

**TOWN OF YUCCA VALLEY
PLANNING COMMISSION MINUTES
June 9, 2015**

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

Commissioners present were:

Jeff Drozd, Commissioner, Planning Commission
Jeff Evans, Commissioner, Planning Commission
Charles McHenry, Commissioner, Planning Commission
Steve Whitten, Vice Chair, Planning Commission
Vickie Bridenstine, Chair, Planning Commission

Town of Yucca Valley Staff present were:

Shane Stueckle, Deputy Town Manager
Alex Qishta, Project Engineer
Diane Olsen, Planning Technician
Allison Brucker, Planning Secretary

The Pledge of Allegiance was led by Chair Bridenstine

APPROVAL OF AGENDA

MOTION

That the Commission approve the agenda.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Jeff Evans, Commissioner
SECONDER: Jeff Drozd, Commissioner
AYES: Drozd, Evans, McHenry, Whitten, Bridenstine

CONSENT AGENDA

1. MINUTES

A request that the Planning Commission approve as submitted the minutes of the meeting held on April 14, 2015 and May 12, 2015.

PUBLIC COMMENTS ON CONSENT AGENDA

None

END PUBLIC COMMENTS

MOTION

That the Planning Commission approve the Consent Agenda as amended.

RESULT: **ADOPTED [UNANIMOUS]**
MOVER: Jeff Evans, Commissioner
SECONDER: Jeff Drozd, Commissioner
AYES: Drozd, Evans, McHenry, Whitten, Bridenstine

PUBLIC HEARINGS

2. ENVIRONMENTAL ASSESSMENT, EA 02-14
CONDITIONAL USE PERMIT, CUP 01-14
VARIANCE, V-01-15
SPECTRUM VERIZON

Proposal to construct a 55’ cellular tower to be disguised as a pine tree, to include a generator inside a 900 square foot, 8’ high block wall enclosure for equipment. The variance request is to exceed the maximum height limit of 40’ in the Mixed Use zoning district by 15’, at a total height of 55’

RECOMMENDATION: That the Planning Commission continues the public hearing to the meeting of Tuesday, June 23, 2015.

Deputy Town Manager Stueckle provided the staff report. He stated that based upon ongoing discussions between Staff and the applicant, the recommended action was for the Planning Commission to open the Public Hearing, accept public comment, and then continue the item to the meeting of June 23, 2015, while keeping the item open.

PUBLIC COMMENTS ON ITEM 2

None

END PUBLIC COMMENT

MOTION

That the Commission continue the Public Hearing for this item to the meeting of June 23, 2015.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Jeff Evans, Commissioner
SECONDER: Charles McHenry, Commissioner
AYES: Drozd, Evans, McHenry, Whitten, Bridenstine

**3. ENVIRONMENTAL ASSESSMENT, EA 04-15
TENTATIVE PARCEL MAP, TPM 19644
YUCCA RETAIL 5**

Request to subdivide an approximate 1.89 acre parcel into two parcels; Parcel 1 would contain approximately .904 acres and Parcel 2 would contain approximately .986 acres. Development of Parcel 2 with an approximate 7,700 square multi-tenant retail building has been approved by the Yucca Valley Planning Commission. Development of Parcel 1 has not been approved and the proposed parcel is designed to accommodate an approximate 3,200 square foot building pad.

RECOMMENDATION:

Environmental Assessment, EA 04-15 : That the Planning Commission finds the project exempt from further environmental review in that the review and approval of the Home Depot Retail Center Specific Plan included a program Environmental Impact Report (EIR). The EIR evaluated future projects within the boundaries of the Home Depot Retail Center Specific Plan. The proposed project was evaluated to determine if additional CEQA documentation needed to be prepared. The proposed project will not have any effects not considered within the scope of the program EIR. The project is consistent with program EIR and will not create any additional impacts not previously considered. No additional environmental review is required.

Tentative Parcel Map, TPM 19644: That the Planning Commission approves Tentative Parcel Map, TPM 19644 based upon the information contained within the staff report, the required findings and the recommended conditions of approval.

Deputy Town Manager Stueckle provided the staff report, and provided an overview of the project. The proposed project was for the environmental assessment and tentative parcel map for a portion of the Home Depot retail center lot. Staff stated that an Environmental Impact Report was included as part of the review and approval of the Home Depot Retail Center Specific Plan, and the based upon that report staff recommended that the Commission find the project exempt from further environmental review. Staff also stated that the rough grading for the site was completed at the same time as the rough grading for the Home Depot site, and that utilities were roughed in to the project location at that time. Two structures at the project location have already be completed. All infrastructure improvements required for the project have already been constructed as part of the construction of the Home Depot.

Staff noted that there were a few minor changes to the recommended Conditions of Approval. Those recommended changes included:

- G2 was modified from "Tract Map" to "Parcel Map," and the expiration period was corrected to two years with the ability to request a one year extension;
- G13 was modified to remove the reference to the Mojave Desert air Quality Management District;
- G29 was removed as was only relevant for tract maps not parcel maps;

- P4 was recommended for removal based on the preparation and approval of the environmental impact report;
- P5 was amended to remove reference to the Towns fee schedule and the requirement for the Landscaping plan to be separately reviewed by the Planning Commission as it is redundant;
- E31, E33, and E34 for where removed because they only related to residential subdivisions.

