

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

DISCUSSION OF REDUCING CONDITIONAL USE PERMIT FEES

Summary Statement:

At Mayor Pro-Tem Nassif's suggestion, the Mayor and Town Council have previously discussed whether or not it would be appropriate to consider reducing the Town application fees for Conditional Use Permits. Council Member Nassif had discussed with the Town Council his opinion that, based in large part on the current economic downturn, the Town CUP application fee was too high and a hindrance to business development in the current environment. As part of this discussion, staff had recommended that the Minor CUP application fee be applied to those CUP applications (otherwise considered Major CUP applications) that did not involve any permitted construction activity or site improvements.

As part of the above discussion, staff discussed the manner in which the fees were originally established (Revenue and Cost Specialists study), the original General Fund subsidy which entailed the Council establishing the fee at 80% of the full 100% cost recovery recommended by the consultant and the annual cost-of-living adjustments made since the original Major and Minor CUP application fees were established. Staff also discussed with Council the number of findings required to be made with CUP applications and the related staff time required to process such applications as a result of the number of findings. At the end of the discussion, Council took no action on this issue, but directed staff to review and analyze the current menu of findings and to present a staff report to Council outlining how such findings could be reduced without negatively impacting the quality of development projects throughout the Town. Staff has completed its analysis in this regard.

(continued on next page)

Recommended Action:

That the Town Council initiate a Development Code Amendment for the purpose of revising the required findings associated with the processing of Conditional Use Permits and Development Permits, with the understanding that approval of such Development Code Amendment will afford the Town Council the opportunity to reduce Conditional Use Permit application fees as the Council deems appropriate.

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____

Budget Item Yes No N/A

Town Council Meeting of April 28, 2009

Exhibit "A" contains a list of the 15-findings currently required as part of the approval of a CUP application. Exhibit "B" contains a list of the 19-findings required as part of the approval of a Development Permit. Many of these findings are redundant and superfluous based, in part, on Development Code requirements and the Town's list of standard Conditions of Approval. Exhibit "C" contains lists of revised and recommended findings for Conditional Use Permits and Development Permits. Exhibit "C" also contains survey data relating to Conditional Use Permit findings imposed by the cities of Hesperia, Palmdale, Rancho Cucamonga, Highland and Lancaster. As is readily apparent, the Town requirement for 15-findings is significantly greater than any of the surveyed communities.

In the earlier Town Council discussion, staff had recommended that the CUP application fee for a use analysis that did not involve any permitted construction or site improvement activity to be reduced from \$6305 to \$3152. As part of Council's consideration of this recommendation, Council Member Nassif recommended that staff review and analyze the Town's required findings and present its analysis to the Council before a final decision would be made on this issue. The Town Council agreed to Council Member Nassif's recommendation. As such, this staff report should enable Council to complete its work in this regard and take action in conformance with the recommended action, or alternative measures determined by the Council.

Based upon the foregoing, staff recommends adoption of the form motion.

TOWN OF APPLE VALLEY

Conditional Use/Special Use Permit Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make the following findings:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;
2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;
3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;
4. That there are public facilities, services and utilities available at the appropriate levels or that these will be installed at the appropriate time to serve the project as they are needed;
5. That there will not be a harmful effect upon desirable neighborhood characteristics;
6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;
7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;
8. That there will not be significant harmful effects upon environmental quality and natural resources;
9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;
10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;
11. That the proposed conditional use will comply with all of the applicable provisions of this title.
12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use.
14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.
15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Development Permit Findings:

As required under Section 9.17.080 of the Development Code, prior to approval of a Development Permit, the Planning Commission must make the following Findings:

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;
2. That the location, size and design of the proposed structures and improvements are compatible with the site's natural landforms, surrounding sites, structures and streetscapes;
3. That the proposed development produces compatible transitions in the scale, bulk, coverage, density and character of development between adjacent land uses;
4. That the building, site and architectural design are accomplished in an energy efficient manner;
5. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;
6. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;
7. That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and is compatible with the design and function of the structure(s), site and surrounding area;
8. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;
9. That excessive and unsightly grading of hillsides does not occur, and the character of natural landforms and existing vegetation are preserved where feasible and as required by this Code;
10. That historically significant structures and sites are protected as much as possible in a manner consistent with their historic values;
11. That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;
12. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists;
13. That the proposed development's generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Exhibit B

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14. That traffic improvements and or mitigation measures are provided in a manner adequate to maintain a Level of Service C or better on arterial roads and are consistent with the Circulation Element of the Town General Plan;
15. That environmentally unique and fragile areas such as the knolls, areas of dense Joshua trees, and the Mojave River area shall remain adequately protected;
16. That there will not be significant harmful effects upon environmental quality and natural resources;
17. That there are no other relevant negative impacts of the proposed use that cannot be mitigated;
18. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan; and
19. That the proposed development will comply with each of the applicable provisions of this Code, and applicable Town policies, except approved variances.

