



Planning Commission Staff Report

DATE: OCTOBER 9, 2013

SUBJECT: A TIME EXTENSION REQUEST BY THE PALM SPRINGS FREEWAY DEVELOPMENT, LLC, FOR A ONE-YEAR TIME EXTENSION FOR A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT TO DEVELOP A 65-ROOM HOTEL, TWO DRIVE-THRU RESTAURANTS, PARKING AND SIGNAGE AT 610 WEST GARNET AVENUE, ZONE M-1-P, SECTION 15; CASE NO. 5.0856-CUP

FROM: DEPARTMENT OF PLANNING SERVICES

SUMMARY

The Planning Commission to consider a one-year time extension request for a Conditional Use Permit (CUP) that was previously approved for the development of a 65-room hotel, two drive-thru restaurants, parking and signage. The project is to be located at 610 W. Garnet Avenue, west of the intersection of Garnet Avenue and N. Indian Canyon Drive and south of Interstate 10

RECOMMENDATION:

That the Planning Commission approve a one-year time extension for Conditional Use Permit No. 5.0856-CUP, from August 12, 2013 to August 11, 2014.

ISSUES:

The Planning Commission considered the above-referenced one-year time extension request by the Palm Springs Freeway Development at the meeting of August 14, 2013, and voted to continue the hearing to the meeting of September 11, 2013, with the following directions to staff and the applicant:

- Invite a representative from the Mission Springs Water District (MSWD) to address wastewater issues involving the applicant's property
- More information and evidence from the applicant to provide a better understanding of how wastewater related issues delays the project.

The hearing on September 11, 2013, was continued at the request of staff to review all the new materials, information and technical studies submitted by the project developer.

BACKGROUND:

<i>Related Relevant City Actions</i>	
8.8.01	The Planning Commission adopted a mitigated negative declaration and approved a Conditional Use Permit for the 60-room hotel project with two restaurants.
7.23.03	The Planning Commission granted the first of a series of a one year time extension for the CUP
8.13.03	The Planning Commission approved an amendment to the CUP to allow for a 65-unit hotel project and a freeway sign with two restaurants. The amended CUP remained valid for two years from August 13, 2003, to August 12, 2005.
7.13.05	A one-year time extension which expired on August 13, 2006 was approved by the Planning Commission.
8.9.06	The Planning Commission approved a one-year time extension from August 13, 2006 to August 12, 2007.
7.25.07	The Planning Commission approved a one-year time extension from August 13, 2007 to August 12, 2008.
7.9.08	The Planning Commission approved a one-year time extension from August 13, 2008 to August 12, 2009.
7.22.09	The Planning Commission approved a one-year time extension from August 13, 2009 to August 12, 2010.
11.10.10	The Planning Commission approved a one-year time extension from August 13, 2010 to August 12, 2011.
9.28.11	The Planning Commission approved a one-year time extension from August 12, 2011 to August 11, 2012.
9.26.12	The Planning Commission approved a one-year time extension from August 11, 2012 to August 10, 2013.
8.14.13	The Planning Commission considered the request and continued the hearing with directions to collect additional information on the cause of the delay.
9.11.13	The Planning Commission continued the hearing at staff's recommendation

<i>Most Recent Ownership</i>	
2005	The Tahiti Group

<i>Site Area</i>		
Project Area	Approximately 3.2 acres of vacant land	
<i>Planning Areas</i>		
Specific Plan		N/A
Design Plan		N/A
Airport Overlay		N/A
Indian Land		N/A

ANALYSIS

Pursuant to Section 94.04.01(H) of the Palm Springs Zoning Code, Architectural Approval is valid for two years and may be extended by the Planning Commission upon demonstration of good cause. Review of the time extension must consider changes in the applicable rules and the changes in the character of the neighborhood since the original entitlement was approved. The City's Ordinance has no specific findings for extension of time for previously approve projects; however, in reviewing the request, staff considered if specific circumstances have changed such that the CUP approval might need reconsideration. The Municipal Code does limit all time extensions to one-year and that requirement is being carried forward in staff's recommendation. Staff's analysis is provided below on each of the factors applicable to the original approval to be considered by the Planning Commission.

