



CITY OF TWENTYNINE PALMS
STAFF REPORT
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799, Fax (760) 367-5400
commdev@ci.twentynine-palms.ca.us

To: City Council via Michael Tree, City Manager
From: City Engineer
Date: August 29, 2006
RE: Street improvements requirements for new single family residences

RECOMMENDATION: That the City Council and Planning Commission:

Provide staff direction in regard to the City's street improvement requirements.

DISCUSSION:

Recently, the City Council requested staff to review the City's requirement for street improvements for new single-family residences, and provide a "common sense approach" to addressing the concerns that have been expressed by the development community.

BACKGROUND:

The Development Code requires the construction of street improvements when there is an increase or change in vehicle traffic. These improvements may include curbs, gutters and sidewalks, concrete driveway approaches, drainage structures, A.C. paving, backfilling and are must to be constructed adjacent to the property line along the street frontage, prior to approval of a Certificate of Occupancy of the structure.

Single family residences in the RL, RS-1, RS-E and OS districts, which are constructed on "Local streets", may construct asphalt berms in lieu of concrete curbs and are not required to construct sidewalks. Single family residences constructed on Collectors, Arterials and Expressways, are required to construct curb, gutter and sidewalks, regardless of their zoning district. The vast majority of recent single family residential development has been constructed in the RS-4 zone.

Concerns

As aforementioned, builders and property owners have expressed concerns with the City's code regarding street improvements. These concerns, as well as those of staff, are a follows:

1. The code is unclear as to the threshold of the increase in vehicular traffic, which would trigger the requirement for street improvements.
2. Owners of large parcels of land wanting to construct a single-family residence (SFR) may be required to construct thousands of linear feet of improvements.
3. Designing and constructing street improvements may cause delays in obtaining certificates of occupancy for the project.
4. The incremental cost of designing and constructing small sections of street improvements is typically higher than if it were included in a larger street project.
5. Improvements designed and constructed at the parcel level preclude the ability to take into consideration topography and regional drainage issue, let alone the ultimate street design. In other words, the best design for the entire street may be in conflict with the best design for a small segment of street in front of a SFR on the same street.
6. Certain locations may require regional, drainage facilities to be constructed with the street improvements.
7. Delaying or deferring these improvements, create additional enforcement issues for the City.

Recommendations

The issues above may be categorized into three areas:

- A. What defines “increase or change” of vehicular traffic which triggers the required street improvements?
- B. What level of street improvements should be required?
- C. Is there another option to constructing, delaying, or deferring street Improvements?

A. What defines “increase or change” of vehicular traffic?

With the understanding of case law, which states that there must be a “nexus” and “rough proportionality” between the impacts of a project and its mitigations, the following are recommended thresholds that define “increasing or changing vehicle traffic” which would or would not make a project qualify for street improvements:

The following qualifies as increasing or changing vehicle traffic:

1. A new single-family residence

2. A new second dwelling unit that has a kitchen. This stand-alone building could house a separate family.

The following projects do not qualify as increasing or changing vehicle traffic:

1. Room additions
2. Guest Housing (a separate dwelling unit that does not have a kitchen.) These are considered stand-alone, independent room additions.
3. Garages or carports

B. What level of street improvements should be required?

The current Development Code requires street improvements without regard to the size of the property. A property owner who wishes to construct a house on a 40-acre parcel may be required to construct curb, gutters and sidewalk along the entire frontage. These improvements may be in excess for what is typically required to offset the impacts for a single-family resident. Courts have held jurisdictions liable for mandating improvements above what is reasonable. The City should consider the nexus and rough proportionality between the project's impacts and the mitigations required for the project in setting street improvement policies.

Staff recommends that all single-family residents be responsible for the actual frontage of the lot up to 150'. The 150' cap is, in staff's opinion, roughly proportional between the impacts of a single-family residence and the mitigation. It is anticipated that large parcels of land would eventually subdivide to the ultimate allowable number of lots under the zoning for the parcel. The improvements would be required at the time of subdivision under the subdivision provisions of the Development Code.

C. Is there another option to constructing, delaying, or deferring street Improvements?

Constructing street improvements on an individual lot basis has its disadvantages as listed in items 3-6 on page 2.

Section 19.85 of the Development Code indicates that street improvements required as described above may be delayed or deferred "when it is determined to be appropriate". The procedure to delaying these improvements requires an agreement and security in the form of a bond, cash deposit or an irrevocable letter of credit. If the owner or builder submits a bond, and then defaults on the agreement to construct these improvements, the City must demand from the Surety Company that these funds be furnished to the City. These proceeding are time consuming and costly and in some cases the security is not recoverable.

Deferring the improvement requires that the applicant enter into an improvement agreement with the City to participate in the improvements program whether publicly or privately initiated at the time when these improvements are constructed. The legality of requiring a builder to agree to an unknown future cost and being able to

implement the improvement agreement at a later time or if and when the ownership of the property changes is impractical.

Another Option: Staff Recommendation

The Council may implement a Street Improvement Impact fee. The fee would be calculated at \$100 per linear foot of street frontage, the current average cost of improvements; up to 150 feet. If a property has a 70' frontage, the property owner would pay \$7000, (70' x \$100). If a property has a 660' frontage the owner would pay \$15,000 (150' x \$100 = \$15, 000).

The \$15,000 cap provides for an immediate solution to the problem of requiring excessive improvement costs for large parcels.

These funds will be restricted to the construction of curbs, gutters, and sidewalks on streets fronting residentially zone property. However, in order to efficiently and effectively manage this program, the funds collected would not necessarily be used to construct street improvements on the same street from where the funds are received. Under this fee program, the funds would accrue, and then when sufficient funds become available, would be used efficiently by constructing an entire street segment. The cost savings of constructing a street in this manner is reflected in the amount of funds to be collected from the property owner. Currently, the property owner pays in addition to the actual street improvement cost, the cost to design, plan check and inspect a short section of street improvements.

Case law has determined that whenever establishing, imposing, or increasing a fee "as a condition of approval of a development project," the city imposing the fee must identify the purpose of the fee and the use to which it will be put. The city must also specify the nexus and proportionality between the development project and the improvement being financed (Government Code Section 66001). It must further establish that the amount of funds being collected will not exceed that needed to pay for the improvement (Government Code Section 66005).

Regional Traffic Impact Fees

The City has contracted with Urban Crossroads to evaluate traffic issues including a regional traffic impact fee. This impact fee covers the cost of constructing future regional 4 and 6 lane facilities. These facilities are identified in the General Plan Circulation Element. The study has not been finalized but it is anticipated that the report will recommend a traffic impact fee. This fee does not cover the "local" street improvements as discussed in this report but covers the cost of additional anticipated travel lanes. Additionally, the Street Improvement Impact Fee does not cover the cost of these regional 4 and 6 lane future roads. The Urban Crossroads' report should be finalized later this year. If the Council chooses to implement the Street Improvement Impact Fee, the Council may also want to consider the recommended Traffic Impact Fee.