the Town that result in identifiable, financially sufficient and actual cost reductions.

This definition does not limit or require the provision of direct financial incentives for a housing development, including the provision of publicly owned land, by the Town or the waiver of fees or dedication requirements.

"Density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable zoning code provisions and the land use element of the general plan as of the date of application by the applicant to the Town.

"Development standard" means the site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, or other Town condition, law, policy, resolution or regulation.

"Housing development" means a development project for five or more residential units. "Housing development: also includes a subdivision or common interest development, or the substantial rehabilitation of an existing multifamily dwelling where the result of the rehabilitation would be a net increase in the number of residential units.

"Lower income households: has the definition set forth in California Health & Safety Code section 50079.5.

"Maximum allowable residential density" means the density allowed under the zoning code, or if a range of density is permitted, the maximum allowable density for the specific zoning range applicable to the project.

"Moderate income households" has the definition for "persons or families of moderate income" set forth in California Health & Safety code section 50093(b).

"Multifamily dwelling" has the definition set forth in California Government Code section 65863.4(b)

"Senior citizen housing development" has the definition set forth in California Civil Code section 51.3

"Specific, adverse impact" has the definition set forth in California Government Code section 65589.5(d) (2).

"Very low income households" has the definition set forth in California Health & Safety Code section 50105.

87.1120 General density bonus provisions.

A. Application. Any person that desires a density bonus shall make an application on a form approved by the Director at the time of submitting an entitlement application for the housing development for which a density bonus is requested. The density bonus provided by this chapter only applies to housing developments consisting of five or more dwelling units.

B. Incentives and concessions. When an applicant seeks a density bonus for a housing development or for the donation of land for housing within the Town, the Town shall provide the applicant incentives or concessions for the production of housing units and child care facilities as provided in this chapter.

C. Available density bonus options. The Planning Commission will grant one density bonus, the amount of which will be as specified in Section 87.1150, *Calculation of Density Bonus*, and incentives or concessions as described in Section 87.1130, *Incentives and Concessions* when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this chapter, that will contain at least one of the following:

1. 10 percent of the total units of a housing development for lower income households.

2. 5 percent of the total units of a housing development for very low income households.

3. 10 percent of the total dwelling units in a common interest development for moderate income households, provided that all units in the housing development are offered to the public for purchase.

4. A senior citizen housing development.

As used in this subsection, "total units" or "a total dwelling unit" does not include units permitted by a density bonus awarded pursuant to this chapter.

D. Applicants election of basis for bonus. For purposes of calculating the amount of the density bonus pursuant to Section 87.1150, the applicant who requests a density bonus pursuant to this section shall elect whether the bonus will be awarded on the basis of paragraphs (1), (2), (3) or (4) of subsection (C) of this section.

E. Continued affordability.

1. An applicant shall agree to the continued affordability of all low and very low income units that qualified the applicant for the award of the density bonus for

30 years or a longer period of time if required by any applicable construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent. Owner-occupied units shall be available at an affordable housing cost.

2. An applicant shall agree that the initial and subsequent occupants of the moderate income units that are directly related to the receipt of the density bonus in a common interest development are moderate income households and that the units are offered at an affordable housing cost for the required affordability period.

87.1130 Incentives and Concessions

A. An applicant for a density bonus pursuant to Section 87.1120 may submit a proposal for the specific incentives or concessions that the applicant requests pursuant to this chapter.

B. Subject to subsection (C) below, the applicant will receive the following number of incentives or concessions:

1. One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for moderate income households in a common interest development.

2. Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for moderate income households in a common development.

3. Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for moderate income households in a common interest development.

C. The Planning Commission shall grant the concession or incentive requested by the applicant, unless it makes a written finding, based upon substantial evidence, that:

1. The concession or incentive is not required in order to provide for affordable housing costs or for rents for the targeted units to be set as specified in Section 87.1120(E)

2. The concession or incentive would have a specific, adverse impact upon public health and safety, or the physical environment, or on

any real property listed in the California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate income households; or

3. The concession or improvement would be contrary to state or federal law.

87.1140 Waiver or reduction of development standards.

A. An applicant may submit to the Town a proposal for the waiver or reduction of development standards that the applicant believes will have the effect of physically precluding the construction of a housing development that meets the criteria of Section 87.1120(C) at the densities or with the concessions or incentives permitted by this chapter, and may request a meeting with the director. Such proposal may not increase the number of incentives or concessions that the applicant is entitled to under Section 87.1130.