1. *Any changes to project's overall plan and site configuration*

There are no changes to the current plan and overall project configuration. The original project called for the development of a 65-room hotel, two drive-thru restaurants and a freeway sign; the project is still in keeping with these approved uses.

2. *Specific steps taken by applicant over the past year to advance the project*

The applicant has been working with State Agencies, the County, the Mission Springs Water District and the City to resolve wastewater infrastructure in that section of the City. These efforts are time consuming given the involvement of all the above-referenced agencies. The most specific effort by the applicant is the exploration of installing an Onsite Wastewater Treatment System (OWTS). This also requires approvals of the State Water Resources Control Board and Regional Water Quality Control Board.

3. *Recent developments and uses within the surrounding area*

As stated below, the most significant recent development within the surrounding area is the reconstruction project involving the I-10 Freeway and the widening of Indian Canyon Drive. Also, there is a new Del Taco restaurant constructed not too long ago east of this site. There is an existing Pilot Truck Stop with a gas station and fast food restaurant adjacent to the east, and vacant property borders the project site to the west. The site is currently vacant, and is generally level.

4. *The applicable policies of the General Plan, zoning ordinance and other regulations*

Staff has reviewed the project, surrounding area and underlying zoning regulations and determined that no significant changes have occurred that would suggest that the project is no longer in keeping with the neighborhood or the City's development policies and standards. The General Plan and zoning designations have not changed.

5. *Any off-site improvements, installation of infrastructure and other changes within 400 feet radius of project site.*

Recently, a major reconstruction project realigning the on and off ramps at the I-10 and Indian Canyon Drive interchange was completed. Two new ramps from the east bound lanes of Interstate 10 located directly west of the subject property have been completed and are now open to traffic. Finally, the north bound section of Indian Canyon Drive was recently widened.

ENVIRONMENTAL DETERMINATION:

A Mitigated Negative Declaration (MND) was previously adopted by the Planning Commission on August 8, 2001. Pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, the preparation of a Subsequent Negative Declaration, Addendum Negative Declaration, or further environmental assessment is not necessary because the changed circumstances of the project will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. However Staff made a determination that the development of the new interchange at Interstate 10 and Indian Canyon Drive has warranted the need to conduct a revised traffic analysis to meet the requirements of CEQA. The analysis concluded that the new traffic patterns will not cause traffic impacts beyond those already assessed in the adopted Mitigated Negative Declaration.

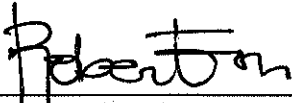
CONCLUSION:

Although this project has been granted several time extensions previously, staff believes that the applicant has demonstrated good cause for additional extension of time given the nature of the different and various entities involved with the installations of wastewater infrastructure in that section of the City. Making a realistic projection of possible commencement time of this development is difficult; however, adequate assurances have been given by the developer, the Mission Springs Water District and State Water Resources Control Board about the ongoing efforts to resolve the difficulties relating to onsite wastewater treatment.

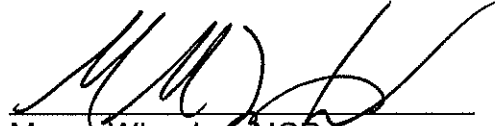
Since the last meeting of September 11, 2013, the applicant submitted the following documents and Studies to the Planning Department; all the materials have been reviewed by staff.

- Water Quality Control Policy for Siting, Design, Operation & Maintenance of Onsite Wastewater Treatment Systems. (OWTS Policy)
- Final-Preliminary Design Report prepared by Mission Springs Water District
- An updated Traffic Study & Analysis prepared George Dunn Engineering

Staff recommends that the Planning Commission approve a one-year extension from August 12, 2013, to August 11, 2014, for Case No. 5.0856-CUP, subject to the previously adopted Categorical Exemption and conditions of approval.



