REGULAR MEETING  
CITY OF WILDOMAR  
PLANNING COMMISSION  
November 4, 2009

1.0 CALL TO ORDER

The regular meeting of the Wildomar Planning Commission was called to order by Planning Commission Chairman Devine at 7:00 P.M. at Wildomar City Hall, Council Chambers.

1.1 ROLL CALL OF PLANNING COMMISSION

Present: Robert Devine, Chairman  
Harv Dykstra, Vice-Chairman  
Gary Andre, Commissioner  
Scott Nowak, Commissioner  
Miguel Casillas, Commissioner

Absent:

Staff Present: David Hogan, Planning Director  
Thomas Jex, Assistant City Attorney  
Jon Crawford, Supervising Engineer  
Alia Kanani, Planner  
Sean del Solar, Planner

1.2 PLEDGE OF ALLEGIANCE:

Chairman Devine led the flag salute.

2.0 COMMUNICATIONS FROM THE PUBLIC:

None.

3.0 APPROVAL OF MINUTES:

Commissioner Casillas moved to approve the Minutes of September 16, 2009. The motion was seconded by Commissioner Andre. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Nowak, Casillas, and Andre.
NOES:  
ABSENT:  
ABSTAIN:
Commissioner Nowak moved to approve the Minutes of October 7, 2009. The motion was seconded by Vice-Chairman Dykstra. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Nowak, and Casillas.
NOES: 
ABSENT: 
ABSTAIN: Andre

4.0 CONTINUED PUBLIC HEARING ITEMS:

4.1 CONDITIONAL USE PERMIT 09-0265
Applicant: MDMG Inc. for Morales Enterprises
Location: Northwest corner of Bundy Canyon Road and Almond Street (APN: 366-210-052).
Proposals: The project proposes the construction and operation of a 5,280 square foot office and associated nursery facility on a 1.54 acre site.
Environmental Action: In accordance with the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration has been recommended for adoption.

Planner Kanani made the Staff Report.

Assistant Attorney Jex added information about the amortization period conditions of approval for the project.

Planner Kanani then concluded by discussing changes made to the plot plan to address some concerns raised during the October 21st Public Hearing.

Commissioner Nowak asked what reasons would be required to revoke the Conditional Use Permit.

Attorney Jex responded that revocation of the permit could be based upon any violation of the conditions of approval or violation of City Code. He then noted that one of the conditions of approval for the project would be that the use will be considered a nuisance if it was continued past a certain period of time.

Commissioner Andre asked how long it would take to remove the use after it had been determined to be a nuisance.
Attorney Jex responded that a Public Hearing would need to be held, a decision would need to be made, an appeal period would need to occur, and litigation could occur after that point.

Commissioner Andre then noted it could go on for years.

Attorney Jex responded in the affirmative, explaining that the applicant was entitled to due process.

Chairman Devine asked what would occur if the applicant was not financially able to remove the structures when the use expires.

Attorney Jex described the City’s abatement process and the resulting lean which could recover costs when the property was sold.

Commissioner Andre read section 17.72.020(E)(1) of the Municipal Code and then asked about the distance of the trash bins to the property line.

Planning Director Hogan explained that the section of the Municipal Code referenced was not applicable to the project.

Commissioner Andre responded by stressing that the use must be compatible with community and noted there was not sufficient information about the materials or scope of business which would occur at the site.

Director Hogan suggested that Commissioner Andre direct the operational questions to the Applicant whom could provide accurate information on the scope of the business.

Chairman Devine opened the Public Hearing.

Applicant Larry Markham stated that they were in support of the Conditions of Approval that created the amortization period for the project. He then discussed the changes to the plot plan that were made to address the Commission’s concerns expressed during the last Commission Meeting. Mr. Markham explained that the property could develop sooner with a more permanent project if the market improved, but stated that the seven year amortization period outlined in the conditions of approval would be ideal. He added that the project would be compliant with the City’s noise ordinance and would be consistent with the zoning.

Commissioner Andre asked about street improvements near the intersection of Almond Street and Bundy Canyon Road.
Applicant Markham responded that improvements would be done in accordance with the City Standards and to the satisfaction of the Public Works Department.

Commissioner Andre discussed the location of the trails near the project site.

Commissioner Nowak disagreed with a statement by the applicant that market conditions would not support a permanent project.

Applicant Markham clarified his statement and discussed potential future development of the site.

Chairman Devine stated that he was still unclear about the exact use of the site. He then asked for clarification on the scope of operations to occur at the site.

Applicant Markham responded that it would be an office with a display area of materials which could be used for construction. He went on to state that the proposed use would be in compliance with the zoning code which allows both office and nursery uses.