B. The Planning Commission shall waive or reduce the development standard requested by the applicant, unless it makes a written finding, based upon substantial evidence, that:

1. The waiver or reduction would have a specific, adverse impact upon public health and safety, or the physical environment, or on any real property listed in California Register of Historical Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact: or

2. The waiver or reduction would be contrary to state or federal law.

87.1150 Calculation of density bonus.

A. The applicant may elect to accept a lesser percentage of density bonus.

B. The amount of density bonus to which the applicant is entitled will vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in Section 87.1120 (C)

C. For housing developments meeting the criteria of Section 87.1120(C) (1), the density bonus will be calculated as follows:

Percentage Low Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

D. For housing developments meeting the criteria of Section 87.1120(C) (2), the density bonus will be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35

E. For housing developments meeting the criteria of Section 87.1120(C) (4), as senior housing developments, the density bonus will be 20 percent.

F. For housing developments meeting the criteria of Section 87.1120(C) (3), the density bonus will be calculated as follows:

Percentage Moderate Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11

17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30
36	31
37	32
38	33
39	34
40	35

G. All density calculations resulting in fractional units will be rounded up to the next whole number. The granting of a density bonus will not be interpreted, in and of itself, to require a general plan amendment, zoning change or other discretionary approval.

87.1160 Additional density bonus through donation of land.

When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the Town, as provided for in this section, the applicant will be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable zoning and the land use element of the general plan for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32
28	33
29	34
30	35

A. This increase will be in addition to any increase in density mandated by Section 87.1120(C).

1. All density calculations resulting in fractional units will be rounded up to the next whole number.

2. Nothing in this section will be construed to enlarge or diminish the authority of the Town to require a developer to donate land as a condition of development.

B. An applicant will be eligible for the increased density bonus described in this section if all of the following conditions are met.

1. The applicant donates and transfers the land no later than the date of approval of the final subdivision map or parcel map or residential development application.

2. The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households, in an amount not less than 10 percent of the number of residential units of the proposed development.

3. The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure.

    a. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible.

    b. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local the local government may subject the proposed development to subsequent design review, to the extent authorized by California Government Code section 65583.2(i), if the design is not reviewed by the town prior to the time of transfer.

4. The transferred land and the affordable units will be subject to ta deed restriction ensuring continued affordability of the units consistent with Section 87.1120(E) (1) and (2), which restriction will be recorded on the property at the time of transfer.

5. The land is transferred to the Town or to a housing developer approved by the Town. The Town may require the applicant to identify and transfer the land to such housing developer.

6. The transferred land shall be within the boundary of the proposed development or, if the town agrees, within one-quarter mile of the boundary of the proposed development.

87.1165 Additional density bonus or concession or incentive through provision of child care facility.

A. When an applicant proposes to construct a housing development that conforms to the requirements of Section 87.1120(C) and includes a child care facility that

will be located on the premises of, as part of, or adjacent to, the project, the Planning Commission shall grant either of the following:

1. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

2. An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

B. The Planning Commission shall require, as a condition of approving the housing development, that the following occur:

1. The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Section 87.1120(E).

2. Of the children who attend the child care facility, the children of very low income households, lower income households, or moderate income households, shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or moderate income households pursuant to Section 87.1120(C).

C. Notwithstanding any requirement of this section, the Planning Commission is not required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

D. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus is permitted in geographic areas of the housing developments.

E. The granting of a concession or incentive will not be interpreted, in and of itself, to require a general plan amendment, zoning change, or other discretionary approval.

87.1170 Town's discretion in granting density bonus.

Nothing in this chapter will be construed to prohibit the Planning Commission from granting a density bonus greater than what is described in this chapter for a development that meets the requirements of this chapter, or from granting a proportionately lower density bonus than what is required by this chapter for developments that do not meet the requirements of this chapter.