Edward Robertson
Principal Planner



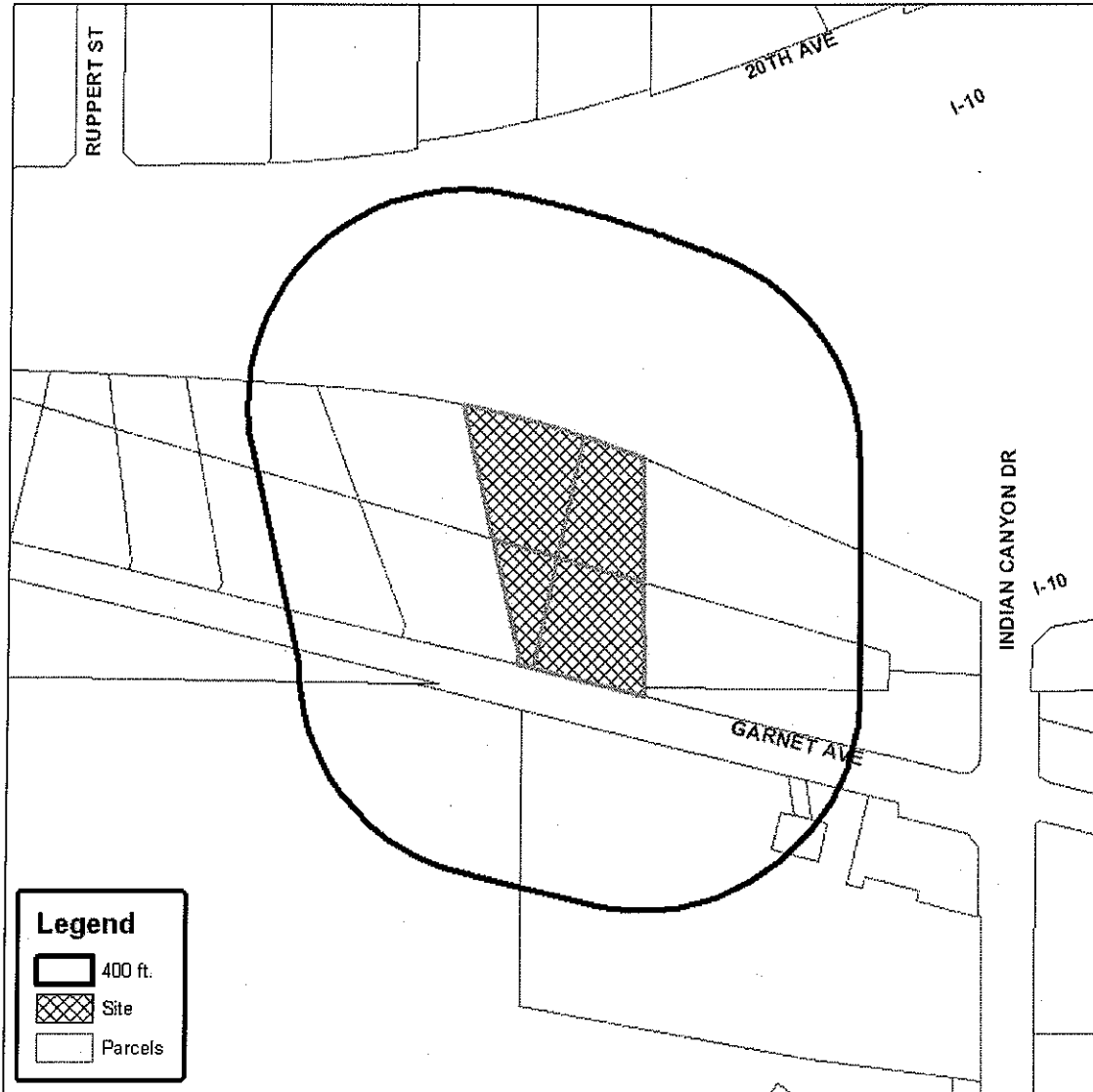
Margo Wheeler, AICP
Director of Planning Services

