

**TOWN OF YUCCA VALLEY  
PLANNING COMMISSION MEETING MINUTES  
August 21, 2007**

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

Commissioners present: Chair George Huntington, Commissioners David Cooper, Dennis McKoy and Shannon Goodpaster

Mr. Willman had previously requested and received an excused absence due to vacation.

Chairman Huntington led the Pledge of Allegiance.

**APPROVAL OF AGENDA:**

Mr. McKoy moved that the Agenda be approved, which motion was unanimously carried by voice vote of the Commissioners present.

**PUBLIC COMMENTS:**

None

**PUBLIC HEARING:**

**1. CONDITIONAL USE PERMIT, CUP 04-05 AMENDMENT #2- Herbel**

A request to revise the Conditions of Approval regarding the requirements for temporary public toilet facilities for an Art Festival at the Park & Ride facility located at 7483 Kickapoo Trail, on the north side of Twentynine Palms Hwy, and identified as APN's 586-101-07 and 586-081-05.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Dir. of Community Development Thomas A. Best presented the project discussion to the meeting recommending denial of Amendment #2.

Mr. McKoy requested clarification of the differences between a regular and handicapped restroom facility. Mr. Best replied ADA approved restrooms are larger to accommodate the turning radius of wheelchairs and are equipped with ramps and "grab bars". Non-handicapped persons can use handicapped facilities.

Mr. Cooper asked if the handout from the SBDO County Dept. of Public Health, copies of which are preserved in the project and meeting files, pertaining to the number of restroom facilities required based upon crowd size were guidelines or requirements. Mr. Best responded that they are requirements for special events held in County jurisdictions but are presented here as guidelines for the Commission.

Mr. Cooper noted that the staff report references state laws. Mr. Best replied the State law addresses accessibility and that the required number of accessible restrooms increases proportionately with the total number of restroom facilities provided. The Building Code

establishes the number of facilities and how many must be ADA compliant. County Public Health also requires an ADA compliant facility. These are the closest references that have been found for the Farmers Market.

Mr. Cooper asked if a handicapped accessible facility was a COA of the original CUP. Mr. Best replied one ADA compliant restroom was required in the original CUP. Staff concluded that additional restroom facilities were required as part of the 1<sup>st</sup> amendment to the CUP due to the addition of food and beverage vendors at the Arts Festival. Staff became aware of the handout presented tonight which includes a formula for establishing the number of facilities required after the 1<sup>st</sup> amendment to this CUP has been approved. The information is provided to you for comparative purposes. The Town does not have specific regulations pertaining to events and the number of facilities required, other than the Building Code.

Mr. Goodpaster asked if the applicant has provided an estimate of how many people attend the Farmers Market on an average Saturday. Mr. Best replied in the first amendment the applicant estimated between 150 and 200 people per event plus approximately 25 vendors.

Mr. Goodpaster asked if the Town is charging for the use of the Park & Ride. Mr. Best responded he does not know. Mr. Huntington asked if a contract was initiated between the Town and the Farmers Market after the last CUP amendment. Mr. Best stated he is aware that a contract was prepared and while he did not attend that Town Council meeting it is his understanding a contract has been executed.

Mr. Huntington requested and received conformation that if only one rest room is provided it must be handicapped accessible.

Mr. McKoy commented that the people who attend the Farmers Market are not there for the entire time the market is open and asked how the County handout would affect the market. Mr. Best replied the handout lists restroom requirements for crowds of from 250 to 100,000 people. The County assumption is that these are peak crowds for an average person who would be at an event for an hour.

Mr. Huntington opened the public hearing.

