

MINUTES
PLANNING COMMISSION MEETING

A regular meeting held at the La Quinta City Hall
78-495 Calle Tampico, La Quinta, CA

June 12, 2007

7:00 P.M.

I. CALL TO ORDER

- A. This meeting of the Planning Commission was called to order at 7:02 p.m. by Chairman Paul Quill who asked Commissioner Barrows to lead the flag salute
- B. Present: Commissioners Ed Alderson, Katie Barrows, Jim Engle and Chairman Paul Quill. It was moved and seconded by Commissioners Barrows/Alderson to excuse Commissioner Daniels.
- C. Staff present: Assistant City Manager/Interim Community Development Director Doug Evans, Assistant City Attorney Michael Houston, Planning Manager Les Johnson, Principal Engineer Ed Wimmer, Principal Planner Stan Sawa, Assistant Planner Jay Wu, and Executive Secretary Betty Sawyer.

II. PUBLIC COMMENT: None.

III. CONFIRMATION OF THE AGENDA: Confirmed.

IV. CONSENT ITEMS:

- A. Chairman Quill asked if there were any changes to the Minutes of May 22, 2007. There being no changes, it was moved and seconded by Commissioners Barrows/Alderson to approve the minutes as submitted. Unanimously approved.

V. PUBLIC HEARINGS:

- A. Tentative Tract Map 34969 and Site Development Permit 2007-883; a request of East of Madison, LLC, for consideration of the plans to subdivide an area within the Madison Club residential project into a Clubhouse site. Site to include building, parking lot, tennis court, and landscaping plans for the Madison Club Clubhouse for the property located within the Madison Club, south of Avenue 52, east of Madison Street, west of Monroe Street.

1. Chairman Quill opened the public hearing and asked for the staff report. Assistant Planner Jay Wu presented the information contained in the staff report, a copy of which is on file in the Community Development Department. Staff reviewed the revised conditions with the Commission.
2. Chairman Quill asked if there were any questions of staff. Commissioner Alderson asked if the height of the building was acceptable. Staff stated it was. Commissioner Alderson asked if the clubhouse and houses were the same architecturally. Staff stated yes.
3. There being no further questions of staff, Chairman Quill asked if the applicant would like to address the Commission. Mr. John Gamlin, representing East of Madison, gave a presentation on the project. He stated they had only one objection and that was to staff's recommendation for the width of Shackleton Street. Their purpose in requesting the smaller street width is to purposely slow the traffic down and allow for additional landscaping buffers. With respect to the street width not being included in the Specific Plan, they would debate staff's interpretation in regard to the street width. They are asking for consideration for what they are trying to achieve.
4. Chairman Quill asked if there were any questions of the applicant. Commissioner Engle questioned the number of archways and windows on the building. Mr. Gamlen stated they had no discomfort with any of the elevations.
5. Commissioner Barrows stated the men's golf building on the west elevation and the pro-shop on the west elevation do not provide enough shading over the windows. She would like to know what opportunities there might be for adding shading. Mr. Gamlin stated it is their intent to have shade on all the windows and they do meet Title 24 requirements.
6. Commissioner Alderson stated the tennis courts are not near the clubhouse. They are unlit, but there are provisions in the future. It seems there are opportunities to move them closer to the clubhouse. Mr. Gamlin stated there will be putting course and other recreation uses added at a later date to bring all the

recreation activities together. Commissioner Alderson stated the right-of-way for Shackleton Street will be 28 feet with the street width at 20 feet and it is the applicant's belief that the one-way street would be beneficial to the project. Mr. Gamlin stated that was correct.

7. Commissioner Barrows asked about the water features on the plans. Mr. Gamlin stated there are swimming pools and fountains existing and that may be what she is seeing on the plans.
8. There being no further questions and no other public comment, the public hearing was closed and open for Commission discussion. Chairman Quill stated he did not care what the street width was as it was internal and would have no affect on the general public. Planning Manager Les Johnson clarified the Specific Plan defines all street widths as 28 feet. This will be the only street that is less than 28 feet. Staff was asking whether or not the street width would cause a conflict for the residents. Chairman Quill stated he did not believe it is an issue to the City because the general public will never see or use the street. Staff stated the City does not have a standard that identifies this street width.
9. It was moved and seconded by Commissioners Barrows/Engle to adopt Planning Commission Resolution 2007-022 recommending approval of Tentative Tract Map 34969 as recommended and amended:
 - a. Condition #9 modified: the travel width would be reduced to 20-feet for Shackleton Street only with a right-of-way of 28-feet.
 - b. Condition #73 modified: "No Certificate of Occupancy (either temporary or final) for the Madison Club Clubhouse ..."

