



## CITY COUNCIL STAFF REPORT

DATE: July 21, 2010

PUBLIC HEARING

SUBJECT: TRAVIS COMPANIES, INC. – AN APPEAL OF THE DECISION BY THE PLANNING COMMISSION TO DENY A CONDITIONAL USE PERMIT AND VARIANCE APPLICATION FOR THE CONSTRUCTION AND OPERATION OF A GASOLINE SERVICE STATION WITHIN THE RIMROCK PLAZA AT THE SOUTHEAST CORNER OF EAST PALM CANYON DRIVE (HIGHWAY 111) AND MATTHEW DRIVE (4701 EAST PALM CANYON DRIVE).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

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### SUMMARY

Travis Companies, Inc., representing Vons (A Safeway Company), is requesting that the City Council overturn the Planning Commission's decision of June 23, 2010, denying a Conditional Use Permit and Variance application to allow the construction and operation of a gasoline service station within the Rimrock Plaza. The subject site is located at the southeast corner of East Palm Canyon Drive (HWY 111) and Matthew Drive (4701 East Palm Canyon Drive), Zone W-C-D-N. The application included a Variance to Section 94.02.00(H)(2) of the Zoning Code to allow a reduced setback from a residential zone.

### RECOMMENDATION

1. Open the public hearing and receive public testimony.
2. The City Council may, either:
  - a. Adopt Resolution No. \_\_\_\_ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING THE APPEAL BY TRAVIS COMPANIES, INC. AND UPHOLDING THE DECISION OF PLANNING COMMISSION TO DENY A CONDITIONAL USE PERMIT AND VARIANCE APPLICATION FOR THE CONSTRUCTION AND OPERATION

OF A GASOLINE SERVICE STATION LOCATED AT 4701 EAST PALM CANYON DRIVE, CASE NO. 5.1241 CUP & 6.521 VAR.”;

OR

- b. Direct staff to prepare a resolution approving the appeal and overturning the Planning Commission’s decision to deny a Conditional Use Permit and Variance application for the construction and operation of a gasoline service station located at 4701 East Palm Canyon Drive.

PRIOR ACTIONS

On February 7, 2002, the Planning Commission reviewed a Conditional Use Permit and Variance for a proposed Vons gasoline station at the subject site and by a vote of 3-2 approved the project.

On May 15, 2002, the City Council reviewed the Vons gasoline station that was approved by the Planning Commission and by a vote of 4-1 overturned the Commission’s decision and denied the project.

On August 10, 2009, the Architectural Advisory Committee (AAC) reviewed this project as a pre-application. No vote or action was taken; however, the Committee offered the following comments and recommendations:

1. Canopy and kiosk building are too tall;
2. Concerned about proposed architecture trying to mimic shopping center;
3. Building and canopy need to be redesigned;
4. Mansard roof should be eliminated from design;
5. Faux trellis piece should be removed;
6. Screening walls and landscaping should be incorporated into design for screening;
7. Signage is too large;
8. Lighting scheme needs to be looked at carefully;
9. Applicant should look at other gas stations within the City for design ideas. Gas stations along North Palm Canyon Drive and North Indian Canyon Drive were recommended.

On April 26, 2010, the AAC reviewed the proposed project and by a vote of 6-0-1 (Parker abstained) restudied the proposal with the following comments:

1. Vice Chair Kleindienst was not in favor of architecture and did not like trash enclosure location. He also noted that the proposed layout and architecture did not respond to its surroundings;
2. Member Sahlin stated that the building should incorporate more modern elements and to incorporate some theme / elements from surrounding developments;

3. Member O'Donnell was concerned with the architectural elements. Mr. O'Donnell felt that the canopy and building should be integrated and that there should be a stronger integration between the landscaping and building; he stated that there should be a high landscape berm around the facility;
4. Member King stated that the building and canopy need to be much smaller; however, the two structures should be integrated together;
5. Member McGrew said the applicant needs to look at the project's scale as it relates to the neighborhood.

On June 21, 2010, the AAC reviewed the revised project and by a vote of 5-0-1-1 (O'Donnell absent and Parker abstained) recommended denial with the following comments:

1. Circulation is a problem. Site does not appear large enough;
2. Canopy and Kiosk structure are too tall;
3. Two structures should have integral design;
4. Landscaping needs to be enhanced;
5. Increase landscape area on east planter;
6. The applicant should review the following gas stations in Palm Springs:
  - a. Smoketree 76 on 1776 East Palm Canyon Drive – landscaping;
  - b. Shell on 4875 Ramon Road – berming;
  - c. Shell on 2795 North Palm Canyon Drive – Design;
7. 'Box and lid' design unacceptable for Palm Springs;
8. Kiosk building has 'back of house' design on three sides;
9. Lighting will be too bright for area;
10. Design has no response to surrounding areas (beyond shopping center).

On June 23, 2010, the Planning Commission reviewed the revised project and by a vote of 5-2 denied the proposal (Commissioners Donnenfeld and Munger opposed the denial).

On June 28, 2010, the applicant filed an appeal of the Planning Commission's decision. The appeal letter is attached to this staff report.

#### BACKGROUND AND SETTING:

The project includes the construction of a Vons Fuel Center within the existing Rimrock Plaza shopping center located at 4701 East Palm Canyon Drive. The gasoline service center is proposed to be located on the last vacant pad site at the northwest corner of the Rimrock Plaza shopping center. The site is approximately 0.79 acres and covered in sod.

The proposed facility will consist of a kiosk building approximately 750 square feet in size and a canopy structure that covers approximately 2,306 square feet and contains four double-sided bays for fueling. The kiosk building will contain a salesroom, snack bar, unisex restroom, utility room and a transaction room.