PUBLIC COMMENTS ON ITEM 3

- Greg Schlarbaum, representative for the applicant, spoke in support of the project. He was a representative of DRC Engineering, who prepared the tentative parcel map.

END PUBLIC COMMENTS

Commissioner McHenry and Commissioner Drozd both had no questions or comments on the item.

Commissioner Evans said it appears that it meets the requirements of the code, and there shouldn't be issues with the project.

Commissioner Whitten said he didn't see anything wrong and felt it was routine in nature and should be approved.

Chair Bridenstine commented on some of the Conditions of Approval. She said that staff's recommended changes caught a lot of the issues she was concerned about, but said that there were still several conditions which she felt did not apply to the project. She noted that E4 referred to residential units and suggested it be struck; staff agreed. Chair Bridenstine asked if the project would be required to construct a subsurface retention basin. Staff said that the requirement had already been met during the construction of the Home Depot. Chair Bridenstine said that given that the retention basin had already been constructed she would like conditions E7, E8, E9 and E19 to be removed as well. Staff said that they could be struck, as the original project complied with those conditions.

MOTION

That the Planning Commission finds that the project is exempt from further environmental review and that the Planning Commission approves Tentative Parcel Map TPM 19644 based upon the information contained within the staff report, the required findings and the recommended conditions of approval as amended.

RESULT: **APPROVED AS AMENDED [UNANIMOUS]**
MOVER: Jeff Evans, Commissioner

SECONDER: Steve Whitten, Vice Chair

AYES: Drozd, Evans, McHenry, Whitten, Bridenstine

**4. ENVIRONMENTAL ASSESSMENT, EA 05-15
DEVELOPMENT CODE AMENDMENT, DCA 01-15
HOME OCCUPATION PERMITS AND ASSOCIATED REGULATIONS**

Proposed amendment to Article 3 of the Yucca Valley Development Code amending Chapter 9.50, Home Occupations Permits. This Chapter and its Sections of the Development Code establish regulations allowing for the operation of certain business activities in single and multi-family residential neighborhoods. The standards and requirements are intended to ensure that home occupation operations do not alter the character of any residential neighborhood, or create impacts or activities that are not typically and commonly associated with residential neighborhoods. This Chapter and its Sections allow for commercial uses and other business activities that are accessory and incidental to the primary purpose of residential zones, which is that of providing a habitable dwelling for the owner or occupant as the primary use of the residential dwelling unit.

The amendments may include amendments to all Sections of Chapter 9.50, including, but not limited to, Classes of Home Occupation Permits, Table 3-26 Permitted Land Uses and Permit Requirements, Development Standards, and Review Authority.

RECOMMENDATION:

Environmental Assessment, EA 05-15 : That the Planning Commission Finds that the project is exempt from CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act. The proposed amendment to revise the Town’s Home Occupation Permit regulations has no potential to impact the environment. The proposed amendment does not alter the existing requirements that specific development projects must comply with the provisions of the California Environmental Quality Act. Development Code Amendment, DCA 01-15 meets the exemption criteria which states “that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”

Development Code Amendment, DCA 01-15: That the Planning Commission recommends that the Town Council introduces the Ordinance, repealing and reinstating Chapter 9.50, Home Occupation Permits, in its entirety.

Deputy Town Manager Stueckle provided the staff report. The item was for the Planning Commission to consider a potential amendment to the Home Occupation Permit Ordinance which would provide an exemption for artists, as well as changes to the Home Occupation Permit Ordinance more generally. On May 12, 2015, the Parks Recreation and Cultural Commission received a presentation from the Morongo Basin Arts Council regarding arts in the community,

and that information was discussed at the Town Council meeting of June 2, 2015. The Council directed staff to implement measures within the Towns programs, processes and codes that support, encourage and implement the arts industry within the Town. The Staff report included information from the Morongo Basin Arts Council and the Parks Recreation and Cultural Commission. The report also included information about the yearly open studio art tours, and portions of the Park and Recreation Master Plan which referenced the arts and cultural elements of the Plan. Based upon that information Staff drafted a recommended amendment to the Home Occupation Permit regulations which would create a new class of home occupation permit within the current structure. The proposed amendment would create a new Class 5, Artist Exemption. Under the proposed regulation, artist studios would be exempt from the requirement for a Home Occupation Permit if they complied with the following standards: a maximum of two customers or students a week visiting the residence, all employees must be members of the resident family and shall reside on the premises, outdoor storage or outdoor activity relating to the HOP shall be limited to 10% of the lot area and be fully screened from public view, and that artist studios within this class shall be permitted to participate in the Art Studio Tours and similar programs. Staff also stated that the proposed amendment made some minor changes to clean up the language that section of the development code.