ROLL CALL: AYES: Commissioners Alderson, Barrows, Engle, and Chairman Quill. NOES: None. ABSTAIN: None. ABSENT: Commissioner Daniels.

10. It was moved and seconded by Commissioners Barrows/Alderson to adopt Planning Commission Resolution 2007-023 recommending approval of Site Development Permit 2007-883 as recommended and amended:
11.
 - a. Condition #9 modified: the travel width shall be reduced to 20-feet for Shackleton only with a right of way of 28 feet.
 - b. Condition #59 modified: "...and shall not be used for transient purposes as defined in LQMC Section 3.24 Transient Occupancy Tax."
 - c. Condition #60 modified: "No Certificate of Occupancy (either temporary or final) for the Madison Club Clubhouse..."

ROLL CALL: AYES: Commissioners Alderson, Barrows, Engle, and Chairman Quill. NOES: None. ABSTAIN: None. ABSENT: Commissioner Daniels.

- B. Site Development Permit 2006-857; a request of Coachella Valley Housing Coalition for consideration of architectural and landscaping plans for the Dune Palms Neighborhood Community Center for the property located at the northwest corner of Dune Palms Road and Avenue 48.
 1. Chairman Quill opened the public hearing and asked for the staff report. Assistant Planner Jay Wu presented the information contained in the staff report, a copy of which is on file in the Community Development Department.
 2. Chairman Quill asked if there were any questions of staff. Commissioner Engle asked why staff was requesting awnings. Staff clarified for the energy conservation measures.
 3. There being no further questions of staff, Chairman Quill asked if the applicant would like to address the Commission. Mr. John Aguilar, representing Coachella Valley Housing Coalition, stated they were in agreement with the conditions as proposed and was available to answer any questions. Staff clarified the project before the Commission was only the Clubhouse as the entire project has received its entitlements.

4. Chairman Quill asked if there were any questions of the public. Ms. Stacey Morrison, 47-785 Soft Moonlight, stated this project was approved before any of them had purchased their homes. What they are requesting is additional information in regard to the day care, the adjoining fence, and would like the Commission to know they have had no input from regarding this project. They have concerns about noise, traffic and the number of children. They were never notified this was going to be a very low-income project.
5. Mr. Ulf Nystrom, 47-808 Endless Sky, stated the third floor tenants will be able to look into their project and see what they are doing. This is a very high density project and the parking will be very crowded. They are not against low-income families, but they do not want to live next door to so many children. Assistant City Manager Doug Evans stated staff will sit down with the adjacent residents to further discuss the project. When this went through the approval process, staff met with the adjoining property owners to ensure the project would fit into the neighborhood. The City is concerned about the perception of its affordable housing projects. With all the affordable projects the City has built, no complaints have been received. Mr. Nystrom stated their concern is that they were not there when this was approved. At least a wall or something could be constructed.
6. There being no further questions and no other public comment, the public hearing was closed and open for Commission discussion. Commissioner Barrows commended the applicant on the project.
7. It was moved and seconded by Commissioners Barrows/Alderson to adopt Planning Commission Resolution 2007-024 recommending approval of Site Development Permit 2006-857 as recommended.

ROLL CALL: AYES: Commissioners Alderson, Barrows, Engle, and Chairman Quill. NOES: None. ABSTAIN: None. ABSENT: Commissioner Daniels.

- C. Site Development Permit 2006-868; a request of REA La Quinta, LLC, for consideration of architectural and landscaping plans for a 5,723 square foot freestanding building located at the north side of Highway 111, west

of Jefferson Street within Jefferson Plaza.