TOWN OF APPLE VALLEY

Recommended

Conditional Use/Special Use Permit Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit/Special Use Permit, the Planning Commission must make the following findings:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;
2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.
3. That there are public facilities, services and utilities available at the appropriate levels or that these will be installed at the appropriate time to serve the project as they are needed;
4. That there will not be significant harmful effects upon environmental quality and natural resources;
5. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;
6. That the impacts, as described above, and the proposed location, size, design and operating characteristics of the proposed use, and the conditions under which it would be maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Development Permit Findings:

As required under Section 9.17.080 of the Development Code, prior to approval of a Development Permit, the Planning Commission must make the following Findings:

1. That the location, size, design, density and intensity of the proposed development is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;
2. That the amount, location, and design of open space and landscaping conforms to the requirements of this Code, enhances the visual appeal and is compatible with the design and function of the structure(s), site and surrounding area;
3. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures;
4. That there are public facilities, services and utilities available at the appropriate levels, or that these shall be installed at the appropriate time, to serve the project as they are needed;
5. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists;
6. That the impacts which could result from the proposed development, and the proposed location, size, design and operating characteristics of the proposed development, and the conditions under which it would be operated or maintained, will not be detrimental to the public health, safety and welfare of the community or be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Exhibit C

CITY OF HESPERIA (Excerpts)

Section 16.12.125 Determination by the approval authority
Conditional Use Permit findings

- A. The site for proposed use is adequate in size and shape to accommodate all yards, open spaces, setbacks, walls and fences, parking areas, fire and building code considerations and other features pertaining to the application.
- B. The proposed use will not have a substantial adverse effect on abutting property or the permitted use thereof, and will not generate excessive noise, vibration, traffic or other disturbances, nuisances or hazards;
- C. That the proposed use is consistent with the goals, policies, standards and maps of the Development Code, General Plan, and other applicable codes and ordinances adopted by the city; street and highway limitations. (Ord. 192 Exh. A (§83.03,050) 1994)
- D. The site for the proposed use has adequate access, meaning that the site design incorporates street and highway limitations;

Site Plan Review findings

16.12.100 Determination by the approval authority.

Approval shall be based upon the following minimum criteria, which shall also constitute the findings to be made by the approval authority in approving or denying a site plan:

- A. The site for the proposed use is adequate in size and shape to accommodate all yards, open spaces, setbacks, walls and fences, parking areas, fire and building code considerations, and other features pertaining to the application;
- B. The proposed use will not have a substantial adverse effect on abutting property or the permitted use thereof, and will not generate excessive noise, vibration, traffic, or other disturbances, nuisances or hazards;
- C. The proposed use is consistent with the goals, policies, standards and maps of the development code, general plan, and other applicable codes and ordinances adopted by the city;
- D. The site for the proposed use has adequate access, meaning that the site design incorporates street and highway limitations. (Ord. 192 Exh. A (§ 83.02.050), 1994)

CITY OF PALMDALE (Excerpt)

Conditional Use Permit Findings:

- A. The proposed use is consistent with the goals, policies, and objectives of the General Plan.
- B. The proposed use is beneficial and desirable to the community and is consistent with the purpose, intent and standards of the Zoning Ordinance and other applicable ordinances and codes adopted by the City of Palmdale.
- C. The site for the proposed use is adequate in size and shape to accommodate all yards, open spaces, setbacks, walls and fences, parking areas, fire and building code considerations, and other features pertaining to the application.
- D. The proposed use and the on-going operation of the use will not have a substantial adverse effect on abutting property or the permitted use thereof, and will not generate excessive noise, vibration, traffic, or other disturbances, nuisances, or hazards.
- E. The site for the proposed use has adequate access, meaning that the site design incorporates street and highway limitations.

Exhibit C

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Site Plan Review (Excerpt)

Section 21.05 Determination by the Approval Authority (Zoning Ordinance Amendment 03-03, adopted by City Council January 28, 2004.)

No Application for Site Plan Review shall be approved by the Approval Authority unless the application, in its final submitted form, or as conditioned, meets all of the following criteria:

- A. The design and layout of the proposed development or structures is consistent with the City's General Plan, any applicable specific plan, any applicable design guidelines, and the development standards set forth in this Zoning Ordinance;
- B. The design of the structures, including layout, size, shape, mass, height, architectural elements and other design factors are appropriate to the size and shape of the lot and are compatible and harmonious with the uses and structures on adjacent properties;
- C. The design of the project will provide a desirable environment for its occupants, the visiting public and its neighbors through the use of high-quality building materials, design elements, colors textures and landscape features; and
- D. The building materials and design features are of a quality and type that will remain aesthetically appealing over time without necessitating frequent and unrealistic maintenance or replacement.

CITY OF RANCHO CUCAMONGA (Excerpt)

Conditional Use Permit Findings:

- 1. That the proposed use is in accord with the General Plan the objectives of the of the Development Code, and the purposes of the district in which the site is located
- 2. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity;
- 3. That the proposed use complies with each of the applicable provisions of the development code.

CITY OF HIGHLAND (Excerpt)

Conditional Use Permit Findings:

- 1. That the proposed use is permitted within the subject district pursuant to provisions of this section, and complies will all applicable provisions of this title, and is consistent with the goals, policies, and objectives of the Highland General Plan, and with applicable development policies and standards of the city;
- 2. That the proposed use would not impair the integrity and character of the district in which it is to be established or located.
- 3. The site is suitable for the type and intensity of use or development which is proposed;
- 4. There are adequate provisions for water, sanitation, and public utilities and service to ensure public health and safety.
- 5. The proposed use will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity; and
- 6. The proposed use would not result in a significant effect on the environment;

Exhibit C

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CITY OF LANCASTER (Excerpt)

17.32.090 Findings and decision.

Conditional Use Permit Findings:

The zoning board may recommend approval and the commission may approve an application for a conditional use permit where the information submitted by the applicant and/or presented at public hearing substantiates the following findings:

- A. That the proposed use will not be in substantial conflict with the adopted general plan for the area. Where no general plan has been adopted, this subsection shall not apply;
- B. That the requested use at the location proposed will not:
 - 1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
 - 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
 - 3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served:
 - 1. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and
 - 2. By other public or private service facilities as are required.The commission shall deny the application where the information submitted by the applicant and/or presented at public hearing fails to substantiate such findings to the satisfaction of the commission. (Prior zoning ord. § 501.9)

Exhibit C

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