PUBLIC COMMENTS ON ITEM 4

- Barbra Behrens, Yucca Valley, spoke in support of the proposed artist exemption. She would like to be able to participate in the art tours, and stated that it is only an occasional event.
- Esther Shaw, Yucca Valley, spoke in support of the proposed artist exemption. She said that the art tours are only two weekends a year, and the majority of the customers do not come to the home.
- Hiroko Momii, Yucca Valley, spoke in support of the proposed artist exemption. She said the art tours let the artist show their process.
- David Falossi, Yucca Valley, spoke in support of the proposed artist exemption. He opened his home art studio in 1989, before the Town was incorporated, and no permits were required at that time. He said that having an artist community helps cities. He also spoke against the requirement that all employees have to be members of the artist's family. He said that artists should be allowed an assistant.
- Robert Rowell, Yucca Valley, spoke in support of the proposed artist exemption. He said that the art tours bring in visitors who support our local businesses. He said that a permit process creates a barrier which makes it more difficult for artists to participate and hurts the Town.
- Scot Mckone, Yucca Valley, spoke in support of the proposed artist exemption. He said for many artists, it is not something done for profit. He suggested that the Town brainstorm with artists to come up with guidelines to protect against those who might try to take advantage of more lenient home occupation permit requirements.
- Janice Pask, Yucca Valley, spoke in support of the proposed artist exemption. She said she had attended the art tour, and that it has an economic benefit for the community.

- Dennis Pask, Yucca Valley, spoke in support of the proposed artist exemption.
- Ed Keesling, Yucca Valley, spoke in support of the proposed artist exemption. He said that requiring him to have a HOP would make it difficult for him to continue as a potter in Yucca Valley. He said that artist's participation in the art tours was a boon to the community.
- Paul Klopfenstein, spoke the president of the Morongo Basin Cultural Arts Council. He spoke in support of the proposed artist exemption. He said that it was greatly needed. He said that they can document 7,000 people visiting the art tours last year. It brings it a lot of visitors to Yucca Valley.
- Friz Koenig, Yucca Valley, spoke in opposition the proposed artist exemption. He said that he thought it was written to favor one person. He submitted a document to the Planning Commission stating that he felt it was attempting to make judgements on artistic merit.
- Greg Hammond, Yucca Valley, spoke in support of the proposed artist exemption. He spoke in support of reducing regulations.
- Sheldon Houth, Yucca Valley, spoke in support of the proposed artist exemption.

CLOSE PUBLIC COMMENTS

Commissioner Evans said that we live in a beautiful area, which is conducive to the arts, and that the art tours bring a lot of people to the area. He said that he was formerly a member of the Parks Recreation and Cultural Commission, and that he fully supports what they have recommended in the Master Plan and what local artists contribute to the community. He asked Mr. Fallosi to provide more information about his comment about non-family member employees. Mr. Fallosi said that Home Occupation Permit currently allows him one non-family assistant, and that some artists may need assistance that a family member is not able to provide. He also stated that sometimes artists have assistants whom they are mentoring. He suggested changing the wording to be family member or assistant. Commissioner Evans asked if two assistants would be appropriate. Staff provided clarification on the language in the proposed ordinance, and suggested that the Commission discuss whether they wished to make any changes to section 9.50.020(B)(5)(b) of the proposed regulations. Commissioner Evans also asked Mr. Fallosi about the traffic impact caused by art studios. Mr. Fallosi said that there were few visitors to the studio to buy art outside of the art tours.

Commissioner Whitten said that that he would like to see an art gallery open in Yucca Valley. He agreed with Commissioner Evans about the value of the cultural component of the Master Plan. He said that Twentynine Palms doesn't require artists to have a home occupation permit, although it is not clear whether or not the county requires permits. He said it makes sense to join the rest of the Morongo Basin in making artists exempt from home occupation permit requirements. He also said that, while he understands that allowing an assistant or employee who was not a member of the resident family would be beneficial to some artists, he would like to leave the proposed amendment as it is written.

Commissioner Drozd said that the area has a history of supporting the arts. He said that he wanted to make it clear that this proposed exemption was not for just one person. He also said that those artist who currently have a home occupation permits are allowed to have a non-family member employee. He said that he thinks allowing an artist to have one non-family member assistant under the exemption would be fair. He said that, given that most of the businesses do not have a lot of trips to their property a year, we have to be reasonable. Day care has an exemption and it has many visitors, so it is not unheard of to have this kind of exemption.

Commissioner McHenry thanked the artist community for attending. He said that he has participated in the art tours in the past, and found them worthwhile. People plan trips to the Morongo Basin around the art tours. He also said that this is not about one artist, but what is best for the artist community. He is in support of the exemption and would support it as it was written, although he would be willing to consider some kind of accommodation for an assistant in the future.

Chair Bridenstine thanked the artist community for attending. She said when they were discussing the home occupation permit ordinance last year they discussed artist, and that for the most part artists would fall into the exempt class I, with the exception of participation in the art tours. The fact that the art tours only occur two weekends a year justifies the need for the artist to have their own class in the home occupation ordinance. She said that she thinks it is sufficient as it is written, however she would be willing to consider changing item 9.50.020(B)(5)(b) to limit the number of employees/assistants to two whether or not they are family members.

Commissioner Evans asked if the change to 9.50.020(B)(5)(b) could happen at another time, or did it need to be decided upon at the current meeting. Staff suggested the Commission discuss the issue of the non-family member employees and determine if the Commission felt that the language should be changed.

Commissioner Whitten expressed concern about allowing employees outside of the resident family. He said that he thought that language in 9.50.020(B)(5)(b) was sufficient as it was written, with the exemption and no non-family member employees. He also stated that employee implied more of a business than a labor of love.