1. Chairman Quill opened the public hearing and asked for the staff report. Principal Planner Stan Sawa presented the information contained in the staff report, a copy of which is on file in the Community Development Department. Staff noted the recommended changes to Conditions 16.A.1.b. and 16.B.1.a. Assistant Engineer Ed Wimmer explained the purpose of the condition changes.
2. Chairman Quill asked if there were any questions of staff. Commissioner Engle noted he did have a conflict with the building to the east of this site which is not a part of this project.
3. Commissioner Alderson asked about the screening as there did not appear to be any landscaping except the screening. Staff stated it is typical for staff to request this type of screening.
4. Chairman Quill asked if the sidewalks to the west of this project were eight feet wide. Staff stated an eight foot sidewalk was required for the developed portions. The sidewalk issue is due to the deceleration lane being incorporated into the frontage.
5. There being no further questions of staff, Chairman Quill asked if the applicant would like to address the Commission. Mr. Tom Harberkorn, representing REA La Quinta LLC, stated they agree with the staff report and have only one question regarding the landscaping. He was required to do all the landscaping along Highway 111 along with the six foot sidewalk and berming. This was without even having a building on his pad site. He asked for clarification that Costco is required to do the improvements as noted in Condition 16.B.1.a. Staff confirmed this was true.
6. There being no further questions of the applicant and no other public comment, the public hearing was closed and open for Commission discussion.
7. It was moved and seconded by Commissioners Alderson/Barrows to adopt Planning Commission Resolution 2007-025 approving Site Development Permit 2006-868, as recommended and amended:
 - a. Condition 16.A.1.b.: delete in its entirety and replace with

the following:

b) Construction of an 6-foot meandering sidewalk along its Highway 111 boundary. The meandering sidewalk shall have an arrhythmic horizontal layout that utilizes concave and convex curves with respect to the curb line that either touches the back of curb or approaches within five feet of the curb at intervals not to exceed 250 feet. The sidewalk curvature radii should vary between 50 and 300 feet and at each point of reverse curvature, the radius should change to assist in creating the arrhythmic layout. The sidewalk shall meander into the landscape setback lot and approach within 5 feet of the perimeter wall at intervals not to exceed 250 feet. The design shall minimize back of curb contact points. The applicant shall construct a sidewalk to connect the Highway 111 meandering sidewalk to the proposed building as approved by the City Engineer. Additionally, the applicant shall construct an ADA path of travel from the store front along the northerly property line to connect with ADA path of travel to the existing buildings at the north end of Parcel Maps 28573 and 34123.

b. Condition 16.B.1.a.: delete in its entirety and replace with the following:

a) Widen the east side of Depot Drive from Highway 111 to the east-west drive aisle at the north westerly corner of this Site Development Permit. The east curb face shall be located approximately thirty feet (30') east of the westerly property line of Parcel 2 of Parcel Map No. 28573 to align with the proposed through/right turn lane proposed at the Komar entry on the south side of Highway 111. The City established this requirement to prohibit a split phase traffic signal at the Highway 111 intersection that would create additional congestion on Highway 111. The obligated improvements by The Costco Development including pavement, curb relocation, signing and striping and signal modifications are not covered by the City's Highway 111 widening project.

ROLL CALL: AYES: Commissioners Alderson, Barrows, Engle, and Chairman Quill. NOES: None. ABSTAIN: None. ABSENT:

Commissioner Daniels.

- A. Zoning Code Amendment 2007-089; a request of the City for consideration of an Amendment to add Section 9.20.050 to Chapter 9.20 ("Zoning Districts") to prohibit medical marijuana dispensaries in all zones in the City.
1. Chairman Quill opened the public hearing and asked for the staff report. Assistant City Manager Doug Evans presented the information contained in the staff report, a copy of which is on file in the Community Development Department.
 2. Chairman Quill asked if there were any questions of staff. Commissioner Barrows asked for clarification as to how the facilities are defined as a public nuisance or personal threat to health and safety. Assistant City Manager Doug Evans stated that if there is a conflict with federal law that is a conflict that is a violation that affects the welfare of the community. The safety of the community until there is a sound regulatory ordinance in the City there is the potential for problems that are public nuisances. There are a series of land uses that may or may not have secondary affects such as alcohol, cigarettes, etc . Assistant City Attorney Michael Houston stated the diversions in federal and State law does create some of the conflict in that the potential has been raised by other public legal counsels that local public agencies that allow the operation of entities that are operating illegally under federal law, can expose themselves to liability under a theory of aiding and abetting criminal activities. The Zoning Code requires any Zoning Code Amendment to have a discussion whether the amendment would have an affect on health and welfare. Commissioner Barrows asked that if federal law changes or becomes compatible with State law, would we then go back and amend the Code. Doug stated we would be in a position to take one of three courses of action: the City could state they do not want this type of land use; if given policy direction to re-evaluate, we would adopt a series of regulatory requirements for this type of land use to see that the facility is consistent with all laws, or it could be allowed and built into the Code depending upon State law which hopefully would have very stringent regulations.
 3. Commissioner Engle asked if this activity was being allowed in