**Table 1: Surrounding Land Uses, General Plan Designations and Zones**

	<b>Land Use</b>	<b>General Plan</b>	<b>Zoning</b>
North	Multiple-family Residential	HDR (High Density Residential)	R-3 (Multiple-family Residential & Hotel)
East	Shopping Center	NCC (Neighborhood / Community Commercial)	W-C-D-N (Watercourse prefix, Designed Neighborhood Shopping Center)
South	Shopping Center	NCC (Neighborhood / Community Commercial)	W-C-D-N (Watercourse prefix, Designed Neighborhood Shopping Center)
West	Vacant	MU / MU (Mixed Use / Multi Use)	W-R-3 (Watercourse prefix, Multiple-family Residential & Hotel)

**STAFF ANALYSIS:**

On February 24, 2010, the Planning Commission reviewed and denied the proposed gasoline service station at the Rimrock Plaza shopping center. Commissioners Donnerfeld and Munger were in favor of the proposal while the rest of the Commission opposed the project. Staff has summarized some of the Commissioner's comments on the project below:

1. Vice Chair Caffery concluded the current design and traffic flow allows a potential for bottleneck near the shopping center entrance on Matthew Drive. Mr. Caffery also stated that the architecture of the proposed facility should emulate the original design of the shopping center and include a low-slung shed roof.
2. Commissioner Donnerfeld stated that the applicant followed the AAC's original direction with a simple design. He believed the design was sensitive to the residential properties across the street with regards to landscaping and architecture. Mr. Donnerfeld stated that the Commission should support a good solid business which encourages an increase in the City's tax base.
3. Commissioner Munger believed that the project was a good use for the area.
4. Commissioner Scott stated that a unanimous recommendation of denial by the AAC was a strong recommendation to deny this project. Beyond the AAC's recommendation, Mr. Scott believed the Variance reduction was unacceptable.
5. Commissioner Hudson expressed concerned about the architectural design of the project and troubled by the height of the canopy structure and kiosk building. He believed there was very little tie between the facility and landscape elements; the headlight intrusion generated from this facility onto adjacent residential properties could have been ameliorated with good use of low walls and landscaping elements. Mr. Hudson noted his concern about safe traffic flow and the vehicular entries from Matthew Drive.
6. Commissioner Conrad was not in favor of the project.
7. Chair Cohen was not in favor of the project.

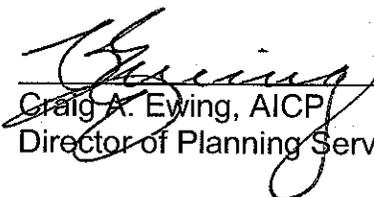
The applicant has submitted an appeal and requested that the City Council overturn the Planning Commission's decision to deny the project (see attached letter). The appeal letter does not state any specific grounds for overturning the Commission's decision. Staff has reviewed the recording from the Planning Commission meeting and summarized the applicant's argument for approving the project below:

1. The facility will generate additional tax base for the City.
2. This parcel was meant to be an integral part of the entire shopping center.
3. The vehicular circulation and site plan was designed by trained Engineers.
4. The height of the canopy structures are intended to accommodate the tourist population, which includes recreation vehicles.

After receiving public testimony, the City Council may adopt the attached resolution denying the appeal and upholding the Planning Commission's decision to deny the proposed gasoline service station at 4701 East Palm Canyon Drive. Should the Council determine sufficient evidence has been presented to overturn the Planning Commission's decision of denial, a resolution of approval would be presented at the next regular meeting.

FISCAL IMPACT:

No Fiscal Impact.

  
\_\_\_\_\_  
Craig A. Ewing, AICP  
Director of Planning Services

  
\_\_\_\_\_  
Thomas Wilson, Assistant City Manager

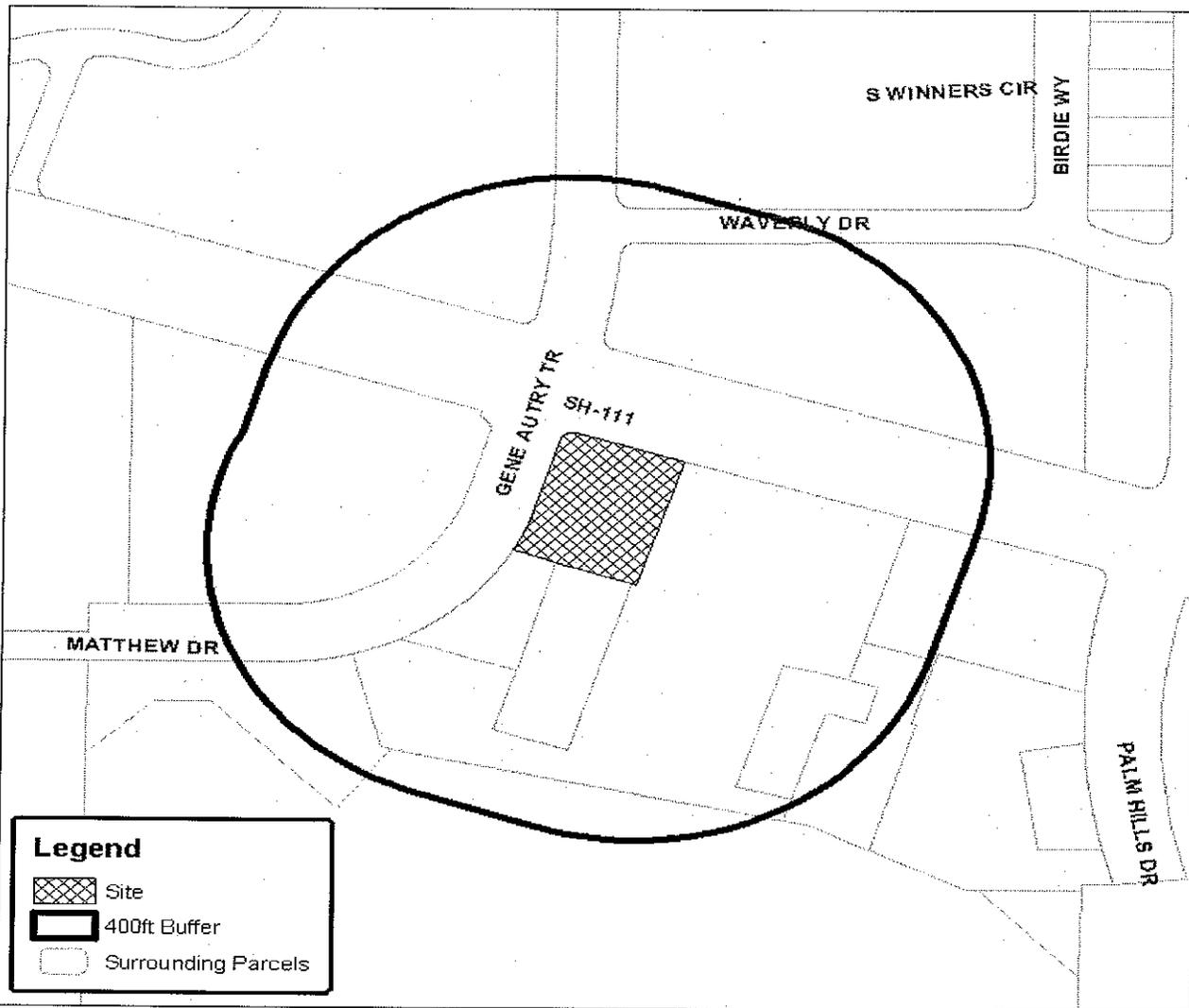
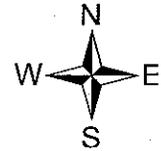
  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