87.1180 Parking requirements

A. Upon the request of the applicant, the Town will not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of Section 87.1120(C),that exceeds the following ratios:

1. Zero to one bedrooms: one onsite parking space

2. Two to three bedrooms: two onsite parking spaces.

3. Four and more bedrooms: two and one-half parking spaces.

B. If the total number of parking spaces required for a development is other than a whole number, the number will be rounded up to the next whole number. For purposes of this section, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through on-street parking.

C. This section applies to a development that meets the requirements of Section 87.1120(C), but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this chapter, subject to Section 87.1130.

SEVERABILITY. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have adopted this ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

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

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

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this _____ day of _____ 2013.

_____

MAYOR

ATTEST:

APPROVED AS TO FORM:

_____
TOWN CLERK

_____
TOWN ATTORNEY

Senate Bill No. 1818

CHAPTER 928

An act to amend Section 65915 of the Government Code, relating to housing.

[Approved by Governor September 29, 2004. Filed with Secretary of State September 30, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1818, Hollingsworth. Density bonuses.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus or other incentives or concessions for the production of lower income housing units within the development if the developer meets certain requirements, including a requirement that the applicant agree or propose to construct a specified percentage of the total units for specified income households or qualifying residents. Existing law also requires an additional density bonus or additional concession or incentive to be granted to a developer of housing that meets those requirements and includes a child care facility, as defined, subject to specified conditions. Existing law prohibits the legislative body from establishing fees to support the work of the planning agency that exceed the reasonable cost of providing the service for which the fee is charged.

This bill would revise the above-described provision to, among other things, require, when a developer seeks a density bonus for a housing development within, or for the donation of land within, the jurisdiction of the local government, that the local government provide a density bonus or other incentives or concessions for the production of housing units and child care facilities, as specified. By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 65915 of the Government Code is amended to read:

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented.

(b) A city, county, or city and county shall grant a density bonus and incentives or concessions described in subdivision (d) when the applicant for the housing development seeks and agrees to construct at least any one of the following:

(1) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(2) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(3) A senior citizen housing development as defined in Sections 51.3 and 51.12 of the Civil Code.

(4) Ten percent of the total dwelling units in a condominium project as defined in subdivision (f) of, or in a planned development as defined in subdivision (k) of, Section 1351 of the Civil Code, for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all lower income density bonus units for 30 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Those units targeted for lower income households, as defined in Section 50079.5 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 60 percent of area median income. Those units targeted for very low income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed 30 percent of 50 percent of area median income.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of the moderate-income units that are directly related to the receipt of the density bonus in the condominium project as defined in subdivision (f) of, or in the planned

unit development as defined in subdivision (k) of, Section 1351 of the Civil Code, are persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code. Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture its proportionate share of appreciation, which shall then be used within three years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote homeownership. For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the percentage by which the initial sale price to the moderate-income household was less than the fair market value of the home at the time of initial sale.

(d) (1) An applicant may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of either of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a condominium or planned development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a condominium or planned development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a condominium or planned development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section. The city, county, or city and county shall also establish procedures for waiving or modifying development and zoning standards that would otherwise inhibit the utilization of the density bonus on specific sites. These procedures shall include, but not be limited to, such items as minimum lot size, side yard setbacks, and placement of public works improvements.

(e) In no case may a city, county, or city and county apply any development standard that will have the effect of precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to

require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(f) The applicant shall show that the waiver or modification is necessary to make the housing units economically feasible.

(g) (1) For the purposes of this chapter, except as provided in paragraph (2), "density bonus" means a density increase of at least 20 percent, unless a lesser percentage is elected by the applicant, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b). For each 1 percent increase above 10 percent in the percentage of units affordable to lower income households, the density bonus shall be increased by 1.5 percent up to a maximum of 35 percent. For each 1 percent increase above 5 percent in the percentage of units affordable to very low income households, the density bonus shall be increased by 2.5 percent up to a maximum of 35 percent. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units that is equal to 5 or 10 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(2) For the purposes of this chapter, if a development does not meet the requirements of paragraph (1), (2), or (3) of subdivision (b), but the applicant agrees or proposes to construct a condominium project as defined in subdivision (f) of, or a planned development as defined in subdivision (k) of, Section 1351 of the Civil Code, in which at least 10 percent of the total dwelling units are reserved for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, a "density bonus" of at least 5 percent shall be granted, unless a lesser percentage is elected by the applicant, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, county, or city and county. For each 1 percent increase above 10 percent of the percentage of units affordable to moderate-income households, the density bonus shall be increased by 1 percent up to a maximum of 35 percent. All density calculations resulting in fractional units shall be rounded up to the next

whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units that is equal to 10 percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(h) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county as provided for in this subdivision, the applicant shall be entitled to a 15 percent increase above the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for the entire development. For each 1 percent increase above the minimum 10 percent land donation described in paragraph (2) of this subdivision, the density bonus shall be increased by 1 percent, up to a maximum of 35 percent. This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks both the increase required pursuant to this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(1) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(2) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(3) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned for development as affordable housing, and is or will be served by adequate public facilities and infrastructure. The land shall have appropriate zoning and development standards to make the development of the affordable units feasible. No later than the date of approval of the final subdivision map, parcel map, or of the residential development, the transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, except that the local government may subject the proposed

development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

(4) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of dedication.

(5) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.

(6) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.

(i) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:

(A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.

(B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or a city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited

to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(j) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the planned development of a city, county, or city and county. For the purposes of this section, "housing development" also includes a subdivision or a planned unit development or condominium project, as defined in Section 1351 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(k) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(*l*) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

This subdivision does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) Nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter amendment, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance, or if a range of density is permitted, means the maximum allowable density for the specific zoning range applicable to the project.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedrooms: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request additional parking incentives or concessions beyond those provided in this section, subject to subdivision (d).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service

mandated by this act, within the meaning of Section 17556 of the Government Code.

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TOWN OF YUCCA VALLEY
PLANNING COMMISSION MEETING MINUTES
April 9, 2013

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

Commissioners Present: Bridenstine, Drozd, Whitten, and Chair Humphreville.

Pledge of Allegiance was led by Chair Humphreville

APPROVAL OF AGENDA

Commissioner Whitten moved to approve the agenda. Commissioner Bridenstine seconded. Motion carried 4-0.

PUBLIC COMMENTS

None

DEPARTMENT REPORT:

1. STREET VACATION, SV 01-13

A request to vacant approximately sixty feet (60') by one hundred feet (100') easement(s) on both the northwest and northeast corners of Dumosa Avenue @ SR 62
APN 595-371-41

Project Engineer Qishta gave the staff report contained in the written agenda.

Commissioner Whitten read the executive summary regarding the fact that the easement can only be vacated when it is supported by substantial evidence that it is no longer needed or vehicular traffic and the street is unnecessary for present or prospective public use. He noted that the street is clearly in use now. Deputy Town Manager Stueckle explained an easement for roadway and utility purposes was granted to the County in 1962 for SR 62 outer highway north, both east and west of Dumosa. In 1975 the County Board of Supervisors adopted a resolution approving the vacation of a portion of the easement granted in 1962. It is unknown why a portion of the original 1962 easement was not vacated in 1975, but is likely it was for potential intersection improvements for the area. Commissioner Whitten questioned if the property line next to La Casita is town property. Deputy Town Manager Stueckle stated that property ownership is either the Town's or the partner in the senior housing partnership. He added the east side remains with the Town.

Commissioner Drozd commented that La Casita is very close to the property line.

Commissioner Bridenstine questioned if existing dedication for Dumosa is in place currently. Deputy Town Manager Stueckle advised that is correct.

Commissioner Whitten questioned if setbacks are being ignored. Deputy Town Manager Stueckle advised that setback standards apply to the property line. Commissioner Whitten questioned if a light has been looked at for Dumosa. Deputy Town Manager Stueckle advised that Caltrans has given approval of signalization at that intersection. Staff is hoping for $479,000 for design of that signal. There are no costs to the Town requested at this time.

Commissioner Drozd questioned if realignment is anticipated to be at the same time as the signal or some different time. Deputy Town Manager Stueckle advised that road realigned and reconstruction will be done simultaneously with construction the project, which is scheduled to break ground in less than 60 days.