Commissioner Evans said that he would support Commissioner Whitten suggestion, as it eliminated the for profit idea.

Commissioner Drozd disagreed with Commissioner Whitten and Commissioner Evans. He said that every artist wants to make some profit from their work, and that the issue was how much noise you make, how many people are there and how large your lot is. He agreed with Chair Bridenstine about the difficulty of determining family members. How much money is made is not part of how it impacts the neighborhood.

Commissioner McHenry asked how you would define a helper, mentor or assistant as opposed to employee. He said he would support passing it as it written now, and possibly coming back to the issue at a later date.

Chair Bridenstine agreed with Commissioner Drozd that everyone wants to be able to make a living doing their passion. She said that she doesn't like the word employee because it sounds more commercial. She also said that some artists do have assistants or interns who they are teaching, and that is important. She would support changing the language to assistants and limiting it to two assistants whether or not they are members of the resident family or residing on the property.

Commissioner Whitten said that this is an exemption, and he would only support it if it was left as it was written. He said that if it needs to be changed, it can be amended at a future date. He said that from what they had seen, changing section 9.50.020(B)(5)(b) would only benefit one individual.

Chair Bridenstine said that she didn't think that the proposed change would just effect one person, and that she does know artists who are trying to mentor future artists.

Commissioner Drozd said that they should focus on issues such as traffic or if activities are appropriate for the lot size. He said that if you reach a certain threshold you should have to get a Home Occupation Permit. He would support limiting it to a specific number of assistants whether or not they are family members. He would favor limiting it to one. He asked how the Town would determine who constitutes family.

Commissioner Whitten spoke in support of leaving exemption as written and limiting employees to the resident family. He said that there is a difference between someone who is assisting in the manufacturing and someone who is simply observing and learning. The allowance for two students a week provides an opportunity for the artist to instruct students.

Staff stated that the Commission could chose to forward the ordinance to the Town Council as it was written but include the Planning Commission's discussion on the matter, or the Planning Commission could chose to modify the discussed section to use the language in class 2 which sets a limit of one employee who is not a member of the resident family.

Commissioner McHenry spoke in support of forwarding the item to the Town Council as it was written. He spoke against setting a limit on the number of employees or assistants who are members of the resident family. He pointed it out, that if the number of assistants was limited to 2, a family with four children would have to tell two of them that they weren't allowed to participate.

Commissioner Drozd spoke in support of forwarding the ordinance to the Town Council as it was written, provided that Town Council hears the Planning Commission's opinions. He said the Town shouldn't try to limit the number of resident family members participating, as it is a given that

they will be there, and the issue was nonresident employees coming onto the property. He said he was in favor of limiting it to one nonresident employee, although he would be willing to consider two.

Commissioner Evans agreed with Commissioner Drozd, and said that he would support the addition of one nonresident employee.

Commissioner Whitten spoke against allowing nonresident employees as part of the exemption. He said he doesn't like the idea of using the standards from Class II for the exemption, given that Class II Home Occupations do require a home occupation permit. Artist can be exempt if they meet the minimum requirements. I said he wants it to go forward the way it is written.

Chair Bridenstine said that she would like item 9.50.020(b)(5)(b) changed, however she was willing to forward it to the Town Council with the Planning Commission's concerns.

MOTION

That the Planning Commission finds that the project is CEQA in accordance with Section 15061 (b)(3) of the California Environmental Quality Act, and that the Planning Commission recommends that the Town Council introduces the Ordinance, repealing and reinstating Chapter 9.50, Home Occupation Permits, in its entirety, with the inclusion of the discussion and differing opinions of the Planning Commission regarding potential changes to item 9.50.020(B)(5)(b).

- RESULT: APPROVED [UNANIMOUS]
- MOVER: Steve Whitten, Commissioner
- SECONDER: Charles McHenry, Commissioner
- AYES: Drozd, Evans, McHenry, Whitten, Bridenstine

PUBLIC HEARINGS

5. **CONDITIONAL USE PERMIT, CUP 03-95 YUCCA VALLEY RV PARK AMENDMENT 1**

A request to add an additional four spaces to an existing recreational vehicle park.

RECOMMENDATION:

Environmental Assessment, EA 02-15: That the Planning Commission finds the project to be exempt from CEQA under Section 15301 class 1 Existing Facilities and:

Conditional Use Permit, CUP 03-95 amendment 1: That the Planning Commission reviews and determines legal nonconforming status and modifications and extension to legal nonconforming uses based upon Section 9.03.0606, and determines if the request complies with Section 9.03.060, as outline below.

