

REPORT TO THE CITY COUNCIL



DATE: June 20, 2017

TITLE: Request for a General Plan and Zoning Map Amendment (GPA 02-16 and ZMA 02-16) from R-L (Low Density Residential) to I-L (Light Industrial) for the Two Parcels Located on the East Side of Little Morongo Road Between Desert View Avenue and 13th Avenue (APN Nos. 663-260-001 and 663-260-002) Applicants: Ozhemma Kazaryan and Feliks Akopyan

Prepared by: Scott Taschner, Senior Planner

Reviewed by: Daniel Porras, Community Development Director and
Jennifer Mizrahi, City Attorney

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain questions of Staff from City Council;
- 3) Open the Public Hearing;
- 4) Take testimony from applicant;
- 5) Take Public testimony;
- 6) Applicant rebuttal;
- 7) Close the Public Hearing;
- 8) City Council discussion and questions to Staff; and
- 9) Planning Commission's recommendation is to **DENY** the Project. Should the City Council wish to **DENY** the Project, it should adopt a Resolution denying the Negative Declaration and General Plan and Zone Map Amendment from a R-L (low-density residential) land use designation to a I-L (light industrial) designation for APN Nos. 663-260-001 and 663-260-002; OR
- 10) Should the City Council wish to Approve the Project, it should adopt a Resolution approving: 1) the Negative Declaration and 2) the General Plan and Zone Map Amendment from a R-L (low-density residential) land use designation to a I-L (light industrial) designation for APN Nos. 663-260-001 and 663-260-002.

EXECUTIVE SUMMARY

Consideration of Zoning Map Amendment (ZMA) 02-16, and General Plan Amendment (GPA) 02-16. The Applicants, Ozhemma Kazaryan and Feliks Akopyan, have filed a request for a Zoning Map Amendment to re-designate two vacant, adjacent parcels totaling approximately 19.4 acres from R-L (Low Density Residential) to I-L (Light Industrial). The subject properties are located east of Little Morongo Road, between 13th Ave and Desert View Ave. A corresponding General Plan Amendment has also been requested which, if approved, would make the requested Zoning Map Amendment consistent with the General Plan.

SITE INFORMATION

<i>Existing Zoning/General Plan Land Use:</i>	R-L/SP (Low Residential)
<i>Existing Use:</i>	Vacant Land
<i>Total Project Area:</i>	19.44 gross acres
<i>Assessor's Parcel Number:</i>	APN: 663-260-001 and 663-260-002

The subject properties are roughly of equal size and are located on 19.44 acres of undisturbed desert east of Little Morongo Road, between 13th Avenue and Desert View Drive. The project

site contains slight to moderate amounts of typical desert vegetation (scrub brush and low-lying

plants). Topographically, the site is relatively flat and drains to the south/southeast. The site has no street improvements and has street access via Little Morongo Road, a two-lane paved road. East of the property is the Coachella Valley Multi-Species Habitat Conservation Plan (CVMSHCP) Morongo Wash Conservation Area and the entire site is within Federal Emergency Management Agency (FEMA) flood zones AO.

Surrounding Land Uses and Zoning

	<u>Jurisdiction</u>	<u>Zoning & General Plan Designations</u>	<u>Current Land Use</u>
North	City	R-L/SP (Low Density Residential)	Intermittent Residential Development
West	County	Medium Density Residential	Intermittent Residential Development
South	City	IL (Light Industrial) District	Proposed Cultivation Facility (CUP Processing)
East	City	R-L/SP (Low Residential)	Vacant Land – Coachella Valley Multi Species Habitat Conservation Area

Site Photos taken from the Northern Lot

View to the West, and Slightly North



View to the North, and Slightly East



View to the West



South West Corner of Project Site



ANALYSIS

The proposed ZMA and GPA seek to extend the I-L (light industrial) zoning district to the north and complete the infill of an isolated area along the east side of Little Morongo Road north of 13th Avenue. Staff believes that this is a reasonable request however, after a site visit there are existing residences directly across the street from the northern lot that could be greatly impacted if the ensuing development did not have thoughtful mitigation measures. Such mitigation measure may include restricting height within 150 feet of existing residences, placement of landscape and parking area buffers in-between the proposed structures and the residences across the street, as well as other mitigation measures that may be necessary once the development plans are revealed to city staff. Staff also has major concerns that a change of zoning and general plan designations would allow, by right of zone, a 50 foot tall cultivation building directly across the street from relatively small single-story homes. This change of designations would make any use listed in the I-L zone a permitted use, as well as change the maximum building height, setbacks, lot coverage. Staff would like to note that during the last general plan update (that was never completed) the city had looked at these parcels as potentially being re-designated to I-L in one of the three options, but the update was never completed, nor was it ever adopted.

The proposed General Plan and Zone Map Amendments would increase the amount of area designated as I-L which would potentially increase the amount of land available to develop medical marijuana cultivation facilities. If the site was to be developed with medical marijuana cultivation facilities the city would benefit from the taxes it would generate. From a site planning perspective, the parcels are physically suitable to the proposed industrial use as existing sewer, water, and electric infrastructure is located at or near the subject properties. The site is also relatively flat, which would be conducive for conventional development types and techniques.

AGENCY AND PUBLIC REVIEW

Public Agency Review

The ZMA/GPA request was routed to all relevant public agencies and departments for review. All comments and conditions have been added to the attached Conditions of Approval.