other cities. Assistant City Attorney Michael Houston stated there are some cities that do allow the use with a limited activity. The issue is the law at the State level does not establish the regulatory perimeters. At the State level it creates an affirmative defense from criminal prosecution for certain individuals who use medicinal marijuana and certain entities, primary care physicians-true cooperatives that offer limited quantities of the drug for individual use. In order to take that affirmative defense from criminal prosecution which is not a law that permits broad use, every jurisdiction will have to regulate this, and there are jurisdictions that have done this. Riverside County District Attorney's White Paper indicates there are problems with implementing those regulations. The Federal Drug Administration has full authority over the Schedule 1 drugs, which marijuana is.

4. There being no further questions of staff, Chairman Quill asked if there was any public comment. Mr. Swordlow, 1 Cordova Court, Palm Springs, stated that when the federal government gets involved with the states regarding legalization of marijuana, he does not believe it will be a problem because all the local pharmacies will start selling it. He did not believe there would be a discussion at this meeting regarding the secondary affects that will develop when a facility opens up. The crime wave that is anticipated from the impact of these dispensaries has never been documented. In fact the City of Oakland, based upon the results found in a study conducted by research out of Berkley, determined they did not cause any problems and were a benefit. This report caused them to allow more dispensaries to open. Proposition 215 did not legalize marijuana for medicinal purposes, it also directed the State to implement programs so patients could obtain the drug. The State has done nothing to help this. The problem with the City's Ordinance is that the definition of medical marijuana is too broad. It makes cooperatives and collectives illegal. Senate Bill 420 specifically says in Section 11362.775 says that qualified patients and persons with valid identification cards and the designated primary care givers of qualified persons with valid identification cards who associate with the State of California in order to collectively or cooperatively cultivate marijuana for medical purposes are exempt from these laws. Four of the five Council Members stated they believe in the medical purposes of marijuana and the benefits it provides. If people need this medicine, how are they going to obtain it? Patients need a safe

and reliable source to get this medicine. They are trying to encourage small cooperates to form with six or seven people. There is no reason the City of La Quinta cannot exempt small cooperatives and collectives to cultivate their medicine.

5. There being no other public comment, the public hearing was closed and open for Commission discussion.
6. Commissioner Alderson stated there are a lot of philosophically ramifications, but the most solid direction given from the legal aspect is from the federal law. All of the other things are pending or can change. The given is that the City would be subject to federal laws should they allow this usage.
7. Commissioner Barrows asked if there are circumstances with other cities that have taken a position to allow these facilities they are taking the risk of violating federal law. Assistant City Attorney Michael Houston stated that in regard to collectives, the proposed Ordinance was drafted to encompass collectives/cooperatives that can permissible utilize medicinal marijuana under certain circumstances. The problem that jurisdictions have is identifying what a "true" collective/co-operative. There are high legal hurdles based on case law as to what constitutes a co-operatives. There are a number of jurisdictions that are liberal on their interpretation. The basis of this Ordinance is the conflict between State and federal law. Even if there was no conflict, the City has the right under its police power to ban certain uses and not allow them to occur within its jurisdiction.
8. There being no further discussion, it was moved and seconded by Commissioners Alderson/Barrows to adopt Planning Commission Resolution 2007-026 approving Zoning Code Amendment 2007-089, as recommended.

ROLL CALL: AYES: Commissioners Alderson, Barrows, Engle, and Chairman Quill. NOES: None. ABSTAIN: None. ABSENT: Commissioner Daniels.

BUSINESS ITEMS: None.

CORRESPONDENCE AND WRITTEN MATERIAL: None.

COMMISSIONER ITEMS:

- A. Commissioner Alderson gave a review of the City Council meeting of June 5, 2007.
- B. Commissioners moved to go dark on August 14, 2007 and potentially August 28th depending upon the work load.

ADJOURNMENT:

There being no further business, it was moved and seconded by Commissioners Alderson/Engle to adjourn this regular meeting of the Planning Commission to a regular meeting to be held on June 12, 2007. This regular meeting was adjourned at 8:56 p.m. on May 22, 2007.

Respectfully submitted,

Betty Sawyer, Executive Secretary
City of La Quinta, California