1. Vicinity Map
2. Draft Resolution
3. Letter of Appeal
4. Planning Commission Staff Report (w/ exhibits), June 23, 2010



# Department of Planning Services Vicinity Map



## CITY OF PALM SPRINGS

**CASE:** 5.1241 CUP & 6.521 VAR

**APPLICANT:** Travis Companies, Inc.

**DESCRIPTION:** A request by Travis Companies, Inc. to consider an appeal of the Planning Commission's June 23, 2010, denial of a Conditional Use Permit and Variance application for the construction and operation of a gasoline service station within the Rimrock Plaza at the southeast corner of East Palm Canyon Drive (HWY 111) and Matthew Drive (4701 East Palm Canyon Drive), Zone W-C-D-N.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING THE APPEAL BY TRAVIS COMPANIES, INC. AND UPHOLDING THE DECISION OF PLANNING COMMISSION TO DENY A CONDITIONAL USE PERMIT AND VARIANCE APPLICATION FOR THE CONSTRUCTION AND OPERATION OF A GASOLINE SERVICE STATION LOCATED AT 4701 EAST PALM CANYON DRIVE, CASE NO. 5.1241 CUP & 6.521 VAR.

WHEREAS, the Travis Companies, Inc. ("Applicant") on behalf of Vons – A Safeway Company, filed an application with the City pursuant to Section 94.02.00, 94.04.00 and 94.06.00 of the Zoning Code for a gasoline service station with a reduced setback to residentially zoned properties for the property located at 4701 East Palm Canyon Drive (APN: 681-170-021), Zone W-C-D-N, Section 30; and

WHEREAS, on June 23, 2010, a noticed public hearing was conducted by the Planning Commission in accordance with applicable law; and

WHEREAS at said public hearing, the Planning Commission carefully reviewed and considered all the evidence presented in connection with the hearing on the project, including but not limited to the staff report, all written and oral testimony presented and a motion to approve the project failed on a vote of 2-5; thus the Planning Commission action was to deny Case 5.1241 CUP and 6.512 VAR; and

WHEREAS, on June 28, 2010, the Travis Companies, Inc. ("Appellant") on behalf of Vons – A Safeway Company, filed an appeal with the City Clerk, pursuant to Chapter 2.05 of the Municipal Code, of the Planning Commission's decision to deny the proposed gasoline service station on the vacant parcel located at 4701 East Palm Canyon Drive; and

WHEREAS, on July 21, 2010, a public hearing on the appeal was held by the City Council in accordance with applicable law; and

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

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Pursuant to Sections 94.02.00(B)(6) and 94.02.00(B)(6) of the Palm Springs Zoning Code, the Planning Commission is required to make certain findings when approving a Conditional Use Permit and Variance application. The Planning Commission was unable to make these findings for the following reasons:

1. The current design and traffic flow allows a potential for bottleneck near the shopping center entrance on Matthew Drive.
2. The architecture of the proposed facility should emulate the original design of the shopping center and include a low-slung shed roof.
3. The canopy structure and kiosk building are too high.
4. There is not enough integration between the facility and landscape elements – the headlight intrusion generated from this facility onto adjacent residential properties could be ameliorated with better use of low walls and landscaping elements.

SECTION 2. Pursuant to Municipal Code Section 2.05.030, the appellant submitted a written notice of appeal but did not state any grounds for the appeal and no additional materials were submitted.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the City Council hereby denies the appeal and upholds the Planning Commission's decision to deny a conditional use permit and variance application for a gasoline service station at the southeast corner of East Palm Canyon Drive (Highway 111) and Matthew Drive (also known as 4701 East Palm Canyon Drive).

ADOPTED this 21<sup>st</sup> day of July, 2010.

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David H. Ready, City Manager

ATTEST:

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James Thompson, City Clerk

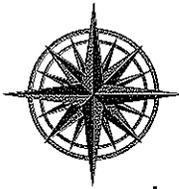
CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. \_\_\_\_\_ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
James Thompson, City Clerk  
City of Palm Springs, California



# Travis Companies, Inc.

June 28, 2010

RECEIVED  
CITY OF PALM SPRINGS

2010 JUN 28 AM 11:39

Mr. James Thompson  
City Clerk  
City of Palm Springs  
3200 Tahquitz Canyon Way  
Palm Springs, California 92262

JAMES THOMPSON  
CITY CLERK

**RE: REQUEST FOR APPEAL OF PLANNING COMMISSION ACTION (CASE NO. 5.1241 CUP/6.521 VAR) – PROPOSED VONS FUEL CENTER PROJECT, 4701 E. PALM CANYON DRIVE, PALM SPRINGS, CALIFORNIA**

Dear Mr. Thompson:

Pursuant to the City of Palm Springs Municipal Code Title 2 (Administration and Personnel), Chapter 2.05 (Appeal to City Council) please accept this letter as our formal request to the City Council of the City of Palm Springs for an appeal of Planning Commission actions. Travis Companies, Inc., on behalf of Vons – A Safeway Company, respectfully request an appeal and hereby formally files this appeal of the Planning Commission's actions of June 23, 2010 pertaining to the proposed Vons Fuel Center Project, Case No.5.1241 CUP/6.521 VAR. At this meeting the Planning Commission denied the requested approval of this project for which we hereby request an appeal of their action.

This appeal request has been prepared and is hereby submitted pursuant to Palm Springs Municipal Code Title 2 for the Council's review, consideration and action. It is our request that this appeal be brought before the City Council in an effort to overturn the Planning Commission's denial of the project and that the requested CUP and Variance for the project be granted. As a City requirement of the filing of this appeal please find attached a check to cover the cost of the necessary appeal filing fees.

Thank you in advance for your assistance and cooperation in the processing of this appeal request. Please do not hesitate to contact me should you have any questions regarding this appeal request. Please contact me to discuss the scheduling of this request before the City Council.

Sincerely yours,

Karl Huy  
President

KH:en  
Vons-PalmSprings08-Appeal

CITY OF PALM SPRINGS

RECVD BY: CR 01000035921  
PAYOR: TRAVIS CO  
TODAY'S DATE: 06/30/10  
REGISTER DATE: 06/30/10 TIME: 13:00

DESCRIPTION	AMOUNT
OTHER CHARGES SVCS	\$982.18
CUST ID: APPEAL/NOTIFICATION	

TOTAL DUE: \$982.18

CHECK PAID:	\$982.18
CHECK NO: 10712	
TENDERED:	\$982.18
CHANGE:	\$.00



## Planning Commission Staff Report

Date: June 23, 2010

Case No.: 5.1241-CUP & 6.521-VAR

Type: Conditional Use Permit & Variance

Location: 4701 East Palm Canyon Drive (southeast corner of Highway 111 and Matthew Drive)

APN: 681-170-021

Applicant: Travis Companies, Inc.