Attachments:

- Vicinity Map
- Draft Resolution & Conditions of Approval
- Planning Commission Minutes of August 14, 2013
- Letter of request dated July 8, 2013 & other correspondence from the applicant



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.0856 CUP – Time Ext.

APPLICANT: Freeway Development

DESCRIPTION: Request by Freeway Development for a one-year time extension request for a CUP to allow a 65-unit hotel, 2 drive-thru restaurants and a 60 ft. Freeway sign located at 610 w. Garnet Ave, Zone M-1-P, Section 15.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA FOR APPROVAL OF A ONE-YEAR TIME EXTENSION FROM AUGUST 12, 2013 TO AUGUST 11, 2014 THE PALM SPRINGS FREEWAY DEVELOPMENT LLC, A PROPOSAL TO DEVELOP A 65-UNIT HOTEL, A FREEWAY SIGN AND TWO DRIVE-THRU RESTAURANTS LOCATED AT 610 GARNET AVENUE, ZONED M-1-P SECTION 15, APN 666-330-043

WHEREAS, Palm Springs Freeway Development, LLC ("Applicant") has filed an application with the City pursuant to Section 94.02.00(F) of the Zoning Ordinance for an extension of time for Case No. 5.0856 Conditional Use Permit.

WHEREAS, on September 26, 2012 the Planning Commission approved a one year time extension from August 13, 2012 to August 12, 2013; and

WHEREAS, on October 9, 2013, a public hearing on the application was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed project is considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and the Mitigated Negative Declaration for this Case No. 5.0856 was previously adopted by the Planning Commission on August 1, 2001. It has been determined that the development of the new interchange at Interstate 10 and Indian Canyon Drive has warranted the need to conduct a revised traffic analysis to meet the requirements of CEQA. The analysis concluded that the new traffic patterns will not cause traffic impacts beyond those already assessed in the adopted Mitigated Negative Declaration.

WHEREAS, the Planning Commission has carefully reviewed and considered all of the evidence presented in connection with the hearing on the project including, but not limited to, the staff report, and all written and oral testimony presented.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: Pursuant to the requirements of Section 94.02.00(F), the Planning Commission finds:

1. The previously approved Mitigated Negative Declaration is the controlling environmental documentation for this request.
2. The applicant has requested an extension of time in accordance with the requirements of the City Municipal and Zoning Codes.
3. A demonstration of good cause has been made and that the Conditions of Approval ensure that the developer will pursue the project in good faith.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves a one-year time extension from August 12, 2013 to August 11, 2014, for Case No. 5.0856 – CUP.

ADOPTED this 9th day of October 2013.

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

M. Margo Wheeler, AICP
Director of Planning Services

NEW BUSINESS:

6. TIME EXTENSION REQUEST BY PALM SPRINGS FREEWAY DEVELOPMENT, LLC, FOR A CONDITIONAL USE PERMIT TO DEVELOP A 65-ROOM HOTEL, TWO DRIVE-THRU RESTAURANTS AND SIGNAGE AT 610 WEST GARNET AVENUE, ZONE M1P, SECTION 15 (CASE 5.0856-CUP) (ER)

Commissioner Calerdine disclosed that about four years he was the project manager for the City in the preparation of the environmental documents for the Indian Canyon Interchange processed through Cal Trans.

Principal Planner Robertson presented the time extension requested as outlined in the staff report.

Principal Planner Robertson indicated that to this date staff has not received any official correspondence from the County or the Water District concerning a moratorium.