Applicant Jerry Herbel of Yucca Valley stated she hopes the hardships for the Farmers Market and Art Festival will lighten up. The ADA restroom can accommodate non handicapped persons. An 8x8 cement slab would be poured and the facility would be bolted down, sanitized and locked after each event. The current facility is primarily used by the farmers. Most shoppers spend a half an hour at the market. She has yet to see one shopper use the restroom. The Santa Monica and Fallbrook farmers markets do not have ADA restrooms. The Agriculture Dept. does not require an ADA restroom for a farmers market. There is no place for people using the Park & Ride or the bus stop during the week to go to the restroom. The Federally funded Women, Infants and Children (WIC) program has authorized \$15,000 for use at the YV Farmers Market. This program helps people buy more nutritious food. When my daughter, Lori Herbel, first started this market they visited many counties looking for farmers. It was hard to get 15 farmers to come up here. She hopes the Town will approve an ADA restroom without 4 others lined up next to it until a proper restroom is built at the Park & Ride for everyone.

Doug Thompson of Morongo Valley stated the YV Farmers Market is more than just a place to find fresh vegetables and magnificent fruit, wonderful bread and beautiful flowers. It has become part of the community, a place to meet and talk to friends, some of the stitching that holds the

community together. He and his wife see their CPA, the heads of churches and many business owners there. It's the local people who care about this community and are the backbone of this area. We need the Farmers Market for balance in life and the sense of community.

Rae Packard read a letter, copies of which are preserved in the project and meeting file, into the record.

Cindy Zacks of Joshua Tree stated she goes to the Farmers Market every week. She has spent the last 2 years studying organic local produce. She teaches a botany class with a gardening program at Yucca Valley High School. The market has become critical to her family. She doesn't want to put chemicals into her family's bodies. Part of the requirement of the gardening program is for the students to go to the market to study the farmer's methods and distribution. To deny the Farmers Market over a toilet for which they have agreed to meet all the requirements is also compromising the education of our local students. Please stop putting roadblocks in the way of the Farmers Market because it is a critical and beloved activity.

Nancy Lostlen of Morongo Valley stated she helps manage the Farmers Market. The market is a bit of charm for a Town that is rapidly losing it. Tourists look for charm and uniqueness not big box stores. The endorsement of the WIC program should speak volumes. Very few customers use the restroom currently provided. More people may use it if it is bolted down and more stable, especially the elderly and people with children. One ADA accessible restroom would more than meet the peak time needs of the market. She would like to see the market go on and get over these obstacles sooner than later because the Art Festival has depended on this restroom facility. The first season has slipped away. She envisioned this happening a lot faster.

Frederick Petersen of Yucca Valley stated he became aware of the market about 6 months ago and has gone every Saturday since then because it's fun. If it's a simple little bathroom that is the big factor he thinks all of us of good faith could come together and find a way to solve the problem. We cannot let this wonderful, if very small, asset go to waste. It is something special. There seem to be people who will donate material, labor, time and money. Let's figure out a way to put up a bathroom.

Aston Francis of Yucca Valley stated he looks forward to the market every Saturday. He meets wonderful people and gets wonderful fresh produce. It would be a shame to lose this opportunity.

William Swinnerton of Yucca Valley wishes that whatever is going on here, we would work on solutions and not presenting problems. The market is a beautiful opportunity for the community. He hopes that Yucca Valley will concentrate on what the people want and not on roadblocks. Do something good for the people and families of Yucca Valley. If it's a problem with raising money, I'll put up \$100 or \$500 or \$1,000 and ask you to do the same thing.

Robin Kobaly of Morongo Valley stated today more and more we are becoming aware that in all things we do we need to think globally and act locally. This is an opportunity to act on the local level. Ecologists today are thinking about "true cost" pricing. The true cost of a product includes the pesticides, transportation, packaging, etc. We have an opportunity to reduce the true cost here with the Farmers Market. The market is not in competition with big box stores. This is an item that could be put on the Town web-site. Many people look for farmers markets before choosing a town to live in. True cost pricing, real cost pricing, is a big deal to the planet we live on. Please find a way to keep the Farmers Market.