Commissioner Bridenstine moved to find that the street vacation, SV-01-13, is consistent with the General Plan and General Plan Circulation Element, and recommend to the Town Council to vacate an approximate 60' x 100' easement at the intersection of SR 62 and Dumosa Avenue, as identified on Exhibit A to this staff report, being a portion of APN 595-371-41, and forward that recommendation to the Town Council. Commissioner Drozd seconded. Motion carried 4-0

2. DRAFT DEVELOPMENT CODE

Deputy Town Manager Stueckle advised staff will be presenting each individual chapter and addressing Commission comments, questions, concerns, and requested changes. He noted this will be a continuous work in progress throughout the update.

Starting with Article 6, Subdivisions, Noel Owsley and Project Engineer Qishta went over the chapters and how the Subdivision Ordinance relates to the process and approval authority for Tentative Maps, Parcel Maps and Final Maps, Lot Line Adjustments, Lot Mergers and Certificates of Compliance, and Reversion to Acreage.

Noel Owsley, Engineer advised of the following regarding Section 9.95.040 – Site Preparation and grading for Subdivision Construction, on page 6-53.

(1.) Minimum Slopes, Noel Owsley, Engineer, advised that during the design of a tract or single family there are swales around the house to drain the water away from the house and out into the street. The steepness of the swale determines how high above the street the pad needs to be. Right now the requirement is 0.5% for paved drainage swales and 2% for unpaved, however he is recommended that the swale be 0.5% in all cases. If you go much more than that the side yards become very steep.

(2.) Pad Elevations. In all cases pad elevation should be above the street, the question is what the minimum should be. There are a lot of streets that carry water. Deputy Town Manager Stueckle added that in a community like Yucca Valley, with the topography and existing development patterns, we know there are going to be subdivisions with pads designed below street grade. Page 6-4 has Exceptions to the Subdivision Standards which gives the authority for the Town Engineer to review the exceptions. A concern we have as staff is we would like, in all cases, for the pad to be above the grade of the street, but where do we establish that. What minimums do we want to have as far as the pad being above the street. Engineer Owsley recommended that the last sentence of the pad elevation paragraph which reads "However, the Town Engineer may approve a waiver of these elevations for lots one acre or larger or with setbacks 50 feet or greater, where the pad elevation is protected from flooding or run-off from the public right-of-way by drainage improvements" be amended to removing "for lots one acre or larger or with setbacks 50 feet or greater". Deputy Town Manager Stueckle stated staff wants flexibility to exist but the goal is to assure both on the Staff and Commission level that when maps come before you there is no issue of flooding for homes below street grade.

Engineer Owsley advised under a. under Section 9.91.100 E. 2. a. regarding expiration of vested rights is actually 24 months, not 12 as stated on page 6-17. Section 9.91.110 Tentative Map Expiration and Extensions, (A) Valid Timeframe, Engineer Owsley stated the Map Act currently allows that approved maps are good for 2 years and there can be 4 more 1 year extensions for a total of 6 years. Extensions have to be applied for every year after the 2nd year.

Chair Humphreville stated he had page 6-53 marked for the cross drainage. What it is going to come down to is mass grading whether or not we are going to allow to mass grade on the tracts. He cited Story Park as an example. Engineer Owsley stated by not having mass grading you more or less have to assume that the water is going to go where it goes today.

Commissioner Bridenstine stated she agrees with the ½% slope for various reasons, including the fact that 2% tends to erode you get a trough cut into the

soil, and you get the soil in the street, so ½% works really well here in the desert. Problem with Story Park is that when it was developed no one had idea we were going to have curbs and gutters in the first place. She noted that Story Park is a separate issue and this ordinance needs to pertain to new subdivisions and new construction. With reference to the proposed change to the last sentence under residential pad elevations relating to drainage improvements, a lot of people think that drainage improvements means storm drains. Adding the words "drainage improvements" restricts what staff is trying to un-restrict. Engineer Owsley clarified that the intent of "drainage improvements" is not storm drains, but swales. Commissioner Bridenstine questioned if the definitions will clarify that drainage improvements does not mean storm drains.