Commissioner Calerdine suggested a continuance to have an opportunity to hear more on the wastewater issues on this site.

The Commission concurred on a continuance so they can receive more information on the wastewater issues.

JACK VANDER WOUDE, applicant, responded to questions from the Commission in reference to the new ramp configuration included the traffic study and septic tanks not being allowed in this area.

ACTION: To continue to a date certain of September 11, 2013, to allow a representative from the Water District to attend the meeting and provide information to the Commission.

Motion: Commissioner Calerdine, seconded by Commissioner Klatchko and unanimously carried on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Klatchko, Commissioner Lowe, Vice Chair Hudson and Chair Donenfeld

ABSENT: Commissioner Roberts and Commissioner Weremiuk

PLANNING COMMISSION REPORTS, REQUESTS AND COMMENTS:

Commissioner Calerdine was pleased to see the Coco's driveway installed, however, he reported several safety hazards and requested code enforcement follow-up.

**PALM SPRINGS
FREEWAY DEVELOPMENT, LLC**

c/o: The Tahiti Group
P.O. Box 11291, San Bernardino, CA 92423
(909) 798-8750 - e-mail: tahiti.tahiti@verizon.net

7/8/2013

Mr. Glen Mlaker, AICP, Planner
City of Palm Springs
Post Office Box 2743
Palm Springs, CA 92263-2743

Re: Case # 5.0865 - Garnet Avenue

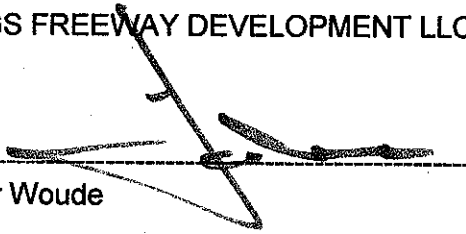
As discussed, we are attaching our check No. 1006 for \$881.00 with respect to our request for an extension of time for our project.

I understand you will be forwarding us a matrix covering certain issues that we should comment on with respect to this request.

Upon receipt of that outline, we will respond in detail as soon as possible.

Thank you.

PALM SPRINGS FREEWAY DEVELOPMENT LLC



Jack D. Vander Woude
Manager

encl:

RECEIVED

JUL 10 2013

PLANNING SERVICES
DEPARTMENT

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m-l-p

**PALM SPRINGS
FREEWAY DEVELOPMENT, LLC**

c/o: The Tahiti Group
P.O. Box 11291, San Bernardino, CA 92423
(909) 798-8750 - e-mail: tahiti.tahiti@verizon.net

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July 23, 2013

Re: Project 5.0865 - Palm Springs Freeway Development LLC - Garnet Avenue,
contiguous to Pilot Truck Stop, Wendy's Restaurant, etc.

=====
Additional information re our subject request.

HISTORICAL ISSUES: In 2007 we were fully prepared to start grading our commercial site with our engineered plans for 'dry sewers' and our Preliminary Grading Plan having been checked by the City of Palm Springs. We delivered our Preliminary Grading Plan and engineered sub-surface wastewater disposal plans to County Environmental Health, fully expecting to be able to obtain permits to go forward. We were abruptly informed that effective immediately, no such plans were to be approved by County EHS, at the direction of the State Water Resources Control Board (SWRCB)!

We soon learned that that office had internally made an unannounced, and un-publicized (still the case to this day, as far as we know) decision to establish a de-facto building moratorium in our area of Palm Springs, which is within the service area of Mission Springs Water District, (MSWD) and encompasses the valuable market area of the Interstate 10 corridor east and west of Indian Avenue.

The reason expressed to us; ..."Too high a level of nitrates in the Whitewater Basin!"