Section 9.03.060, F. Modifications and Extensions to Legal Nonconforming Uses

1. *A legal nonconforming use shall not be modified in any manner that expands, extends, or enlarges the use beyond its existing scope upon the date the nonconformity was created, except as specified below.*
 - a. *The changes are, in and of themselves, in conformance with the provisions of this Development Code.*
 - b. *The changes are limited to minor alterations, improvements, or repairs that do not increase the degree of nonconformity present and do not constitute or tend to produce an expansion or intensification of a nonconforming use. A minor alteration shall not increase the area of the nonconforming structure by more than 120 square feet cumulative.*
 - c. *The changes are required by other laws.*
 - d. *The changes are incidental to the public acquisition of a portion of a site, no greater degree of nonconformity will be created other than that caused as a result of the public acquisition, and the changed development will conform to current regulations to the maximum extent feasible.*
2. *No change made to any development or use shall be construed as automatically permitting an extension of any time limit for the termination of a nonconformity.*
3. *Notwithstanding the provisions regarding Conditional Use Permit or variance, the Director may allow the construction of an additional modification to a legally existing structure within a current yard setback area, as established by an applicable residential Land Use District, when such legally existing building is within the yard setback area, and provided such additional modification does not exceed the projection of the existing structure into such current yard setback area and does not come closer than three (3) feet to any property line.*
4. *The requirements for a Conditional Use Permit shall not apply to nonconforming residential uses, where such uses are being expanded or modified by no more than twenty-five percent (25%) of the floor space or ground area existing at the time such use became a nonconforming use.*

STAFF REPORT

Deputy Town Manager Stueckle provided the staff report. He provided an overview of the item, which was a request for an amendment to Conditional Use Permit CUP 03-95 to add four additional space to an existing recreational vehicle park. He provided historical information

about the project. It was originally approved by the Town Council for 10 spaces, and at the time of issuance of construction permits, permits were issued for a 15 space RV park. RV parks are not listed as a permitted use in the Old Town Specific Plan, and it is therefore a legal nonconforming use. Information on § 9.03.0606(F), Modification and Extensions to Legal Nonconforming Uses, was provided, and two definitions from Article 7, intensification of use and intensity of use, were also included.

Staff stated that they had not modified the recommended finding and Conditions of Approval since the last time it was brought before the Commission, and at that time the Staff's recommendation was to grant an amendment to the CUP that allowed for one additional RV space. Staff stated that this kind of expansion of an RV park was different than what is usually seen in an expansion of a nonconforming use, which typically involves expanding property boundaries or adding square footage to a structure. Staff requested that the Planning Commission discuss how this kind of expansion of a nonconforming use fits into the code.

PUBLIC COMMENTS ON ITEM 5

- Warren Lavender, representative for the applicant, spoke in support of the requested amendment. He stated that they are requesting the authorization of 4 spaces which had been previously added to the property without the benefit of permit. He objected to the requirement to grant a 12 foot right of way for Hwy 62, and stated that he felt it was genteel extortion. He said that the applicant would be willing to agree to the right of way if the Commission authorized the 4 spaces, and the applicant would be willing to move the space located in the right of way back to the highway face of the building. He said that the right of way was intended for the widening of the highway, which has not been done, and that the Town shouldn't take property away without actual construction. He spoke against the General Plan, and stated that the Code's requirement that an RV park be a minimum of 10 acres was arbitrary. The other issue was the legal nonconforming use. He stated that it was his opinion that the addition of the 4 spaces would not affect its legal nonconforming status. He stated that it would not impact surrounding properties because the four spaces have already been in use. He said that having a small RV park in the West end of Town in a benefit to the community. He said it was reasonable that the RV space be aligned with the highway face of the structure.
- Marguerite Jackson, Yucca Valley, said she lives at the RV park, and that she has lived there for three and a half years. She said it was a nice place to live, and that Mr. Pandhi is a nice man who has been harassed.
- Mahendra Pandhi, Applicant, spoke in support of the project. He said he built the RV park in 1995, and put his heart in the project. He has decided to sell because he is tired of his neighbor harassing him. He said that his neighbor has reported his landscaping at the front of the park to Caltrans and they had said that no action was required. He said the Town inspected the landscaping as well and found no problems. He stated that his neighbor has issue with his landscaping and trees. He said it was a mistake to build the

RV park. He wants to make everything legal and sell the RV park so he can go home. He said he was an absentee owner and he had a manager running the park. He said that the manager converted the dump station to a space and added three additional spaces, which was a minor change. He said that they were already created and he didn't want to have to destroy them. If the four spaces are approved he can sell the park. He said he lost business due to the medians.

- Toby Stanford, Yucca Valley, spoke in opposition to the requested amendment. He said he is a neighbor to the RV park. He said that there was a lack of space for emergency vehicles. He also said that the landscaping was overgrown, and that they had previously had an issue with an overhanging tree. He expressed concern about the electrical plan. He expressed concern about the septic systems. He said that the landscape along the highway is a line of site issue.

END PUBLIC COMMENTS ON ITEM 5

Commissioner McHenry asked Staff if the park was currently operating with 18 spaces, but only 15 have been permitted by the Town. Staff confirmed that only 15 spaces were permitted. Commissioner McHenry said that they are asking to increase the number of permitted spaces to 19, which exceeds 25 percent. He stated that has issues with that, and the code states that it would take it out of its legal nonconforming status. He said that Mr. Pandhi has stated that his manager was responsible for adding the spaces, but it is the property owner's responsibility to ensuring that his property meets the conditions of use. He said felt sorry for Mr. Pandhi, but he didn't see how he could support the addition of the four spaces.

Commissioner Drozd said that there are a lot of emotional and personal issues involved, and that those had to be separated from consideration of the Town Code. He asked staff if the project had been reviewed by the fire marshal, and if there were any issues with emergency vehicle access. Staff said that the San Bernardino County Fire Department Fire Marshall Division had reviewed the site plan and said that they were ok with the project as long as they had secondary access through the gate located at the north side of the property, with the ability to open it if the gate is ever closed or locked. Commissioner Drozd said that they are not building structures, so it is not construction per se. He noted that septic could be an issue.