Chairman Devine stated that the business was existing and asked about Staff’s reference in the report to “start-up” time.

Director Hogan responded that the “start-up” time referenced by Staff referred to the construction time required to establish the site.

Applicant Markham added that the material bins were setback 5 feet from the property line.

Commissioner Andre asked about the contents of the bins.

Applicant and Property Owner Paul Morales responded that the bins would contain materials needed for display purposes. Mr. Morales explained that the operation of the business was limited to administrative uses and that materials would not be stockpiled at the site, trucks would not be dispatched from the site and that the site would be used for administrative offices.

Commissioner Andre stated that the site plan shows two dumpsters which would create a greater capacity for waste disposal than the stated operations would generate.

Applicant Morales offered to reduce the number of dumpsters at the site.

Commissioner Andre added that it was not only the dumpsters but also the material bins are a cause for concern.
Applicant Morales offered to modify the design of the material bins.

Commissioner Andre then expressed his displeasure with the project and stated that he did not feel the project was consistent with commercial zoning. He then inquired about the taxable revenue produced from the completed project and again questioned the inclusion of multiple dumpsters at the site.

Applicant Morales responded that it may have been overdesigned and that they would be happy to reduce the number of dumpsters at the site and clarified that it was not a corporation yard and that company trucks would not be reporting to the project site to dump materials.

Commissioner Andre asked if a study had been conducted to determine what taxable sales would be conducted at the site.

Applicant Morales responded that the proposed use would bring a number of employees and customers to the community and that they would contribute to, and support the local economy. He added that if left undeveloped, the single residential unit at the site would continue to be rented and that none of the benefits of developing the project would occur.

Commissioner Andre affirmed the importance of developing the City’s tax base and asked about the inclusion of a retention basin on an adjacent parcel.

Applicant Markham responded that Mr. Morales owns all three sites and that he could place the retention basin at that location.

Commissioner Andre disagreed.

Applicant Markham responded that the parcels had been tied together with a blanket easement across all three parcels and that when the site was completely developed at a later date, the basin would be undergrounded in the parking lot of a future project.

Commissioner Andre stated that his issue was that the proposed project would not produce taxable revenue for the City.

Applicant Markham responded that there was no requirement for projects to generate sales tax revenue for the City and that the application before the Commission was a land use request.

Commissioner Andre again stated the importance of commercial properties to generate taxable revenue for the City.
Applicant Markham responded that there was not a requirement in the zoning code for projects to create taxable revenue for the City.

Commissioner Andre added that he felt the area was saturated with nurseries.

Applicant Markham responded that nurseries were a permitted use in the General Commercial Zone.

Commissioner Andre stated that the project was not a nursery.

Chairman Devine asked for public comment.

Gina Castanon stated her opposition to the project and added that she was the owner of one of the nurseries referenced by Commissioner Andre. She explained that she felt the project did not fit within the vision of Wildomar and urged the Commission to deny the project.

Richard Garcia read from a letter he submitted to the Commission in opposition of the proposed project. He concluded his remarks by emphasizing that the access for the project should be from Bundy Canyon Road.

Elisa Sundberg expressed concern with traffic from the proposed project and the crossing of students from the High School.

Lynn Sundberg stated that the community had an excess number of nurseries and that there was already too much traffic in the area. He added that the project would jeopardize the safety of students using Almond Street.

Rosalie Arniso expressed her opposition of the project.

Daniel Segura expressed concerns with traffic in the area and with the conversion of residential properties to commercial.

Applicant Broker Neil Cleveland reminded the commission that the project was consistent with the General Plan. He also reiterated the current economic conditions which made a permanent project at the site impossible. He also explained that the proposed amortization period has been effective in other communities and would be an effective tool to remove the project should it become a nuisance in the future.

Applicant Markham discussed the improvements to Almond Street which would include street lights, sidewalks, curbs and gutters. Mr. Markham responded to comments that the project would adversely affect the safety of students by explaining that the project would bring street improvements to Almond Street which would enhance the safety of
students walking to school. He also stated that they would monitor traffic from the project and if necessary, install traffic control devices, including a traffic light if necessary. Applicant Markham went on to explain that the ultimate project would be able to gain access from Bundy Canyon, however the interim project could not have access to Bundy Canyon because of the improvements the Public Works Department would require were too costly for the proposed project.

Chairman Devine closed the public hearing.

Chairman Devine asked for additional information on the factors preventing access to Bundy Canyon Road.

Applicant Markham discussed the presence of substantial underground infrastructure and the need to acquire right-of-way from adjacent property owners to construct the roadway transitions.

Vice-chairman Dykstra inquired about the approval process for the Conditional Use Permit.