Thereafter, we urgently began to explore and conduct expensive engineering studies to determine whether or not we might be able to access sewer lines in the City of Palm Springs. A comprehensive report was prepared by our consultants, IW Engineering, Riverside, CA as of February, 2008. The results; such a project would involve unusually difficult and costly construction issues, having to bring a major sewer interceptor line about 3 1/2 miles down Indian Avenue to Tramway Road. That would require going under existing Amtrak rail lines and shoring up a deep trench in the sandy soils. Not economically feasible.

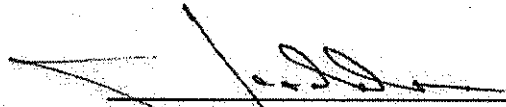
Concurrently, and since January, 2008 through and including meetings we have had with that agency within the past few months, we have been working with MSWD in their efforts to construct a new wastewater treatment plant in our area to deal with this area-wide frustrating issue. Please see attached correspondence from Mr. John Soulliere, Economic Director of that agency, which outlines their most recent status in this regard;their efforts continue, but no specific target dates for resolution as yet.

OUR OTHER EFFORTS: The only other option to allow us to move forward within a short time frame would be our installation of an on-site waste-water treatment plant to serve our one project. This can be a somewhat problematic resolution involving expensive ongoing maintenance issues, operating costs allocations to tenants, disposal pit requirements, etc., etc. The costs are another major consideration. Please see attached quotation from a nationally-recognized firm to provide such a 'package plant' for over \$1,500,000.

We are not seeking any financing at this time. This project can be financed internally without such outside sources needed.

We have more than one nationally-known major restaurant tenants interested in being at this site. In addition, we have been virtually inundated with nationally known 'flags' of hotel operations who would like to be situated at this 'Gateway to Palm Springs freeway site.

Since we have been at the mercy of this frustrating situation, none of which has been as the result of our failures, or lack of our sincere effort, we respectfully request that the City of Palm Springs grant us additional time so that we may continue to address every possible mechanism for us to bring this quality commercial project to fruition.



Jack Vander Woude, Manager
Palm Springs Freeway Development LLC

The Tahiti Group - Redlands, CA
Mail: P.O. Box 11291 - San Bernardino, CA 92423
(909) 798-8750
tahiti.tahiti@verizon.net

encl:



1925 Palomar Oaks Way, Suite 300
Carlsbad, CA 92008
tel: 760.438.7755
fax: 760.438.7411

July 17, 2013

Jack Vander Woude
The Tahiti Group - Redlands
P.O. Box 11291
San Bernardino, CA 92423

Dear Mr. Vander Woude:

It was a pleasure to discuss with you the exciting Indian Canyon Oases project. CDM Smith stands ready to assist you with your wastewater treatment needs. We have evaluated the requirements for wastewater treatment plant (WWTP) for the project and feel that we can help you with the development of the design as well as the construction. We propose to perform the work in a progressive step manner as described below:

Step 1- Preliminary Design: This step includes performing site investigations, and regulatory reviews as well as the development of a 35% design for the WWTP. We will use the preliminary design for development of a Guaranteed Maximum Price (GMP) for the complete design and construction of the facility. We propose to do Step-1 services for a lump sum cost of \$70,000 as itemized on the attached spreadsheet.

Step 2- Design Build:

Step 2A- Final Design: CDM Smith will prepare final construction document and a refined GMP with some final reductions from the Step1 due to elimination of undefined scope items.

Step 2B - Construction and startup: CDM Smith would procure all equipment, labor and material for a complete and operable WWTP system.

The indicative overall approximate price for step 2 (2A and 2B) is \$1,450,000. This is a very rough estimate based on very general assumptions. This cost will be refined after Step1, and refined further after Step 2A as described above.

Attached to this proposal, is our standard progressive design/ build contract for your execution.

Thank you for this opportunity, Should you have any questions please feel free to call me at 949-939-3932.

Sincerely,


Sam Abi-Samra, PE

CDM Smith, Inc.


Hampik Dekermenjian, PE

CDM Smith, Inc.