General Plan: NCC (Neighborhood / Community Commercial)

Zone: W-C-D-N (Designed Neighborhood Shopping Center with Watercourse Overlay)

From: Craig A. Ewing, AICP, Director of Planning Services

Project Planner: David A. Newell, Associate Planner

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### **PROJECT DESCRIPTION:**

The applicant has requested a Conditional Use Permit (CUP) to allow the construction and use of a gasoline service station within the Rimrock Plaza at the southeast corner of East Palm Canyon Drive (HWY 111) and Matthew Drive (4701 East Palm Canyon Drive), zone W-C-D-N. The request includes a Variance to Section 94.02.00(H)(2) of the Zoning Code to allow a reduced setback from a residential zone.

### **RECOMMENDATION:**

That the Planning Commission approve Conditional Use Permit, Case No. 5.1241, including architectural approval, and Variance, Case No. 6.521, subject to the conditions outlined in the attached Resolution.

### **PRIOR ACTIONS:**

On February 7, 2002, the Planning Commission reviewed a Conditional Use Permit and Variance for a proposed Vons gasoline station at the subject site and by a vote of 3-2 approved the project.

On May 15, 2002, the City Council reviewed the Vons gasoline station that was approved by the Planning Commission and by a vote of 4-1 overturned the Commission's decision and denied the project.

On August 10, 2009, the Architectural Advisory Committee reviewed this project as a pre-application. No vote or action was taken; however, the Committee offered the following comments and recommendations:

1. Canopy and kiosk building are too tall.
2. Concerned about proposed architecture trying to mimic shopping center.
3. Building and canopy need to be redesigned.
4. Mansard roof should be eliminated from design.
5. Faux trellis piece should be removed.
6. Screening walls and landscaping should be incorporated into design for screening.
7. Signage is too large.
8. Lighting scheme needs to be looked at carefully
9. Applicant should look at other gas stations within the City for design ideas. Gas stations along North Palm Canyon Drive and North Indian Canyon Drive were recommended.

On April 26, 2010, the Architectural Advisory Committee (AAC) reviewed the proposed project and by a vote of 6-0-1 (Parker abstained) restudied the proposal with the following comments:

1. Vice Chair Kleindienst was not in favor of architecture and did not like trash enclosure location. He also noted that the proposed layout and architecture did not respond to its surroundings.
2. Member Sahlin stated that the building should incorporate more modern elements and to incorporate some theme / elements from surrounding developments.
3. Member O'Donnell was concerned with the architectural elements. Mr. O'Donnell felt that the canopy and building should be integrated and that there should be a stronger integration between the landscaping and building; he stated that there should be a high landscape berm around the facility.
4. Member King said building and canopy need to be much smaller; however, the two structures should be integrated together.
5. Member McGrew said the applicant needs to look at the project's scale as it relates to the neighborhood.

On June 21, 2010, the Architectural Advisory Committee (AAC) will review the revised project. Staff will present the results of this meeting to the Planning Commission on June 23, 2010.

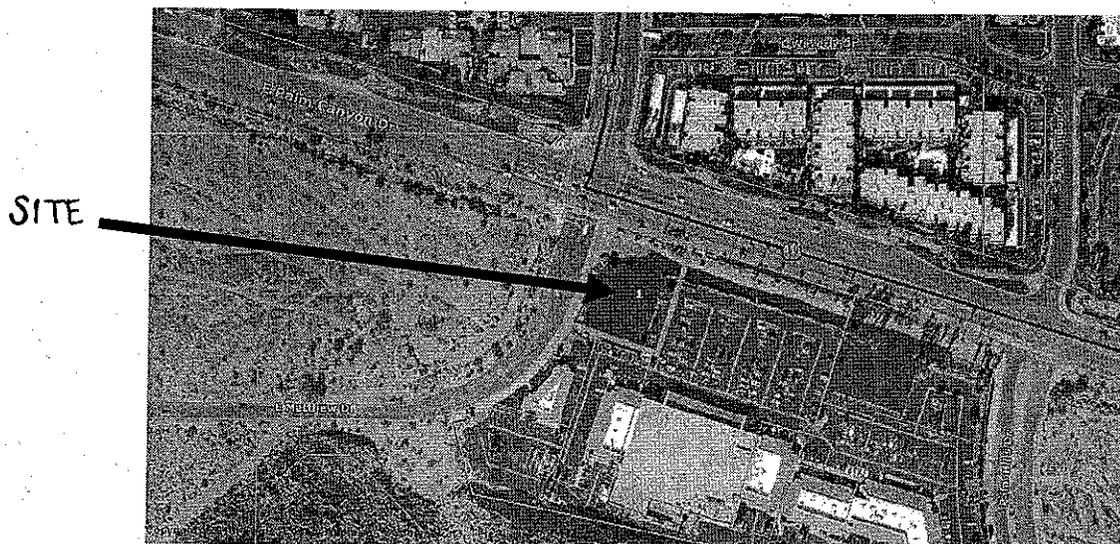
**BACKGROUND AND SETTING:**

The project includes the construction of a Vons Fuel Center within the existing Rimrock Plaza shopping center located at 4701 East Palm Canyon Drive. The gasoline service center is proposed to be located on the last vacant pad site at the northwest corner of the Rimrock Plaza shopping center. The site is approximately 0.79 acres and covered in grass.

The facility will contain a kiosk building of approximately 750 square feet and a canopy that covers approximately 2,306 square feet and contains four double-sided bays for fueling. The kiosk building will contain a salesroom, snack bar, unisex restroom, utility room and a transaction room.

**Table 1:** Surrounding Land Uses, General Plan Designations and Zones

	Land Use	General Plan	Zoning
North	Multiple-family Residential	HDR (High Density Residential)	R-3 (Multiple-family Residential & Hotel)
East	Shopping Center	NCC (Neighborhood / Community Commercial)	W-C-D-N (Watercourse prefix, Designed Neighborhood Shopping Center)
South	Shopping Center	NCC (Neighborhood / Community Commercial)	W-C-D-N (Watercourse prefix, Designed Neighborhood Shopping Center)
West	Vacant	MU / MU (Mixed Use / Multi Use)	W-R-3 (Watercourse prefix, Multiple-family Residential & Hotel)



## ANALYSIS:

### General Plan

The General Plan designation of the subject site is NCC (Neighborhood / Community Commercial). The General Plan states...