Commissioner Evans said that they were reusing existing square footage, so there are no new structures being added to the facility. He said that he felt staff had addressed the issue of emergency vehicle access. He said that addressing overgrowth was a common curtesy. He asked about the sites ability to support 19 spaces including amenities. He said the original document stated that there would be some amenities included in the RV park, and he wasn't sure if those had been fulfilled. He asked how frequently all the spaces were occupied, and to what impact the additional traffic might have. Staff said that the applicant would have to address the vacancy rate. Staff described typical RV park traffic, and said that this was another case where the project did not fit typical expansion of a nonconforming use, and referenced the definition of intensification of use in Article 7, which defines it as: a change to the existing use of a property which results in a change or increase in vehicular or pedestrian traffic, an increase in parking

requirements or induces additional environmental impacts, including but not limited to noise, light, glare, vibration, traffic, water quality, air quality or aesthetics. Staff also referenced the definition of intensity of use which defines it as: the number of dwelling units per acre for residential development and floor area ration (FAR) for nonresidential development, such as commercial, office and industrial. Staff stated that a legal nonconforming hotel which wanted to add hotel rooms would easily fall into the definition of intensity of use with the increase in the number of dwelling units. Staff asked the Commission to consider how this would apply to an RV parks which don't involve permanent construction.

Commissioner Whitten asked how long the original CUP was valid. Staff said that, provided substantial construction was completed within the specified time period, it would run with the land until such a time as conditions, such as the RV park being vacant for 180 days or more, extinguished the CUP. Commissioner Whitten asked if the route though the RV park was one way. Staff said that to their knowledge the lane was sufficient for two way access. Commissioner Whitten asked about the exit to the North, which exits onto the Park and Ride property, and asked if the Town was allowing the use of the Park and Ride area for overflow parking or access. Staff said the Town did not allow the use of the Park and Ride for overflow parking. The Town does not have an agreement and they have not approved the use of municipal property for the benefit of a private enterprise. Staff said that as for the issue of access, staff included in the draft conditions of approval a condition which required the applicant to enter into an agreement with the town for access across Town property. Commissioner Whitten asked if there had been any issues with the overflow of water from the site to the Park and Ride. Staff said that there had not.

Commissioner Whitten asked what the requirement were for visitor parking spaces beyond the RV parking spaces. He also said that he didn't see any ADA spaces indicated on the site plan. Staff said that there was no requirement in the code for additional parking, however ADA access from the park to the clubhouse would have had to meet the standards on the time. The applicant said that they had two ADA parking spaces.

Commissioner Whitten said that the requirement for the right of way was a standard practice and not a form of genteel extortion. He asked for staff to confirm that an applicant could request a variance. Staff said that an applicant could request a variance for setback standards.

Commissioner Whitten said that the original 1995 CUP said that residents could stay for a maximum of 6 months, and they heard testimony tonight that residents have been there for three and a half years. He said that he understand that the applicant wants to become legal so he can sell the property, but they haven't been conforming to the original CUP, so what assurance would the Commission have that the applicant would actually conform to his conditions if they approve the additions. If people are staying for three and half years would it be easier to change the designation to a trailer park rather than a RV park.

He said that he does agree with the applicability of the term intensification of use even though the space are already in use. He said that he saw issues with the site plan. He asked if the

dumping station was still active. Staff said that according to the information most recently provided by the applicant, that the Regional Water Quality Control Board had said that system could be used as a dumping station, but staff has not had confirmation on that. The applicant had told staff in previous conversations that the Regional Water Quality Control Board had said that it could not be used as a dumping station.

Commissioner Whitten said that having a dump station available was one of amenities that Commissioner Evans had referenced earlier. He said that if the Commission had assurances that the applicant would comply with the Conditional Use Permit, including having residents stay 120 day and no more than 180 days over a period of six months, he would be willing to consider approving two spaces, eliminating the space at the dump station and eliminating the space at highway 62. He wasn't sure how he would get the assurance that the applicant would comply with the conditions. The Commission has to look out for the Town and the neighboring properties as well. He said he couldn't see approving all four spaces.

Chair Bridenstine said that she also had a problem with the fact that there are residents stay in the park for more than three years. She said that she agrees that Yucca Valley needs an RV park, but that it was intended for transient use and people would only stay for a limited amount of time, as stated in the original CUP which limited occupancy to 120 consecutive days or no more than 180 within 6 months. She said that's been grossly violated. She felt that if they were going to have spaces without septic or sewer hook ups, they should provide a dump station, so they shouldn't be using the dump station as an RV space. She also stated that any project that comes forward with any application is asked to provide the right of way for the ultimate width of Highway 62, and that this project was not being singled out. She said that it was standard practice throughout the town and has been for years.

Chair Bridenstine also said that the original approval included three guest parking spaces and one ADA parking space. She said that the applicant had said that they have two ADA parking spaces, but asked if the site had the 3 guest parking spaces. She said that whether it was the applicant or his manager, they had stretched what was approved to the utmost, and to ask the Commission to come back and retroactively approve something that violated the original CUP was asking a lot. She said that she would agree to approving two spaces, but said that the dump station need to be used as a dump station. She also said that if the hammerhead space, which appears to have been previously guest parking, was converted back to parking, she would probably be in favor of approving it. She said that in good conscious she couldn't approval all four.