Harry Bowkley of Yucca Valley stated everyone has made a strong case for how important the Farmers Market is to the community. The ADA toilet is a must. However, it cannot be removed. It is large and cannot be hauled, set down and then taken back up again and removed. If it could be removed we wouldn't be here tonight. One reason you want it removed is aesthetics. There are things that could be done to improve the aesthetics. People are offering money here. I'd be one of them for \$1,000. Make it so it can stand there and not embarrass you all. The biggest embarrassment for you is that there is no restroom facility there now. If you're going to use the Park & Ride for the Art Festival and other events you're going to need one there. To put this burden on the Farmers Market is absurd. The toilet can't stay open; it has to be locked up so it isn't vandalized. Those are the two objections. Both of those issues can be mitigated. Enclose it and make it look like an outhouse with flowers. Handle the aesthetics. Vandalism is a problem everywhere. For 5 weeks in a row he has not seen one person in Jacobs Park at 10:00 a.m. on a Saturday. There are a lot of restroom facilities going begging there. These folks are going to put restroom facilities in. All they are asking is to leave the toilet there. Please allow them to leave it there.

Mr. Huntington closed the public hearing and requested staff comments.

Mr. Best noted that the Farmers Market and Art Festival have had permission to operate since approval of the CUP on May 1, 2007. The Farmers Market was approved and in operation prior to that date with a COA requiring an ADA compliant portable restroom facility which was to be removed after each event. The Town is not requiring that the ADA toilet be bolted to a cement pad. Staff first heard that proposal this evening. The issue is removal of the facility after an event. Staff has taken a position that removal of the facility is in the general public interest. A permanent restroom facility was never envisioned for the Park & Ride. Staff has concerns regarding vandalism and other possible criminal activity in and around public restrooms.

Mr. McKoy requested and received confirmation that the current toilet is removed after each Farmers Market. Mr. Best commented that the applicant states there are more difficulties with handicapped facilities. Mr. Huntington stated they require a 5 foot turning radius outside of the restroom necessitating an 8 foot square with a ramp not exceeding an 8% grade, which can be difficult to trailer. They are generally removed from the trailer and set in place at the event.

Mr. Cooper stated he had questions for the applicant. Mr. Huntington re-opened the public hearing.

Mr. Cooper asked if the applicant has acquired a proposal for an ADA compliant facility. Ms. Herbel replied it is unaffordable to have the facility removed after each event. The fee to have the ADA facility removed is over \$100 per week plus the \$140 monthly rental. The regular facility costs \$110 per month and the Farmers Market staff removes it every week.

Mr. Huntington closed the public hearing.

Mr. Cooper stated the question is how to mitigate the issues with which the Town has a problem. Aesthetically it would probably be easy to decorate or disguise the facility. Vandalism is an issue no matter what you do. Could the Town enter into an agreement with the operators of the Market and have the operators create a fund to build and maintain a restroom at the Park & Ride? Mr. Best replied that is a policy decision for the elected officials.

Mr. Cooper suggested funds from those who have said they are willing to donate to the Market could be used to pay for the weekly removal of the facility.

Mr. Goodpaster stated restroom facilities have to be provided and is not sure one will be enough with attendance estimated at 200 people. He witnesses port-o-pot vandalism all the time. If the Commission allows the facility to stay on-site it has to be bolted down. He is not sure that permanently parking an ADA accessible portable restroom facility on-site is the solution.

Mr. Huntington re-opened the public hearing.

Ms. Lostlen restated that the delivery and pick-up fee is \$100 per week so the donations Mr. Cooper mentioned would not last a couple of years but only a couple of months. She also suggested that the Port-A-Potty company probably carries insurance against vandalism.

Mr. John Herbel of Yucca Valley stated Starbucks only has one restroom. Many McDonalds only have one restroom. The port-a-potty they are talking about is 8x8 and is impossible to move. How are the disabled supposed to get into it if it's on a trailer? The Commission has only one choice - to have one accessible port-a-potty sitting on the ground.

Mr. Huntington again closed the public hearing.