*Areas designated as Neighborhood / Community Commercial provide an opportunity for convenience commercial uses that serve adjacent residential neighborhoods. The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and smaller-scale restaurants. Harmonious relationships between these commercial uses and adjacent residential uses shall be achieved through compatibility of site design, building scale, pathways and circulation design, and architectural treatment of structures.*

The proposed gasoline service station will be located within an existing neighborhood shopping center, which serves the surrounding neighborhoods and motorists traveling on Highway 111. The design of the proposed gasoline station includes elements of the existing shopping center architecture and enhanced landscaping, including berming. This will create harmonious relationship with adjacent residential properties through integrating the designs and reducing the overall scale with landscape berming.

### Zoning

The site is located within the W-C-D-N zone (Designed Neighborhood Shopping Center zone with Watercourse overlay). Pursuant to Section 92.10.01(D)(1) of the Palm Springs Zoning Code (PSZC), a gasoline service station is permitted with the approval of Conditional Use Permit, however, Zoning Code states that's the facility must be "limited to the dispensing of motor fuels and oils, lubrication, sales and service of tires, tubes, batteries, and other minor accessories. No major automotive repair shall be permitted, such as radiator, engine, transmission or body repair." No major automotive repair is proposed.

### Development Standards

All development within a C-D-N zone must meet the development standard criteria of Section 92.10.03 of the PSZC. Staff has provided an analysis of those standards and the proposed project in Table 2 below.

**Table 2: C-D-N Development Standards and Proposed Project**

	<b>CDN Zone Requirements</b>	<b>Proposed Project (approximate)</b>
<b>East Palm Canyon Drive Setback</b>		
Street Centerline to Building (93.01.02)	125 feet	164 feet
Property Line to Building <sup>1</sup>	25 feet	114 feet
Property Line to Parking	20 feet	55 feet
<b>Matthew Drive Setback</b>		
Property Line to Building <sup>1</sup>	25 feet	25 feet
Property Line to Parking	20 feet	30 feet
Building Height	30 feet maximum	19 feet kiosk building 20 feet canopy structure

In addition to the development standards shown in Table 2 above, Section 94.02.00 of the Palm Springs Zoning Code requires specific conditions for automobile services stations. Staff has analyzed the proposal and responded to each requirement (the following are subsections of Section 94.02.00(H)(2):

a. *Location.*

i. *The site shall have two hundred (200) feet of frontage on a major or secondary highway.*

The property has over two hundred feet of frontage along East Palm Canyon Drive, a major thoroughfare / highway.

ii. *The site shall not adjoin an existing hotel or residential use at the time of its establishment.*

The property does not adjoin an existing hotel or residential use at this time.

iii. *The minimum distance from the site to a property containing a school, park, playground, church, museum or similar use shall be two hundred fifty (250) feet. The minimum distance to a residential zone shall be one hundred seventy-five (175) feet.*

There are no schools, parks, playgrounds, churches museums or other similar uses within 250 feet of the site. However, the properties to the west, northwest and north are residentially zoned properties and within 175 of the subject site. A Variance application has been submitted to reduce the setback requirement from 175 to approximately seventy feet to allow the proposed use at this site.

<sup>1</sup> Twenty-five (25) percent of the total site frontage may have buildings constructed twenty-five (25) feet from the property line. The remainder of the site must observe a yard of fifty (50) feet from property line.

- iv. *The minimum distance between properties containing automobile service stations shall be five hundred (500) feet, except that service stations that are approved as part of a master plan are exempt from this requirement, and except that two (2) automobile service stations may be permitted at intersections formed by streets both of which have a forecasted average daily volume of twenty-five thousand (25,000) trips according to the adopted general plan or other subsequent city-approved comprehensive traffic study.*

The subject property is not located within five hundred feet of another service station.

b. *Site Area.*

*The minimum net site area shall be twenty thousand (20,000) square feet. Any proposal to expand activity to an existing use on a lot of less than twenty thousand (20,000) square feet shall not be permitted unless the planning commission, pursuant to a new conditional use permit, finds that the site can adequately support the increased use without adversely affecting public streets or surrounding land uses. For purposes of this section, "site" shall mean the same as "lot" or shall mean that portion of a lot that is dedicated solely for the purpose of accommodating the service station.*

The subject site is approximately 34,412 square feet in size.

c. *Access.*

*Access drives shall be at least thirty (30) feet from any street corner measured from the intersection of the ultimate right-of-way lines; the city engineer may require a greater distance based upon street and traffic characteristics. All drives shall be designed to provide vehicle queuing in a manner that minimizes possible hazard or slowing of vehicles on adjacent city streets. Reciprocal access/parking arrangements may be with adjacent properties to enhance public convenience and safety.*

The only access to the site is from within the existing shopping center. The site plan shows fifty feet of driveway for vehicle queuing, which will allow for safe circulation within the center and surrounding streets.

d. *Number of Pumps.*

*One (1) gasoline pump shall be permitted per two thousand (2,000) square feet of site area. The number of pumps shall be the same as the number of sale transactions which may be conducted simultaneously at all of the pump stations.*

The proposed gasoline station will have four double-sided fueling bays (eight pump stations), requiring a minimum site area of 16,000 square feet. The subject site exceeds this at a total lot area of 34,412 square feet.

e. *Utility Trailers.*

*Utility trailers, not exceeding ten (10) in number, may be stored for rent on service stations only in the C-2, C-M and M-1 zones; provided, they are screened from view and occupy an area which is in excess of the two thousand (2,000) square feet of site area required per pump.*

The site's zoning (CDN) does not allow utility trailers.

f. *Walls.*

*A solid masonry wall six (6) feet in height shall be erected on all interior property lines which abut property in a residential zone or wherever else deemed necessary by the planning commission.*

The subject site does not abut any property in a residential zone.

g. *Paving.*

*The entire ground area shall be paved except that ten (10) percent of the site area shall be reserved for landscaping.*

The site will have paving in all automobile driveways and parking and service bay areas. Forty-five percent of the site will be reserved for landscaping.

h. *Lighting.*

*Lighting shall conform to the requirements of Section 93.06.00.*

This Section refers to Section 93.21.00, *outdoor lighting standards* of the PSZC. All exterior lighting must conform to Section 92.10.03(K) and 93.21.00 of the Palm Springs Zoning Code (attached).

i. *Outside Operation.*

*Operations outside permanent structures shall be limited to the dispensing of gasoline, oil, water, air, changing tires, and attaching and detaching trailers. There shall be no outside storage or display of tires, oil or other products and accessories. The sale of liquid propane gas (LPG) may be permitted if approved in connection with the conditional use permit and architectural review. After approval of the conditional use permit, the sale of LPG may be permitted if approved in conjunction with a land use permit.*

The proposal does not include any outside permanent structures beyond dispensing gasoline, water and air. None of the other said operations will be conducted at this site.

j. *Noise.*

*Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level*

*measured at property lines shall not exceed street background noise normally occurring at the site location.*

Staff has included this as a condition of approval in the draft resolution attached to this report.