Chair Bridenstine opened the floor to the applicant to respond to Commissioners questions and comments.

Mr. Pandhi said that for years he was an absente owner and that the park was run by managers. He said he never had a copy of the Conditional Use Permit, and said that he didn't know about the limit to 120 days. He said that he provided a letter to the town stating that the RV association said it wasn't necessary for an RV park to provide septic tanks for each space. He said many users of the RV park don't need septic, only electrical hook ups. He said that he hired a professional

electric engineer to provide the electrical plan. He said that septic wasn't a problem because there didn't need to be a septic hookup for each space. He said he was asking for the approval of three spaces and he would open the dump station. He said that they are currently not using it as a dump station because he doesn't like to use it. He said that they would need the three additional spaces to be profitable. He said that insurance companies don't understand a 15 space RV park. He said with the three spaces approved and opening dump station they would be barely breaking even.

Commissioner Evans asked the applicant about the frequency which currently, while not in compliance, all 19 spaces were occupied, and what amenities have been increased since the original CUP to accommodate the expansion. Mr. Pandhi said that they had the barbecue area and the benches around the barbecue area. He said that most visitors are just there for one night and they don't have time to spend in the RV park. He said he couldn't afford a swimming pool, and they filled in the pool. He said that they had two ADA parking spaces and two guest parking spaces.

Chair Bridenstine asked where the two additional guest parking spaces in addition to the ADA spaces were located on the site plan. The applicant said that they were located right in front of the office near the ADA spaces. Chair Bridenstine said that it wasn't indicated on the site plan. Mr. Pandhi said that usually people did not use the guest parking spaces. Chair Bridenstine said that as part of the original approval, the park was required to have three guest parking spaces and one ADA parking space, and she said that while two ADA spaces appeared on the site plan the additional guest parking spaces did not, and she wanted to know where they were located. The applicant said that there were two guest spaces on the other side of the ADA parking. Chair Bridenstine asked if that was in the area that was proposed to be space 16. The applicant said that the parking was supposed to be there, but now they guest parking would be over to the side of the building. He said that they were never used.

Commissioner Evans asked the applicant how frequently were all 19 spaces being used. The applicant said that 19 spaces were full for 6 to 8 months of the year before the highway medians were constructed. He said that they would need to change the directions and information on the website to direct traffic down Kickapoo to enter the park in order regain lost business.

Commissioner Whitten asked the applicant about directing traffic down Kickapoo and using the Park and Ride to enter the site. The applicant said that it wasn't the Park and Ride, it was a public road and a gas station for natural gas. He said it was a public road. Commissioner Whitten asked what assurances the applicant could provide to the Commission that he would abide by the conditions if they approved the amendment. The applicant said that he wasn't there, and that he had requested a copy of the Conditional Use Permit from staff because he never had one. He said he lost the Conditional Use Permit, and that he never had one. The applicant assured the Commission that he would abide by the 120 day limit for residents.

Commissioner Drozd commented on the fact that the applicant intent to sell the property, and that it was a non-conforming property that will continue on in the futures. He said it was a difficult issue.

The applicant said that he didn't know that the property was non-conforming, and that the Town wanted him to build it when it was constructed. He said he wasn't informed when it became non-conforming. He said that if it is non-conforming at 15 spaces it is still non-conforming at 19. He said that if the Commission wants the park to shut down in 10 years then he would shut the park down in ten years. He said he was only requesting 3 additional spaces with space 1a being used as a dump station.

Commissioner McHenry said he had no questions for the applicant.

Staff stated that when they conducted their first inspection of the site in March of 2015 the park was at full capacity. Staff also stated that accord to Town Council Minutes of May 4, 1995, Mr. Pandhi attended the meeting, and he was given copies of the Conditions of Approval, and that he was present at the time of the Town Council's decision.

Chair Bridenstine said while she had sympathy for Mr. Pandhi, the Commission had to look out for the Town's best interest. She said that it was reasonable to provide non ADA parking spaces for people visiting friends staying at the RV Park. She said that if the applicant could come up with a site plan with at least two additional non-ADA parking spaces in addition to the two existing ADA parking spaces, she would be willing to approve three additional RV spaces.

The applicant said that there were currently three additional non-ADA visitor parking spaces in addition to the two ADA parking spaces. Chair Bridenstine said that they did not appear on the site plan, and asked if they were located in the same area as one of the proposed additional RV spaces. The applicant said he could add them to the site plan. Chair Bridenstine said that she wasn't ready to approve this project. She said that she would like to see a revised site plan, taking the RV space out of the dump station, and the showing the other provided visitor parking spaces on the site plan.

Commissioner Whitten suggested that he would be willing to approve the project with two additional spaces, marked 17 and 18 on the site plan, if spot 16 was converted to parking spots. He said that the original CUP required that there be one ADA parking space and three regular visitor parking spaces. He said he didn't see any other way on the site plan to add the additional parking spaces. Commissioner Whitten also said that the dump station needs to be operational. He reiterated that he was willing to compromise and approve two additional RV spaces provided the applicant met the conditions in the original permit.

