



September 6, 2023

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Dear Mark,

Thank you for facilitating the recent Land Use Services Open House in Joshua Tree. The vast size of San Bernardino County, with the third supervisorial district larger than some states, makes commenting and participating in LUS processes an alternative for public input and participation that might otherwise be employed via town council meetings of smaller incorporated cities.

The high desert is unique with its history of the Small Tract Act and the unincorporated homestead communities. As evidenced by the large turnout for the event, these communities have a considerable interest in the decisions, procedures, and actions of LUS.

MBCA recognizes the importance of the role land use decisions have on the health of the desert environment and we take this opportunity to reflect that the environment is not just the wildlife and wildlands, but also the humans that live here.

The handwritten comment card I gave you (photos attached; apologies for the legibility!) included suggestions we believe would improve the operation of LUS and generate confidence that the issues affecting the high desert communities are recognized and addressed. They are re-stated and expanded upon here:

1. **Community Action Guides (CAG)** for our communities must be referenced within all LUS analysis and recommendations for proposed development projects within unincorporated communities. The repeal of all Community Plans in 2020 left the rural desert communities to rely on only their CAG for protection from inappropriate developments.

At the time of the creation of the CAGs, the issue of STRs was not on the radar. These Guides were promoted to be 'living' and not frozen in time.

The not-insubstantial impact of this industry on our communities begs the question: What process is available for amending the CAGs?

For example, the staff report for the [Wonder Inn Resort](#) made **no reference** to the CAG as is required under the Land Use Element of the Countywide Plan:

Policy LU-4.5 Community identity

We require that new development be consistent with and reinforce the physical and historical character and identity of our unincorporated communities, as described in Table LU-3 and in the values section of Community Action Guides. In addition, we consider the aspirations section of Community Action Guides in our review of new development.

With an appeal having been filed for the Flamingo 640 Glamping Project ([Resort Camping Proj-2020-00191](#)), reference to and adherence to the [Homestead Valley Communities](#) goals and aspirations should be incorporated into the analysis and Land Use recommendations for the project.

2. The allowable uses within the RL zones (Chapter 82.04 of the development code) in the unincorporated areas require re-consideration and definition. **The term campground requires clarification** to describe the difference between the various types of facilities associated with camping. There needs to be distinction between tent camping and an RV park that may contain resort type facilities. Allowing the use of de-facto resorts under the guise of a campground within residential areas is clearly not a compatible use. We support the analysis provided within the [letters](#) by the Homestead Valley Communities Council, and believe that with these revisions, conflict between the community and LUS can be avoided and confidence for developers can be assured. The Joshua Tree Camp Project ([PROJ-2020-00191](#)) is an example of an inappropriate development that is a de-facto four unit motel *within a residential area*.
3. **Improve the legibility of exhibits** that are posted as part of Staff reports. In an effort to obtain public input (as well as that of the planning commissioners!) for projects the plans must be legible. Referring again to the [Joshua Tree Camp Project](#) (PROJ-2020-00191), the site plan is completely unreadable. Utilizing a higher resolution scan of the submittal documents would address this issue, and keep SBC [in line with its own stated guidelines for accessibility](#).
4. Re-commit to performing **pre-construction inspections** prior to the issuance of any construction permits. This is required under code section **§ 88.01.050 Native Tree or Plant Removal Permits**. This inspection should be undertaken with an accurate and scaled site plan that shows the location of all regulated and protected plants. With the passage of the Western Joshua Tree Protection Act (WJTPA) this inspection becomes particularly important.

(c) *Preconstruction Inspections.* A preconstruction inspection before **approval** of development permits shall be required in areas with regulated trees or plants to determine the presence of regulated trees and plants. The preconstruction inspection may be combined with any other required inspection.

5. A corollary to the above is to **recommit to the protection of desert native plants** as required under this code section. (The entire section is included to emphasize the scope of compliance needed):

§ 88.01.060 Desert Native Plant Protection.

This Section provides regulations for the removal or harvesting of specified desert native plants in order to preserve and protect the plants and to provide for the conservation and wise use of desert resources. The provisions are intended to augment and coordinate with the Desert Native Plants Act (Food and Agricultural Code §§ 80001 et seq.) and the efforts of the State Department of Food and Agriculture to implement and enforce the Act.

(a) *Definitions.* Terms and phrases used within this Section shall be defined in [Division 10](#) (Definitions) and/or defined by the California Food and Agricultural Code. The California Food and Agricultural Code definition, if one exists, shall prevail over a conflicting definition in this Development Code.