*k. Minimum Building Area.*

*The minimum gross floor area for each automobile service station building, not including the canopy area, shall be seven hundred fifty (750) square feet. Accessible public restrooms shall be provided.*

The kiosk building meets this criterion of 750 square feet in size and includes an accessible public restroom.

*l. Accessory Commercial Uses.*

*Accessory nonautomotive commercial uses shall be limited to vending machine sales of soft drinks, coffee and tea, snacks, cigarettes, and maps within a sales area of not greater than twenty-five (25) square feet. Secondary retail sales of food, groceries and sundries, other than those from a vending machine, shall be contained within an indoor retail space of not less than seven hundred fifty (750) square feet, except that existing automobile service stations, at the time of the adoption of this Zoning Code, which convert space for such use are not limited by a minimum area requirement. Display and storage of accessory or secondary nonautomotive commercial uses shall be totally within the principal building.*

Accessory and secondary commercial / retail uses are all contained within the kiosk building which is 750 square feet in size. No accessory commercial uses are sold outside of the building.

*m. Sale of Beer, Wine, Liquor or Other Alcoholic Beverages.*

*Sales of beer, wine, liquor or other alcoholic beverages from the same location as gasoline and other motor vehicle fuel sales may be permitted under the following conditions:*

- i. Such sales must be offered only in conjunction with the secondary retail sale of food, groceries and sundries in which not less than fifty (50) percent by value of the retail sales of all products, other than gasoline and other motor vehicle fuels, comprises sales of products other than beer, wine, liquor and other alcoholic beverages.*
- ii. Video recording surveillance cameras shall be used to record all purchases and attempted purchases of alcoholic beverages. Signs shall be posted, one (1) outside the building at or near the gasoline servicing area and another inside the building near the cash registers notifying the public that "all alcoholic beverage transactions are monitored in cooperation with the Palm Springs Police Department." The videotape equipment used shall be such*

*as to record at least twenty-four (24) hours of operation, the tapes shall be maintained for the prior seventy-two (72) hours, and the film shall be made available to any representative of the Palm Springs Police Department within twenty-four (24) hours of a request. The tapes shall be made available for use in evidence against any person who purchased or attempted to purchase alcoholic beverages as well as for use in any court or administrative proceeding regardless of the type of criminal activity or the party or parties involved.*

There are no sales of beer, wine, liquor or other alcoholic beverages offered by the gasoline station. If the sale of beer, wine, liquor or other alcoholic beverages is offered in the future, an amendment to the CUP would be required.

#### *Parking*

The parking ratio outlined in Section 93.06.00(D) of the Zoning Code requires, "Stations with mini-marts shall provide parking at the rate of one (1) space for every two hundred (200) square feet of gross floor area within enclosed structures plus one (1) space for water/air dispensers, if provided." The proposed use will have a building that is 750 square feet in size and one water / air dispenser. Therefore, a total of four parking spaces for the mini-mart are required and one parking space for the water / air dispenser is required. The proposal includes six parking spaces, including an air / water parking space.

#### *Architecture*

The Zoning Ordinance, Section 94.04.00(D)(1-9), provides guidelines for the Architectural review of development projects to determine whether the proposed development will provide a desirable environment for its occupants as well as being compatible with the character of adjacent and surrounding developments, and whether aesthetically it is of good composition, materials, textures and colors. Conformance is evaluated, based on consideration of the following:

- 1. Site layout, orientation, location of structures and relationship to one another and to open spaces and topography. Definition of pedestrian and vehicular areas; i.e., sidewalks as distinct from parking lot areas;*

Access throughout the proposed project is designed according to the requirements of the Uniform Building Code and ADA rules, including accessible pathways, handicapped parking spaces and vehicular access.

- 2. Harmonious relationship with existing and proposed adjoining developments and in the context of the immediate neighborhood / community, avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted;*

The surrounding properties include undeveloped raw vacant land to the west, two-story multi-family residential to the north and the existing shopping center to the south and

east. The single-story automobile fuel station will be use similar design elements of the existing shopping center and immediate neighborhood. Therefore, the proposed gasoline station will have a harmonious relationship with the existing developments since it will be similar but not repetitious.

3. *Maximum height, area, setbacks and overall mass, as well as parts of any structure (buildings, walls, screens, towers or signs) and effective concealment of all mechanical equipment;*

The proposed height of twenty feet, mass of the building and setbacks are compliant with the requirements of the Palm Springs Zoning Code. Parking is adequate; the proposed landscape provides adequate screening and shading; and all mechanical equipment will be concealed behind a parapet wall.

4. *Building design, materials and colors to be sympathetic with desert surroundings;*
5. *Harmony of materials, colors and composition of those elements of a structure, including overhangs, roofs, and substructures, which are visible simultaneously;*
6. *Consistency of composition and treatment;*

The proposed kiosk building is a simple design with basic materials that include stucco, stone veneer and wood trellis, and the proposed canopy includes metal, stucco and stone veneer. The colors include light tan for the main wall stucco and the roof structure of the canopy is white. The proposed color palette reflects colors found in the existing shopping center.

The building is oriented to utilize good solar control with a consistent composition of architectural embellishments. The pedestrian entry is located on the east side of the building and away from the prevailing winds. The canopy will provide shade and temporary shelter for the gasoline patrons. Therefore, the building and canopy design, materials, and colors are sympathetic with the desert surroundings and consistent with the existing shopping center.

7. *Location and type of planting, with regard for desert climate conditions. Preservation of specimen and landmark trees upon a site, with proper irrigation to insure maintenance of all plant materials;*

The landscape design proposes drought tolerant trees, shrubs and groundcover. Drip emitters will deliver water to each individual plant, thereby practicing water efficient irrigation methods.

The proposed project meets all the development standard requirements of the C-D-N zone and meets all but one of the CUP requirements outlined in Section 94.02.00 for gasoline service stations. The applicant is seeking approval for a Variance to allow the gasoline service station site closer than 175 to a residential zone. Analysis and required findings are discussed below.

Variance

The applicant is seeking approval of a Variance to Section 94.02.00(H)(2)(a)(iii) of the Zoning Code, which requires that a gasoline service station site have minimum setback of 175 feet to any residentially zoned property. The subject property is approximately seventy feet to a residentially zoned property across from Matthew Drive. Staff has provided an analysis of the required findings for this request below.