Senate Bill 18 Review

The General Plan Amendment is subject to review by local Native American Tribal organizations, under Senate Bill 18 (SB 18) requirements. Per SB 18 requirements, the Community Development Department sent notice to the potentially affected Native American Tribes, identified by the Native American Heritage Commission, requesting their response within 90-days for formal consultation. The request for consultation period began on December 22, 2016, with no formal request for consultation by any of the identified Native American Tribes at this time.

Public Hearing Notice

A public hearing notice was advertised in Desert Star Weekly on May 22, 2017 and was mailed to all property owners within a 300-foot radius of the subject property. Staff has received comments, both at the Public Outreach meeting on April 3, 2017, and at previous Planning Commission hearings. An outline of the comments from the public outreach meeting is outlined in the Prior Actions section, below, and staff has provided verbatim transcripts of the three Planning Commission hearings.

ENVIRONMENTAL ASSESSMENT

Pursuant to Section 15063 of the California Environmental Quality Act (CEQA) Guidelines, an Initial Study was prepared and a Notice of Intent to adopt a Negative Declaration was sent to applicable agencies and published on February 4, 2017 and again on May 22, 2017. The Initial Study and Negative Declaration are attached to this report as Exhibit No. 10.

PRIOR ACTIONS:

On February 14th, 2017, the Commission voted to continue the item to a date certain of February 28, 2017 for the applicant to conduct outreach to the neighbors and so that they could bring back a conceptual site plan.

On February 28, 2017, the Commission voted to continue the item to a date certain of April 11, 2017 so that the applicant could have more time to reach out to the neighbors.

On April 3, 2017 city staff and the applicants consulting firm held an informal community meeting with the neighboring property owners to discuss the proposed project, answer questions about the project, and to hear concerns about the proposal. The residents' concerns were as follows:

- Decline in property values
- Inability to sell their homes in the future
- Odors emanating from the project
- Light pollution
- Impacts on their views
- Traffic concerns

- Tall buildings too close to street
- Toxic waste
- In the wrong place – should be further down Little Morongo

Staff replied on several of the comments stating that:

- 1) Outdoor lighting will be conditioned to direct light downward and not spill into the night sky or onto adjacent properties. Light fixtures will be required to be fully shielded.
- 2) Any proposed construction will be subject to a discretionary review by the city. The Planning Commission and City Council will have the ability to further mitigate the impacts and design at that time.
- 3) Any odors emanating from the site would be a violation of the conditions of approval and would be subject to citation, inspection, and additional mitigation measures being required by the city.
- 4) Wastewater will largely be recycled. In addition, projects are either required to have a holding tank which is pumped and taken off-site for treatment, or the project will be required to have an on-site water treatment / package plant.

PLANNING COMMISSION ACTION

On April 11, 2017, the Planning Commission made a **recommendation to the City Council to deny the proposed General Plan and Zone Map Amendment**. (The PC voted 4-1 with Voss in favor of approval of the project). The Planning Commission made the following findings in recommending to the City Council to deny the project, in accordance with the below.

Findings

An amendment to the General Plan may be adopted only if all of the findings listed below are made. In recommending denial of the proposed General Plan and Zone Map Amendments the Planning Commission made the following findings **(in bold)**:

- A. That the proposed amendment is internally consistent with the General Plan;
- B. That the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;
 - **It would create an improper balance of uses and development in the area in as much as the project is too close to existing single-story, single family residences;**
 - **Large public outrage from neighboring residents**
 - **The project is too close to a major thoroughfare and the High School (Pierson Blvd)**
 - **The waste generated will impact the neighboring residents**
 - **The project is in the wrong location, should be further south**
- C. That the proposed amendment would maintain the appropriate balance of land uses within the City; and
 - **It would create an improper balance of uses and development) in the area in as much as the project is too close to existing single-story, single family residences)**
 - **The project is too close to a major thoroughfare and the High School (Pierson Blvd)**

- **The project is in the wrong location, should be further south**
- D. That in the case of an amendment to the General Plan Land Use Map, the subject parcel(s) is physically suitable (including, but not limited to access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation(s) and the anticipated land use development(s). (Prior code § 159.50.050)
- **The project is in the wrong location, should be further south**
 - **It would create an improper balance of uses and development in the area in as much as the project is too close to existing single-story, single family residences)**

RECOMMENDATION

Planning Commission's recommendation is to DENY the Project. Should the City Council wish to DENY the Project (upholding the Planning Commission's decision), it should adopt a Resolution denying the Negative Declaration and General Plan and Zone Map Amendment from a R-L (low-density residential) land use designation to a I-L (light industrial) designation for APN Nos. 663-260-001 and 663-260-00; **OR**

Should the City Council wish to Approve the Project (overturning the Planning Commission's decision), it should adopt a Resolution approving: 1) the Negative Declaration and 2) the General Plan and Zone Map Amendment from a R-L (low-density residential) land use designation to a I-L (light industrial) designation for APN Nos. 663-260-001 and 663-260-002.

EXHIBITS:

- 1) Existing Site Plan
- 2) Location Map with Zoning of Surrounding Areas
- 3) Site Photographs
- 4) Distances Map (provided by MSA)
- 5) Letter from 29 Palms Mission Indians
- 6) Letter from Agua Caliente Tribe
- 7) Initial Study / Draft MND
- 8) Conditions of Approval – Akopyan Change of Zone
- 9) Verbatim Transcripts of Planning Commission Meeting February 14, 2017
- 10) Verbatim Transcripts of Planning Commission Meeting February 28, 2017
- 11) Verbatim Transcripts of Planning Commission Meeting April 11, 2017
- 12) Resolution Approving GPA and Zone Map
- 13) Resolution Denying GPA and Zone Map
- 14) Written Testimony Received in Support of Zone Change (Christian Center)