Mr. Goodpaster stated if the facility is going to be left on site it has to be on a cement pad. It can't work just sitting it on dirt. It would have to be bolted down so it can't be tipped over. Port-a-potty's have to be insured by the renter. If it does get tipped over, who would be responsible for clean up? It would be a mess for the Park & Ride.

Mr. Huntington stated he does not believe anyone on the Commission or staff wants to eliminate the Farmers Market. It is a valuable asset. This CUP came about because the applicant wanted to increase activity at the Market by adding the Art Festival, extending the hours of operation and adding food, beverage and music; which changed the scope of the original CUP and created new health and safety issues; one of which is additional and ADA compliant restroom. Town staff has problems with aesthetics, vandalism and leaving the port-a-potty on site permanently.

Mr. Best stated the purpose of the Park & Ride is to accommodate future growth and encourage car pooling and the use of mass transportation in the region.

Mr. Huntington agreed that the Farmers Market is an accessory use not planned for or considered in the concept of the Park & Ride. The building of permanent restrooms at the site was probably not in the thought process or envisioned. Public restrooms are very expensive to build and have to be almost bullet proof. It was almost \$200,000 for the restrooms at the Community Center Park. He questioned if there could be an amendment that would allow the restroom on a temporary basis to see how it works and then if problems develop it would have to go on a slab.

Mr. Best stated the request and matter the Commission is to consider is removal verses non-removal and one toilet verses two. Permanent improvements on public property would be a Town Council policy decision.

Mr. Cooper asked what can be done on a temporary basis.

Mr. Best stated the applicant can have the facilities delivered and removed as they are doing presently. The problem is with the bulk of a handicapped facility. Another issue would be monetary. Information provided to staff was not clear regarding the \$100 fee being weekly or

monthly. The facility has to be ADA compliant. Construction on public property is beyond the scope.

Mr. Cooper restated his questions as: what can be done on a temporary basis while Council is contemplating policy. Yes, we have to have the ADA facility there eventually. We haven't had it there so far. Would the Town be in trouble, or what is the Town's exposure, if we allowed the Market to continue with the current non handicapped accessible facility being removed each week?

Mr. Best stated, understanding the requirements for ADA facilities, his preference is for legal review. Mr. Cooper agreed but again asked what they could do on a temporary basis while legal and Town Council answers the larger questions. Can the Commission allow the Farmers Market to continue to operate as they have been operating?

Mr. Best stated the only response he would be comfortable giving is as a temporary measure the applicant, with their offers of donations and monetary participation, provide the accessible facility at a minimum and an additional facility unless the Commission wishes to change that Condition Policy and legal issues can be posed to the Town Council and legal counsel.

Mr. Cooper asked if Mr. Best was saying it would be inadvisable to ignore the ADA issue even on a temporary basis. Mr. Best replied yes.

Mr. McKoy asked what initiated this issue. Was it the addition of the Art Festival? Mr. Best replied we have a whole different permit at this time. We have a permit for the Farmers Market that is operating per an approval which was amended to include other conditions. The applicant is bound to comply with the CUP as changed by Amendment #1 with the corresponding conditions.

Mr. McKoy stated the Farmers Market and the Art Festival will not be taking place at the same time of day. The lack of an ADA compliant restroom has not been an issue at the Farmers Market.

Mr. Huntington stated it does open the door to potential litigation. He is concerned that the Commission did not get any options on this proposal. There wasn't any attempt to resolve the issue in some meaningful manner so that the Commission had a choice of options.

Mr. Best stated the options in front of the Commission are whether or not one toilet should be required versus two and whether the toilet facility can remain on site. Mr. Huntington commented there is no staff discussion on how it can remain on site regarding the aesthetics issue and others. It's just yea or nay.

Mr. Best replied that is what is before the Commission. He cannot speak for Town Council on this matter and doesn't know what the implications would be. That is the application the Planning Commission is acting on at this point in time.