Chair Humphreville advised ½% works if we keep 4 or 5 inches pad elevation above the street. Chair Humphreville questioned if, when you say no cross drainage, they can have underground drainage from lot to lot if needed. Engineer Owsley stated that staff does not want to encourage cross lot drainage because it is difficult to ensure it is maintained, and if not how do we control that water. It is the smaller lots where there are potentially problems with maintenance that we are not encouraging cross lot drainage, but on the larger lots that are not mass graded, you can keep cross lot drainage and try to keep the flow as it originally was.

Commissioner Bridenstine advised what she would really like to see is what staff had in there before and said you were removing for lots 1 acre or larger, so that people understand that sheet flow is still allowed if there is room to revert back to the original drainage flow pattern. Engineer Owsley stated that larger lots take care of themselves, but how do you marry a code that has regulations for small and large lots.

Deputy Town Manager Stueckle commented that another issue is when you have subdivisions with homes below street grade, where a 100 year flow comes over the right of way. An example of unintended consequences is allowing 6' garden walls without a permit. Many of those garden walls are built in the drainage easements. He advised that mass grading has been used in a couple of different contexts, and presented in a number of different policy areas. He questioned the typical definition of mass grading. Engineer Owsley advised there is no typical mass grading site, noting that typically smaller lots are mass graded. Deputy Town Manager Stueckle questioned how the Commission defines mass grading in their minds, and how do we define it in the code so that word is used properly and not as an unacceptable construction method.

Commissioner Bridenstine defined what she believe is a reconfiguration of existing land form to where drainage patterns are altered and a substantial amount

of clearing is done. The key is the fact that drainage patters are altered. For example a pad that is above the street where it was below, or to flatten out a hill so that it is skewed in a specific direction.

Chair Humphreville stated it is a lot different in subdivisions than it is in single family residential areas. We don't' want to take away someone's ability to take out brush if they buy acreage so that they can have equestrian uses. Engineer Owsley stated that is one thing that is not really covered in the subdivision section, it would be developed under a different section of code. Deputy Town Manager Stueckle advised that one of staff's goals in the update process is establishing expectations in the community about what these codes and general plan policies mean. Grading is a completely different issue from removal of vegetation and should not be at the policy level, regardless of which end of the spectrum a person stands on. The desired end result we want is to be able to communicate clearly to the community expectations of the outcome of the code and what they mean. Vegetation issues are addressed in article 3.

Chair Humphreville requested an example of acceptable cross drainage. Engineer Owsley stated it is something above ground such as a hardened swale in the easement on both lots.

Margo Sturges, Yucca Valley, commented regarding mass grading and the need to educate citizens.

Deputy Town Manager Stueckle advised that Commissioner Whitten turned in a marked up version of his prior code book but staff has not had time to go through it.

Chair Humphreville commenting with regard to page 6-54 E. 1. Underground utilities required "within or directly serving each subdivision shall be underground", noted he does not have a problem with undergrounding within the subdivision, but questioned the supply coming into subdivision. Deputy Town Manager Stueckle advised that the existing utility undergrounding ordinance requires that abutting utility lines that are providing direct service to the subdivision site, are required to be undergrounded, but staff will look into that issue. Chair Humphreville questioned Page 6-55 F, regarding what the standard is going to be for street lighting. Engineer Owsley advised that when staff looks at tracts in general, at this time street lights are only really required at intersections. On major arterials street lights are suppose every 100 feet, but at our level we are more concerned with the night sky ordinance and don't really require that many, but by leaving the wording this way keeps the option in there if needed. Deputy Town Manager Stueckle advised the existing Public Works improvements

standards adopted in 1995, are out of date and do need to be updated. The street lighting detail is far too intensive for a desert community and needs to be amended. He noted the typical practice today is one street light required at a main road and one at the end of a cul-de-sac.