Attorney Jex responded that because the project included a change of zone, the associated applications were elevated to the City Council for a final action and that the Planning Commission’s actions were advisory. He then advised that should the Commission not wish to approve the project, their recommendation of denial would need to fail to make certain findings.

Chairman Devine asked for more information on the findings.

Attorney Jex noted that the findings were on page 11 of his report and discussion about how to deny the project ensued.

Commissioner Andre then read a statement about Conditional Use Permits concluding that the proposed project was not in the benefit of the community. He explained that the project had material storage areas and that semi trucks would deliver the materials to the site. He then asked about the size of the material storage bins.

Chairman Devine re-opened the public hearing.

Applicant Markham responded that the bins would be temporary and able to be easily removed from the site. He added that they were setback from the property line and were about seven feet in height.

Commissioner Andre pointed out that next to the material bins was a loading area.
Applicant Markham responded that the loading area was required by the zoning code.

Commissioner Andre again stated that there were too many dumpsters at the site for the stated use.

Applicant Markham responded that they were willing to reduce the size of the dumpsters to the Commission’s desire.

Commissioner Andre stated that he also considered the benefits of a project to the community and explained that he did not see the benefits to the community for this project.

Chairman Devine closed the public hearing.

Commissioner Nowak expressed pleasure with the applicant’s efforts to work with Staff to develop a time limit for the project but suggested that the time limit on the use was still problematic. He went on to describe displeasure that the current project did not work towards a more permanent use of the site.

Vice-Chairman Dykstra recognized the current economic problems and described the benefits to the community of approving the project. He went on to express his support for the project.

Commissioner Nowak suggested that the applicant develop a project that worked towards a permanent use of the site.

Commissioner Casillas stated that he would prefer having the main access to the project from Bundy Canyon Road.

Chairman Devine expressed reservations about the project’s temporary nature and design. He also stated that he felt the project was misrepresented as a wholesale nursery but felt that the traffic concerns were unfounded as the project would not generate a high volume of trips.

Chairman Devine re-opened the public hearing.

Applicant Markham offered to reduce the amortization period for the project to 5 years and post securities for the removal of the proposed project from the site. He also stated that they would work closely with the Public Works Department to monitor and install any traffic control devices at the intersection of Almond Street and Bundy Canyon Road.

Chairman Devine closed the public hearing.
MOTION: Commissioner Andre motioned to continue Conditional Use Permit 09-0265 so that issues about dumpsters and material bins could be addressed.

Chairman Devine stated that there was a potential to expose the City to litigation when the amortization period ends and that changing the term from 7 to 5 years does not correct that problem.

Attorney Jex added that the applicant has also offered to post a bond for the removal of the project at the time of the expiration of the amortization term.

Chairman Devine recognized the motion on the floor and asked if there was a second.

The motion was not seconded and failed.

MOTION: Vice-Chairman Dykstra motioned to recommend approval of Conditional Use Permit 09-0265 to the City Council with the additional conditions that the amortization term of the use be 5 years and that the applicant post a bond for the removal of the site. The motion was seconded by Commissioner Nowak. Motion failed with the following vote:

AYES: Dykstra, and Nowak.
NOES: Andre, Devine, and Casillas.
ABSENT: 
ABSTAIN: 

Attorney Jex clarified that the Commission would need to agree on an action for the project.

Chairman Devine expressed a reluctance to complicate the project with an amortization period and again questioned the classification of the use as a wholesale nursery.

Chairman Devine re-opened the public hearing.

Applicant Markham clarified that the site was going to be used as an administrative office and offered to remove all nursery elements from the project.

Chairman Devine stated that traffic appeared to be the community’s primary concern with the project and asked what peak commute times and volumes were expected.

Applicant Markham responded that the facility would have 12 employees and that they would arrive between 7 to 9 AM and depart by 5 PM.

Commissioner Andre asked about the proposed foundation system for the project.
Applicant Architect Russell Rumansosf explained that the modular buildings had steel frames which were designed to be on the proposed foundation system.

Chairman Devine closed the public hearing.

Director Hogan suggested that the Commission consider the offer proposed by the applicant, since it appeared to potentially address the concerns of the Commission.

Chairman Devine asked for consensus.

Commissioner Andre asked how the project would be developed as a result of the proposed changes.

Chairman Devine re-opened the public hearing.

Applicant Markham responded that the back half of the site could be landscaped and further discussed about the modifications ensued.

Attorney Jex and Director Hogan advised to re-hear public comments on the project.

Richard Garcia stated that the neighborhood’s primary concern was that the project would still gain access from Almond Street and not from Bundy Canyon Road.