**REQUIRED FINDINGS:**

Variance

State law requires four (4) findings be made for the granting of a variance. Staff has analyzed the findings in order below:

- 1) *Because of the special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The proposed use is within an existing neighborhood shopping center that is located at the southeast corner of Matthew Drive and Highway 111. The shopping center is comprised of nine individual lots, eight of which are developed. The remaining vacant lot is seventy feet from a residential zone. Strict application of the Zoning Code would prohibit the development of a gasoline service station on this lot and therefore anywhere in the center.

- 2) *Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.*

A setback reduction of 105 feet to a residential zone will not constitute a grant of special privilege. In order provide an adequate buffer, there is approximately 150 feet from the nearest residential property line to the fuelling area. This buffer includes Matthew Drive, a twenty-five foot landscape area (with berming, plants, and trees) and the kiosk building. The setback has maintained the integrity of the Zoning Code and would not constitute a grant of special privilege that is inconsistent with the limitations placed upon other properties in the vicinity and zoning designation.

- 3) *The granting of the variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.*

The automobile service station use will be required to follow all local, state and federal laws, including permitting, certification and on-going maintenance. The variance to allow a reduction of setback will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity.

- 4) *The granting of such variance will not adversely affect the general plan of the city.*

The proposed project has been analyzed against the policies of the General Plan and no inconsistencies have been found.

#### Conditional Use Permit

The Conditional Use Permit process outlined in Section 94.02.00 of the Zoning Code requires the Planning Commission to make a number of findings for approval of the permit. Those findings are analyzed by staff in order below:

- 1) *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

The site is located within the W-C-D-N (Designed Neighborhood Shopping Center) zone. Pursuant to Section 92.10.01(D)(1) of the Palm Springs Zoning Code (PSZC), a gasoline service station is permitted with the approval of Conditional Use Permit.

- 2) *That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*

The General Plan designation of the subject site is NCC (Neighborhood / Community Commercial). The General Plan states,

*Areas designated as Neighborhood / Community Commercial provide an opportunity for convenience commercial uses that serve adjacent residential neighborhoods. The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and smaller-scale restaurants. Harmonious relationships between these commercial uses and adjacent residential uses shall be achieved through compatibility of site design, building scale, pathways and circulation design, and architectural treatment of structures.*

The proposed gasoline service station will be located within an existing neighborhood shopping center, which serves the surrounding neighborhoods and motorists traveling on Highway 111. The design of the proposed gasoline station includes elements of the existing shopping center architecture and enhanced landscaping, including berming. This will create harmonious relationship with adjacent residential through integrating the designs and reducing the overall scale by landscape berming.

- 3) *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*

The proposed gasoline service station will have four double-sided bays – a total of eight gasoline service pumps. Based on the size of the lot, the zoning code permits a total of seventeen gasoline service pumps. The site also includes a 750 square foot kiosk building, paving, parking and landscaping. Approximately forty-six percent of the site is landscaping, which includes berming. Therefore, the subject site is adequate in size and shape to accommodate such use to those existing or permitted future uses of land in the neighborhood.

- 4) *That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*

The only access to the site is from within the existing shopping center. The site plan shows fifty feet of driveway for vehicle queuing, which will allow for safe circulation within the center and surrounding streets.

- 5) *That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards. Such conditions may include:*
- a. *Regulation of use*
  - b. *Special yards, space and buffers*
  - c. *Fences and walls*
  - d. *Surfacing of parking areas subject to city specifications*
  - e. *Requiring street, service road, or alley dedications and improvements or appropriate bonds*
  - f. *Regulation of points of vehicular ingress and egress*
  - g. *Regulation of signs*
  - h. *Requiring landscaping and maintenance thereof*
  - i. *Requiring maintenance of grounds*
  - j. *Regulation of noise, vibrations, odors, etc.*
  - k. *Regulation of time for certain activities*
  - l. *Time period within which the proposed use shall be developed*
  - m. *Duration of use*
  - n. *Dedication of property for public use*

- o. *Any such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this Zoning Code, including but not limited to mitigation measures outlined in an environmental assessment.*

Specific conditions of approval include operational limitations. All proposed conditions of approval are necessary to ensure compliance with the Zoning Ordinance requirements and to ensure the public health, safety and welfare.

**CONCLUSION:**

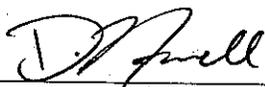
The proposed project is consistent with the use on the site and is compatible with the General Plan and Zoning Ordinance land uses. Staff recommends that the Planning Commission approve the automobile service station use and architecture by approving Variance 6.541 and the issuance of the Conditional Use Permit, Case 5.1241.

**ENVIRONMENTAL DETERMINATION:**

This project is categorically exempt from environmental review pursuant to Section 15332 (Class 32 – In-Fill Development Projects) of the California Environmental Quality Act (CEQA).

**NOTIFICATION:**

A notice was mailed to all property owners within a four hundred foot radius in accordance with state law. Staff has received letters from the public (see attachments).