Commissioner Drozd questioned if on page 6-54 B regarding fire hydrants would have the Water District involve. Engineer Owsley advised it is the Fire Department sets the location. Deputy Town Manager Stueckle added the location, spacing, and water flow requirements are set by San Bernardino County Fire Department. If the system is not adequate to deliver that flow, it is up to the developer to upgrade the water system to comply with fire requirements. Commissioner Drozd commented there is a section on simple lot mergers and questioned if there is something about a simple lot split. Deputy Town Manager Stueckle advised a parcel map is required for a lot split. Engineer Owsley advised that is per state law. Deputy Town Manager Stueckle added he does not believe that state law requires presentation of parcel maps to the Planning Commission, noting that some communities allow Director approval, however, in small communities like Yucca Valley the maps should come to the Commission.

Commissioner Whitten commented regarding the posting of notification on page 6-11 c. requiring notices to be posted not more than 300' apart along street frontages of subject property, and questioned if there is any language regarding having notices going to land locked lots. Engineer Owsley advised this section is not required for the Map Act. Commissioner Whitten questioned if there is any possibility of a subdivision having Community Center Service Areas. Deputy Town Manager Stueckle advised that, under the Planned Development and Specific Plan ordinances for gated communities, those opportunities exist within various portions of those ordinances. Commissioner Whitten questioned if geothermal exploration should be included in Preliminary Soils report language on page 6-63. Deputy Town Manager Stueckle advised that would not be in this part of the code, but would be added in another section.

Commissioner Drozd commented he couldn't find anywhere that splitting a parcel was required to have curb, gutter and sidewalk. Deputy Town Manager Stueckle pointed out the draft infrastructure table noting that, in low density areas, no curb gutter and sidewalks are included, but it will come back to the Commission

Chair Humphreville commented regarding expiration of vested rights listed on page 6-17 a. where it talks about an initial time period of 12 months with 1 year extensions, and questioned why that is 24 month extensions. Engineer Owsley advised that is expressly in the Map Act.

Commissioner Bridenstine questioned if there is anything in the subdivision section regarding onsite retention of storm waters and how they are handled. Engineer Owsley advised that is covered under a different section.

Deputy Town Manager Stueckle reviewed Chapter 9.64, Conditional Use Permits as to how it is laid out and the information communicated to the community. The Commission makes findings of General Plan consistency on all Conditional Use Permits, with the requirements listed in C. He noted that no two projects are the same and there are always going to be nuances, so there may times when one or two of the items in section C are not applicable to a project's findings. Those things will be in the staff report, providing technical reasons why the items may not be required. We have tried to establish language so that an individual knows what they can expect when trying to develop a project. We also have standard conditions of approval for both CUP's and Site Plan Review Applications. Table 4.3 on page 4-15 lays out the review authority. It is typically staff's goal to bring forward a recommendation on al CUP's so the Commission is in a position to act, but after taking public testimony, the Commission may feel it is more appropriate for the Council to look at the item. With reference to Performance guarantees on page 4-16 D. it is not mandatory and has not been practice for CUP's to require posting of sureties, but there may be projects in the future where positing of performance bonds would be recommended for something like a large multi-phase project where infrastructure is put in in phases.

Commissioner Whitten questioned if there should be a paragraph added to Section 9.64.020 Applicability, regarding mixed use. Deputy Town Manager Stueckle advised that will be added there and where necessary throughout the code. With regard to the tables, Commissioner Whitten suggested that reference page numbers be added.

Commissioner Drozd expressed concern regarding the 10 day noticing requirements on page 4-8 stating that a lot of people come to meeting on an issue and say they were never notified. He wondered if it was feasible to use certified mail so staff knows they got the notice. Deputy Town Manager Stueckle advised of the standard process noting that the notices are mailed to property owners based on the most recent equalized assessment role by the County Assessor. The applicant is submitting and certifying that mailing labels are true, accurate and consistent with the most recent assessment role. State planning laws dictates noticing requirements by 1st class mail. In addition, all items are scanned and posted on the Town's webpage on the planning page, so that information is being made available to the community very early on. Commissioner Drozd questioned whether Temporary Special Event permits are required for things such as political

events in front of the office. Deputy Town Manager Stueckle advised that political assembly is not addressed within the code, noting individuals have a right to hold those events.

Chair Humphreville added that the property owner can address that if it becomes an issue for them.