Chairman Devine asked why the project could not take access from Bundy Canyon.

Supervising Engineer Crawford responded that the project site was on Almond Street and that if access was gained from Bundy Canyon Road the sidewalks proposed on Almond Street and the additional right-turn lane would be lost because there would no longer be a nexus to require the improvements. He went on to explain that until Bundy Canyon was fully improved, additional access points onto Bundy Canyon were to be avoided.

Chairman Devine asked if it would be possible to gain access from Bundy Canyon Road on a temporary basis.

Engineer Crawford responded that it was the City’s preference for the project to provide improvements to Almond Street explaining that it was designated as a collector street and had been designed to accommodate higher volumes of traffic.

Resident Veronica Ruiz expressed her preference for the project to gain access from Bundy Canyon Road and asked about the customer traffic.
Chairman Devine explained that the nursery or customer generating component of the project was now no longer a part of the project.

Ms. Ruiz explained that her preference was for the project to gain access from Bundy Canyon and have a wall along Almond Street.

Gina Castanon recalled that during incorporation there was unhappiness with the General Plan Land Use Map and implied that the proposed project would make the situation worse. She added that the City needed to develop commercial properties so that they could generate sales tax revenue. She then stated that the vote to approve the project did not pass and that the item had thus been denied.

Chairman Devine clarified that while there was a motion to approve the project which failed, there had been no action taken to deny the project.

Daniel Segura expressed his concerns that if approved, the business could expand. He went on to encourage the Commission to deny the project.

Director Hogan clarified that if approved, the project would be limited in scope to the plans and statement of operations currently before the Commission. If the business was to expand significantly, or construct new facilities, an additional approval by the Commission would be required.

Chairman Devine closed the public hearing.

Vice-Chairman Dykstra stated that the City did not have the funds to improve streets and that if improvements were to be made, they would come from developers. He went on to explain that the infrastructural improvements the project would bring to Almond Street would be valuable.

MOTION: Vice-Chairman Dykstra motioned to recommend approve of Conditional Use Permit 09-0265 to the City Council with the additional conditions that the amortization term of the use be 5 years, that the applicant post a bond for the removal of the project and that the nursery elements of the project be removed from the plans. The motion was seconded by Commissioner Nowak.

Commissioner Nowak commented that without the nursery component there would be vacant land which would look much worse than a nursery, but he would accept the proposal from the developer to remove those elements.

Motion failed with the following vote:

AYES: Dykstra, and Nowak.
NOES: Andre, Devine, and Casillas.
ABSENT: 
ABSTAIN: 

Attorney Jex asked the Commission if there was a motion to deny the project.

MOTION: Commissioner Andre motioned to recommend denial of Conditional Use Permit 09-0265 to the City Council because the proposed project would be detrimental to the health, safety and welfare of the community. The motion was seconded by Commissioner Casillas. Motion carried, the following vote resulted:

AYES: Andre, Devine, and Casillas.
NOES: Dykstra, and Nowak.
ABSENT: 
ABSTAIN: 

Commissioner Andre excused himself from the meeting and left the chambers.

5.0 PUBLIC HEARING ITEMS:

None.

6.0 GENERAL BUSINESS ITEMS:

MOTION: Commissioner Nowak motioned to continue items 6.1 and 6.2 to the December 2, 2009 Commission Meeting. The motion was seconded by Vice-Chairman Dykstra. Motion carried, the following vote resulted:

AYES: Devine, Dykstra, Casillas, and Nowak.
NOES: 
ABSENT: Andre.
ABSTAIN: 

7.0 ADMINISTRATIVE HEARINGS REPORT:

None.

8.0 PLANNING DIRECTOR’S REPORT:

Director Hogan announced that City Hall was now closed on Fridays. He also noted that it appeared that on December 17th, there would be a joint Commission-Council norming session in the evening.
Engineer Crawford added that the environmental document for the Clinton Keith widening was available at City Hall and that the project included area which could be developed into bicycle lanes.

9.0 PLANNING COMMISSION COMMENTS:

Vice-Chairman Dykstra expressed disappointment with the Commission’s decision to deny Conditional Use Permit 09-0265.

Commissioner Casillas thanked the Commission and Staff for their support during his tenure as a Commissioner.

Director Hogan added that it had been a pleasure working with Commissioner Casillas and the Commission agreed.

Chairman Devine noted that he was reluctant to approve the project because it would expose the City to litigation, cause traffic problems and could potentially be in existence longer than the amortization period.

10.0 ADJOURNMENT:

The November 4th, 2009 regular meeting of the Wildomar Planning Commission adjourned at 9:15 P.M.

Respectfully submitted:

David Hogan
Commission Secretary