(b) *Applicability.* The provisions of this Section shall apply to desert native plants specified in Subdivision (c) (Regulated Desert Native Plants) that are growing on any of the following lands, unless exempt in compliance with § [88.01.030](#) (Exempt Activities):

(1) *Privately owned or publicly owned land in the Desert Region.*

(2) *Privately owned or publicly owned land in any parts of the Mountain Region in which desert native plants naturally grow in a transitional habitat.*

(c) *Regulated Desert Native Plants.* The following desert native plants or any part of them, except the fruit, shall not be removed except under a Tree or Plant Removal Permit in compliance with § [88.01.050](#) (Tree or Plant Removal Permits). In all cases the botanical names shall govern the interpretation of this Section.

(1) *The following desert native plants with stems two inches or greater in diameter or six feet or greater in height:*

(A) *Dalea spinosa* (smoketree).

(B) *All species of the genus Prosopis* (mesquites).

(2) *All species of the family Agavaceae* (century plants, nolin, yuccas).

(3) *Creosote Rings, ten feet or greater in diameter.*

(4) *All Joshua trees.*

(5) *Any part of any of the following species, whether living or dead:*

(A) *Olneya tesota* (desert ironwood).

(B) *All species of the genus Prosopis (mesquites).*

(C) *All species of the genus Cercidium (palo verdes).*

(d) *Compliance with Desert Native Plants Act. Removal actions of all plants protected or regulated by the Desert Native Plants Act (Food and Agricultural Code §§ 80001 et seq.) shall comply with the provisions of the Act before the issuance of a development permit or approval of a land use application.*

(Ord. 4011, passed - -2007)

Too often we have witnessed the un-needed and wanton destruction of native plants at construction sites in our communities. Through the issuance of removal permits, native plants could be saved and relocated. Again, the WJTPA is important to consider. As the resource for native plant specialists is now more widely available, we recommend they identify the native plant species listed above.

There is the potential for a win-win with mutual respect of the value of these plants, and the attention by the county gaining their respect. The [Tucson Cactus Rescue Society](#) provides an example of how the value of native plants is recognized within a desert community.

6. As another corollary to the above two points, **be cognizant of the effect of dust** on the community and follow the following code section:

§ 88.02.040 Dust Control - Desert Region.

This Section provides regulations for disturbances to fragile desert soils in order to reduce the amount of fugitive dust that may (for long periods of time) adversely affect those who own; possess, control; or use residential parcels of land; and those who are located downwind of a residential parcel of land whose surface is being disturbed.

(a) *Applicability. The provisions in this Section apply to parcels in the Desert Region that are one acre or greater in size and are utilized for residential purposes.*

(b) *Permit Requirements. A land use permit shall not be required for grading, land clearing, or vegetation removal activities that comply with Subdivision (c) (Dust Control Standards - Desert Region), below. If more extensive grading, land clearing, or vegetation removal activities are proposed than allowed in Subdivision (c), the activities shall be require approval of a Site Plan Permit in compliance with [Chapter 85.08](#) (Site Plan Permit).*

(c) *Dust Control Standards - Desert Region. Land shall be cleared or natural vegetation shall be removed only in order to provide for the installation of building pads, driveways, landscaping, agriculture, or some other structure or allowed use normally related or accessory to residential uses. No person, except as provided in this Chapter, shall commence with a disturbance of land (e.g., grading or land clearing) without first*

obtaining approval to assure that said disturbance will not result in a significant increase of fugitive dust. Said approval may be in the form of a development permit.

The highlighted section is emphasized because again, too often we have witnessed the unneeded scraping of native plants and the creation of excessive dust. Many of these plants may take 80+ years to return to this scraped landscape.

Dust must also be recognized and addressed as an air quality issue where the occupancy of STRs on dirt roads exceeds that as permitted for the STR. (See below). Multiple cars accessing an STR can create harmful dust conditions within a community.

The importance of dust control also applies to industrial scale renewable energy projects. When scraping the intact desert crust for the construction of these projects, carbon is released and the blown soils can create unhealthy particulate matter (PM 2.5/PM 10) concerns for the community. With no AQMD monitoring stations downwind (east) of Victorville, it is not possible to establish baseline air quality data. The use of water for dust control is ineffective. These concerns must be recognized and evaluated with the consideration of any industrial scale RE project.

7. We suggest implementing a requirement to **post permit numbers** at sites where a permit has been issued, or where an application for a permit or conditional use has been made. The posting should be at the street, or a location that is prominently visible. The size of the sign should be such that it can be easily read; such as 18"x24". Inspectors should then confirm the posting during all inspections. By implementing this requirement, it will be obvious that any work underway on the site has been authorized. This requirement will discourage unpermitted work and will save the hassle of our county supervisor's field representatives from having to respond to enquiries and or code enforcement following up. This is a procedure that is used extensively in other jurisdictions with success.
8. We recommend including Environmental Health Services within the EZOP portal. The disposal of wastewater is integral to all development projects and the current mechanism requires separate submittals and processing from LUS processing. Lacking a public sewer system in the unincorporated areas makes tracking the wastewater capacity of parcels important to understand. See *below*.
9. There has been an explosion of the number of new pools and spas accompanying the profusion of STRs. We believe more attention is warranted for the safety and maintenance of these water features; (pools, spas, cowboy

tubs, stock tanks, etc.). With the quick turn-over of a STR and the intensity of use of these, the water may be drained rather than filtered and cleaned between tenancy. While the advantage of a saltwater system over a chlorinated may be appealing, the drainage of salt water off pool decks onto the landscape poses potential risks. Many municipalities prohibit draining saltwater pools into the sewer, and draining salt water into a septic system kills the bacteria in the system. The impact of chemical-laden water being disposed into the environment must be considered, and appropriate regulations and policies defined.