Mr. Cooper stated they have a third option which is to continue the item.

Mr. Huntington stated he would like to see some options brought forth. Staff does not have answers to certain questions because of the need for legal counsel. He would like to continue the item until they have more options to discuss about if and how the toilet can remain how it can remain on site. And what are the options for protecting the toilet and insuring that the aesthetic and vandalism issues are addressed.

Mr. Cooper stated he seconds those thoughts and he would like to see the Town Manager and the Assistant Town Manager brought into the discussion.

Mr. Huntington stated this can be resolved. If the event is expanded to include food, beverage and music then 2 toilets, at a minimum would be required, which is half of the County requirement.

Mr. Best commented it has been stated by the applicant that these facilities would remain locked and not available to the public between events. Mr. Huntington commented that the facilities should not be if the applicant is paying the bill for them.

Mr. Goodpaster stated he would like to know what the total monthly charge from the rental company would be for two toilets, one of them being ADA compliant. They might be able to work out a deal to bring in both toilets. He agreed with Mr. Best that the \$100 figure was not well defined as weekly or monthly.

Mr. Best stated perhaps someone local with a lift on the back of a truck would be willing to provide assistance to the Farmers Market. Mr. Cooper stated the lift is only one part of the problem. The other part is the \$100 per week fee to have it removed.

Mr. Best stated he will look into costs.

Mr. Cooper moved to continue the item to the Regular Planning Commission meeting of September 18, 2007 which motion was seconded by Mr. McKoy and passed unanimously by voice vote of the Commissioners present.

## **BUSINESS ITEMS**

### **2. SITE PLAN REVIEW SPR 05-04 EXTENSION OF TIME – HORAK**

A request for an extension of time to construct a retail/commercial building on 2 lots located on the NW corner of Hopi Tr. at SR62 and identified as APN 586-121-03 & 04. The project was approved by the Planning Commission on September 7, 2004.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Dir. of Community Development Thomas A. Best presented the project discussion to the meeting recommending approval of the extension of time to September 7, 2008.

Mr. McKoy requested and received confirmation that the real time extension is for one year from next month.

Mr. Goodpaster commented that a three year extension could be more appropriate in that the real time extension to September 7, 2009 is actually a two year extension from today.

Mr. Huntington opened the public hearing.

Applicant Marie Horak of Yucca Valley requested a three year extension because the project engineer may not be able to complete all of the work before September of 2008.

Mr. Huntington closed the public hearing.

Mr. Cooper moved that a three year extension to September 7, 2009 be granted which motion was seconded by Mr. Goodpaster and passed unanimously by voice vote of the Commissioner present.

**CONSENT AGENDA:**

**3. MINUTES:**

Staff requested that a typo in the first full paragraph on stamped page 48 (Page 4 of the Minutes of the Planning Commission meeting of August 7, 2007) be corrected to read COA #53 and not COA #52. Mr. Goodpaster moved that the minutes of the August 7, 2007 Planning Commission meeting be amended as above and approved. Mr. McKoy seconded the motion which passed by voice vote of 3-0-1-1. Mr. Cooper abstained as he had not attended the meeting. Mr. Willman was absent.

**FUTURE AGENDA ITEMS:**

September 18, 2007 - Parcel Map PM 05-04 – Holloway: A proposal to divide a 5 acre parcel which is bisected by SR247 into 2 parcels.

September 18, 2007 – Old Town Specific Plan: review and accept the Final EIR

**STAFF REPORTS AND COMMENTS:** None

**COMMISSIONER REPORTS AND REQUESTS:** None

**ANNOUNCEMENTS:**

Mr. Huntington announced that there being no agenda items for the September 4, 2007 Planning Commission meeting, the next Regular meeting of the Planning Commission will be held at 7:00 pm on Tuesday, September 18, 2007.

The meeting adjourned at 8:35 p.m.

Respectfully submitted by,

Jeannie Lindberg  
Administrative Assistant III