The applicant said that the site currently had two ADA parking spaces and three regular parking spaces.

Commissioner Whitten asked the applicant if he would rather come back with a revised site plan showing the locations of the additional parking spaces, or if he would prefer the Commission approve the project tonight with the two spaces, labeled 17 & 18.

The applicant said that whatever the Commission could do, he was ready to do.

Commissioner Whitten said that if they approved the plan tonight he would be willing to approve the project with an increase in intensity of use of only two spaces, space number 17 and 18, and not approve space 16 or 1a.

Chair Bridenstine agreed with Commissioner Whitten.

Commissioner Evans asked staff about the issue of obstructed vision. Staff said that the line of site visibility issue was one raised relating to the driveway of the property to the west of the site. Staff has inspected that before and will inspect it again to see if there is line of site issue. If there is Staff will provide direction to the RV park owner.

Commissioner Drozd asked about the issue raised in public comment about the trees. Staff said that maintenance of the trees and trees overhanging property lines are civil issues and not within the Town's dominion and control. Commissioner Drozd also asked about the allegations of electrical issues. Staff said that an electrical engineer submitted the necessary study and that Building and Safety preformed an inspection of the site and confirmed that the system that was in place at the time of the inspection conformed to the code.

Mr. Lavender said that he wanted to address Commissioner McHenry's question about the increase in area, and that the additional RV spaces were small and constituted less than a 25% increase of area. Commissioner McHenry said that he didn't have a question about area, and that he had commented that the addition of four spaces was a greater that 25% increase in the intensity of use. Mr. Lavender said that the area involved in the four spaces they are asking for is less than 4,000 square feet, and that is less than 25% of the existing 15 spaces. Commissioner Whitten said that they weren't calling that into question.

Mr. Lavender spoke about the issue of septic hook ups. He said that there are RV parks all over California and they offer a wide variety of amenities. Some RV parks offer no other amenities other than a restroom and shower, and have no hook up amenities at all. It is up to the RV park owner to decide what he will provide. Mr. Pandhi decided to add the additional three spaces without sewer hook ups, which was completely reasonable. Commissioner Whitten said that the Commission wasn't asking that those spaces have septic hook ups.

Chair Bridenstine allowed for additional public comments.

Toby Stanford, Yucca Valley, spoke against the project. He said he had photographs of line of site issue and said that there was an illegal wall and bushes. He said that the RV spaces without septic hook ups are still hooked up with septic. He said for the last seven years Mr. Pandhi hasn't

been an absentee owner. He commented about cement containers against the property line. He said that the property should be inspected. He thinks that the wall and the cement containers should have to be moved.

MOTION

Commissioner Whitten moved that Planning Commission finds the project to be exempt from CEQA under Section 15301 class 1 Existing Facilities, and that the Planning Commission has reviewed CUP 03-95 Amendment 1 and determined it's legal nonconforming status, and that the Planning Commission finds that amending the CUP with the addition of two RV spaces does not meet the definitions of intensification or intensity of use due to the sites existing status and no permanent structures proposed, with the following conditions: that spaces 17 and 18 are approved, that space 1a will be maintained as a dump station and not a RV parking space, that space 16 is not approved, and that the site will comply with the conditions of the original CUP, including that 3 visitor parking spaces and 1 ADA parking space be provided.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Steve Whitten, Commissioner
SECONDER: Jeff Evans, Commissioner
AYES: Drozd, Evans, McHenry, Whitten, Bridenstine

6. DISCUSSION ON CHANGING THE START TIME OF THE PLANNING COMMISSION MEETING FROM 6 PM TO 6:30 PM.

Deputy Town Manager Stueckle provided the staff report. He stated that Commissioner Whitten had previously raised the question of changing the meeting time to 6:30. He asked that the Planning Commission discuss the issue, and stated that if they did decide to change the meeting time, it would have to come back to the Commission with a Resolution to formalize the change.

The Planning Commission discussed changing the meeting times and possible alternatives. Staff suggested that that they bring the item back to the Commission with addition options for discussion.

The Planning Commission tabled the item to a future meeting.

PUBLIC COMMENTS

- None

CLOSE PUBLIC COMMENTS

STAFF REPORTS AND COMMENTS

Staff provided an overview of the status of current and upcoming development projects.

COMMISSIONER REPORTS AND REQUEST:

Commissioner Bridenstine thanked staff. She would like a compromise for the meeting schedule that works for both her and Commissioner Whitten.

Commissioner Drozd thank you to everyone for attending.

Commissioner Evans said that he would like Commissioner Whitten to be able to continue on the Commission so he hoped they were able to work something out.

Commissioner McHenry said that it was nice to see people getting excited about an issue. He also thanked staff.

Commissioner Whitten thanked staff, and congratulated Diane Olsen on receiving employee of year.

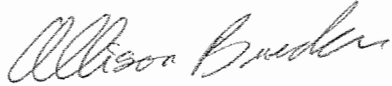
ANNOUNCEMENTS:

The next regular meeting of the Planning Commission is scheduled for June 23, 2015 at 6:00pm.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:14

Respectfully submitted,



Allison Brucker
Secretary

Approved by the Planning Commission on July 28, 2015.