10. Some suggestions for **code enforcement of Short-Term Rentals**:

- a. Perform careful, in-person inspections of properties before a permit is issued. The inspections should be of both the exterior and interior.
- b. Confirm that all exterior lighting follows the Light Trespass Ordinance before a permit is issued and before a permit is renewed.
- c. Confirm that there are no additional ancillary structures such as yurts or 'alts' that are in place and are being rented.
- d. Confirm the number of occupants is in compliance with the allowed number of guests.
- e. Confirm that the features and number of occupants agrees with the information shown on internet sites.
- f. The current code needs amending to state the maximum number of occupants at a STR at any time (24/7). This will discourage holding parties at the STR.
- g. The code requires that STR renters receive, and sign, a copy of the applicable regulations and it be retained in the STR owner's records. To assure that this requirement is being followed, require the signed copy be provided to code enforcement when following up on a complaint.
- h. Consider the wastewater treatment capacity of a property during the review procedure for issuing a STR permit. Properties must not be allowed to have more guests than the capacity of the septic system.
- i. Commit to requiring code enforcement officers to know the code requirements. Anecdotes abound of officers not being sufficiently knowledgeable of the code.
- j. Commit to following through in a timely manner on Program 4 as committed to in the current housing element.

Planning for Our Future

At the open house I expressed our belief that LUS must place the unfolding climate emergency at the center of decision-making. Planning recommendations must consider the carbon ramifications of land use decisions. The Morongo Basin's vast distances must be recognized in terms of the *Vehicle Miles Travelled*. Encouraging 'resort-like' developments scattered over great distances is not carbon smart. Consolidating tourist infrastructure near Joshua Tree National Park and other points of interest would help to ameliorate these concerns.

Tourism is important to the economic health of our community. We recognize the complexity of fostering and encouraging economic growth while protecting the environment that draws tourists to the area. There is a need to maintain a balance between jobs, housing, and the healthy environment. MBCA supports smart development that recognizes the need for implementing these strategies.

While you encouraged 'walking-the-walk' for addressing climate change on a personal level, (utilizing all electric appliances for instance), it is through broad political and institutional frameworks, regulations, and decision making that meaningful climate actions can be enacted.

Finally, while we understand this is beyond the scope of LUS, the community continues to request the reinstatement of the MAC as a venue where local issues and concerns can be expressed.

Thank you for your consideration and we look forward to hearing your thoughts on these proposals.

Regards,

A handwritten signature in black ink that reads "Steve Bardwell". The signature is fluid and cursive, with the first name "Steve" and last name "Bardwell" clearly legible.

Steve Bardwell, President
Morongo Basin Conservation Association
www.mbconservation.org

— RE-INSTATE THE MAC —

Land Use Service would love to hear from you!

CONFIRM ALL
EXTERIOR LIGHTING
OR COAST FACILITIES
IS COMPLIANT WITH
LTO

☐ Building & Safety ☒ Planning ☒ Land Development ☒ Code Enforcement ☒ Not Sure

☒ I have a comment and would like to hear back from someone.
☒ I have a question and would like to hear back from someone.
☐ I don't need anyone to contact me.

Integrate EHS
into the E20P
Process

STEVE BARNWELL

STEVE@INFINITYRANCH.NET

Name

Phone or Email

- Staff Reports for developments must reference and respect community action guides. How can CASS be a main algo?
- Excessive grading & clearing for developments must be limited. Air quality is temp de graded. Code 88.02.040 (c). With climate change the situation is becoming more acute.
- All building permits that have been issued must be posted in a sign large enough to be seen from the road and confirmed all inspections.

- The land use rules allowing for 'campgrounds' in RL zones must be raised to prohibit de facto commercial resorts in residential areas.
- Posting of permit numbers will discourage unpermitted work.
- STRE must undergo in person through inspections before a permit is issued. On-line compliance w/ the sites where listings are posted must be confirmed. (not allow an add for 12 people in a 2 bedroom house). Also confirm the presence (or not) of ads or ynts.
- Confirm the compliance with state water regimnts for manage of spaw into the landscape

★
FOR UP TO 1000 GAMES
AND TO REVEAL THE EFFECTS OF
CLIMATE CHANGE