Jack Vander Woude

From: John Soulliere [jsoulliere@mswd.org]
Sent: Wednesday, July 03, 2013 9:54 AM
To: Jack Vander Woude
Subject: RE: Our project--Update

Jack:

FYI: we are proceeding on an analysis on 250,000 gpd and 500,000 gpd WWTP capacity and a reduced collection system based upon our feedback from property owners.

Webb Associates is performing the analysis. Once the numbers are in hand we will have an idea of the per acre or per EDU spread. This is where the proverbial rubber hits the road. I expect the analysis back in about three weeks.

John Soulliere

-----Original Message-----

From: Jack Vander Woude [mailto:tahiti.tahiti@verizon.net]
Sent: Thursday, June 27, 2013 9:01 AM
To: John Soulliere
Subject: RE: Our project

John: Thank you for your response.....Jack VW

-----Original Message-----

From: John Soulliere [mailto:jsoulliere@mswd.org]
Sent: Wednesday, June 26, 2013 2:50 PM
To: Jack Vander Woude
Subject: RE: Our project

Jack:

thank you for your inquiry. MSWD has been proceeding with the plan to form a financing district in the area of I-10 and Indian. It was only last night that we met with the Desert Hot Springs City Council to provide a progress report and discuss some of the hurdles we are experiencing with moving forward.

At this time over 56% of property owners in the project area have not responded to our survey request that was intended to indicate timeline and type of development that may occur in the region. As you know, the proposal for a treatment plant that would serve the build out of the project area would present a couple of problems. First, it may be 15 or 20 years before build-out is realized creating a significant amount of idle capacity that requires ongoing maintenance. this is unacceptable to MSWD. Second, the cost of that size plant would be significant for those property owners who are not planning development or who have long term investment in renewable energy projects with no return on investment. This, of course, would be unacceptable to the property owners.

Our only recourse was to "poll" the property owners to identify demand for a reasonable period (10 years minimum) and to size the phase one plant accordingly. Once that amount of capacity and accompanying cost is known, we would proceed with a vote.

To date, only about 16% of property owners have indicated interest in development in the next ten years. about 28% have said no outright to the project proposal. 56% did not respond, partly due to the unreliable county property database. We must hear from a significant portion of the 56% to determine whether we have the two-thirds vote support for formation of the district.

A number of alternative actions and strategies are being considered at this point. First, we are going through alternative data channels to identify owners and make contact. Second, we are looking at the project size and determining where exclusions of properties could be reasonably applied to ensure that only properties which desire sewer would participate (though we realize it will never be 100% it

needs to be at least two-thirds). Third, we are analyzing exemptions of certain properties. these would be parcels within the financing district but exempt for a specified period (or some other trigger). They would pay nothing on their tax bill for this specified period but be required to pay a "catch up" amount once they are activated.

We have indicated to the City of DHS that we will have exhausted our resources for contacting property owners in about three weeks. At that point MSWD will determine the next step in the formation process.

We will provide information to property owners shortly thereafter.

Let me know if you have questions.

John Soulliere

From: Jack Vander Woude [tahiti.tahiti@verizon.net]
Sent: Wednesday, June 26, 2013 2:14 PM
To: John Soulliere
Subject: Our project

John: I'm about to submit a request to the City of Palm Springs for another extension of time on our approved site plan, for our project on Garnet Avenue, contiguous to the Pilot Truck Stop.***

The city has asked that we be specific about why an additional extension is needed. They are aware of the wastewater issue, of course, but would like us to include in our submission confirmation that there is activity now with respect to a proposed assessment district to fund the required new treatment plant.

It would be appreciated if you would be good enough to confirm to me via e-mail that such activity is going forward. I will then include your comments in my submission.

Thank you for your assistance.

Cordially,

Jack Vander Woude, Principal
The Tahiti Group - Redlands, CA

*** Project is Case # 5.0856 - Planner: Glenn Mlaker.

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