Chair Humphreville commented regarding page 4-66 C. 1. Batch Plants, and questioned what the zoning is at the Superior Plant, and whether or not that business would still fit the area if the plant changes hands. Deputy Town Manager Stueckle advised the property is located in Old Town Industrial so staff needs to check permitted uses within the Old Town Specific Plan for that precise land use activity. Chair Humphreville advised he heard the plant is for sale and was wondering if the Town will tell the new owner that they can't do that activity there. Deputy Town Manager Stueckle advised that staff will have to research issue and will come back to the next meeting with the information. Chair Humphreville requested an explanation of the requirement on page 4-58 Section 9.740.80 C. Deputy Town Manager Stueckle advised when common open space is created as the result of a project within a specific plan, which could be in commercial, but is more frequently residential, the purpose is to insure that there is a requirement for a Home Owners Association to maintain that common area. Chair Humphreville stated he can understand the requirement for trash, but if it is open space he has a problem, and questioned what the requirements will be for something like a 5 acre open space area. Deputy Town Manager Stueckle stated there may be an agreement in the CCR's. Chair Humphreville questioned if there were any changes in the table on page 4-15 from the last revision. Deputy Town Manager Stueckle advised no there have been no changes. He noted that there is one change on the section regarding Land Use Compliance Review. The LUCR ordinance was silent in terms of how many expansions there could be, that change is on Page 4-33 B. Chair Humphreville questioned page 4-18 H "That quality in architectural design is maintained in order to enhance the visual desert environment...." Deputy Town Manager Stueckle advised there would be a review of the architecture to the guidelines, noting the Town provides a tremendous amount of flexibility today..

Deputy Town Manager Stueckle advised that the Town attorney is still reviewing Article 5 so staff will hold on those questions until she has completed her review. He added that staff will track changes and hope to date each change.

CONSENT AGENDA

3. MINUTES

A request that the Planning Commission approve as submitted the minutes of the

meetings held on February 26, and March 26, 2013

Commissioner Whitten moved to approve the minutes as presented. Commissioner Drozd seconded. Motion carried 4-0.

STAFF REPORTS AND COMMENTS

Deputy Town Manager Stueckle advised that we have received a resignation from Commissioner Hildebrand and suggested the Commission reorganization remain on hold until the vacancy is filled. Upon discussion the consensus was to place reorganization on the next agenda.

Deputy Town Manager Stueckle stated that at the last meeting Commissioner Bridenstine indicated she would not be available for the meeting of May 28th and questioned if the Commission would have any availability any other date. Commissioner Bridenstine advised she will not be available from May 22nd through the 29th. Deputy Town Manager Stueckle recommended the May 28th Commission be canceled and rescheduled to June.

COMMISSIONER REPORTS AND REQUESTS

Commissioner Bridenstine:

None

Commissioner Drozd:

Thanked staff for doing a great job.

Thanked Commissioner Hildebrand for his service to the Commission.

Commissioner Whitten:

Echoed comments about Commissioner Hildebrand noting that anyone who puts themselves out into the public limelight, whether elected or as a volunteer should be commended.

Thanked staff for their hard work on the code noting it is getting better and better.

Thanked the citizen attending the meeting, as well as the media for sitting here bearing through process.

Commented that as he drives around town he has noticed quite a bit of building material

in driveways, and has seen a couple of lots being cleared. Wondered if there was any way, as commissioners, they could be informed about what is going on with building permits. Deputy Town Manager Stueckle advised there has been one new single family residential permit issued in the past 18 months on Apache. Staff has been told there will be an application coming in for a home on Balsa and Emerson, and we are expecting to see more activity on Senior Housing and the subdivision on Acoma Trail. He also noted that staff has started listing projects on the Town's website that have been submitted for plan check, but those are primarily in the commercial category.

Distributed a brochure from Twentynine Palms regarding landscaping requirements and what kinds of plants the Water District lists.

Commissioner Drozd:

Commented regarding the demonstration garden at Joshua Basin Water District.

Chairman Humphreville:

Thanked staff for all their hard work.

ANNOUNCEMENTS

The next regular meeting of the Yucca Valley Planning Commission is Tuesday, April 23, 2013 at 6:00 p.m. in the Yucca Valley Community Center.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:18 p.m.

Respectfully submitted,

Jamie Anderson, MMC
Town Clerk