David A. Newell  
Associate Planner



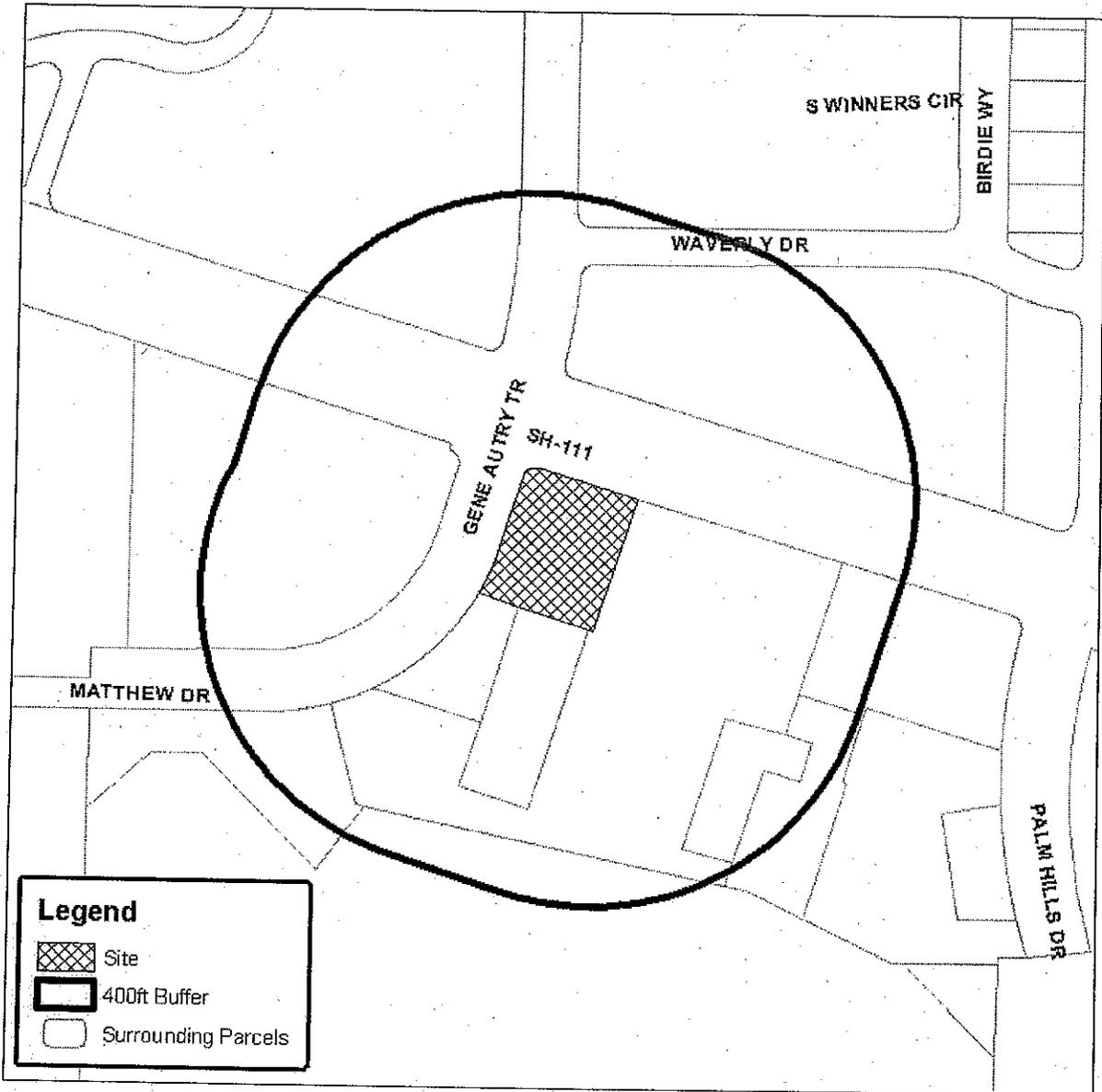
Craig A. Ewing, AICP  
Director of Planning Services

**Attachments:**

1. 400' Radius Map
2. Draft Resolution & Conditions of Approval
3. Reduced Site Plan and Elevations
4. Letters from the Public



# Department of Planning Services Vicinity Map



## CITY OF PALM SPRINGS

**CASE:** 5.1241 CUP & 6.521 VAR

**APPLICANT:** Travis Companies, Inc.

**DESCRIPTION:** A request by Travis Companies, Inc. for a Conditional Use Permit to construct a gasoline station with a reduced setback to residentially zoned property. The site is located at 4701 East Palm Canyon Drive, Zone CDN, Section 30.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA FOR APPROVAL OF CASE 5.1241 CUP, A CONDITIONAL USE PERMIT AND CASE 6.521 VAR, A VARIANCE FOR A REDUCED SETBACK FOR THE CONSTRUCTION OF AN AUTOMOBILE SERVICE STATION AT 4701 EAST PALM CANYON DRIVE (HIGHWAY 111).

WHEREAS, Travis Companies, Inc., "applicant", has filed an application with the City pursuant to Section 94.02.00 (Conditional Use Permit) and Section 94.06.00 (Variance) of the Zoning Code for construction of an automobile service station within the Rimrock Plaza at 4701 East Palm Canyon Drive (APN: 681-170-021); and

WHEREAS, a notice of public hearing for Case 5.1241 CUP / 6.521 VAR was given in accordance with applicable law; and

WHEREAS, on June 23, 2010, a public hearing on the application for approval of Case 5.1241 CUP / 6.521 VAR 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"). An environmental analysis has been completed and a Mitigated Negative Declaration has been prepared in accordance with the guidelines of CEQA; and

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 California Environmental Quality Act (CEQA Guidelines), the Planning Commission finds that Case No. 5.1241-CUP and Case No. 6.521 Variance are Categorical Exceptions under Section 15332 – in-fill developments. The Planning commission further finds that there are no reasonably foreseeable potentially significant environmental impacts resulting from this project.

Section 2: Pursuant to PSZC Section 94.06.00 (Variance), the Planning Commission finds as follows:

- 1) *Because of the special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.*

The proposed use is within an existing neighborhood shopping center that is located at the southeast corner of Matthew Drive and Highway 111. The shopping center is comprised of nine individual lots, eight of which are developed. The remaining vacant lot is seventy feet from a residential zone. Strict application of the Zoning Code would prohibit the development of a gasoline service station on this lot and therefore anywhere in the center.

- 2) *Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.*

A setback reduction of 105 feet to a residential zone will not constitute a grant of special privilege. In order provide an adequate buffer, there is approximately 150 feet from the nearest residential property line to the fuelling area. This buffer includes Matthew Drive, a twenty-five foot landscape area (with berming, plants, and trees) and the kiosk building. The setback has maintained the integrity of the Zoning Code and would not constitute a grant of special privilege that is inconsistent with the limitations placed upon other properties in the vicinity and zoning designation.

- 3) *The granting of the variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.*

The automobile service station use will be required to follow all local, state and federal laws, including permitting, certification and on-going maintenance. The variance to allow a reduction of setback will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity.

- 4) *The granting of such variance will not adversely affect the general plan of the city.*

The proposed project has been analyzed against the policies of the General Plan and no inconsistencies have been found.

Section 3: Pursuant to PSZC Section 94.02.00 (Conditional Use Permit), the Planning Commission finds as follows:

- 1) *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

The site is located within the W-C-D-N (Designed Neighborhood Shopping Center) zone. Pursuant to Section 92.10.01(D)(1) of the Palm Springs Zoning Code (PSZC), a gasoline service station is permitted with the approval of Conditional Use Permit.

- 2) *That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*

The General Plan designation of the subject site is NCC (Neighborhood / Community Commercial). The General Plan states,

*Areas designated as Neighborhood / Community Commercial provide an opportunity for convenience commercial uses that serve adjacent residential neighborhoods. The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and smaller-scale restaurants. Harmonious relationships between these commercial uses and adjacent residential uses shall be achieved through compatibility of site design, building scale, pathways and circulation design, and architectural treatment of structures.*

The proposed gasoline service station will be located within an existing neighborhood shopping center, which serves the surrounding neighborhoods and motorists traveling on Highway 111. The design of the proposed gasoline station includes elements of the existing shopping center architecture and enhanced landscaping, including berming. This will create harmonious relationship with adjacent residential through integrating the designs and reducing the overall scale by landscape berming.

- 3) *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*

The proposed gasoline service station will have four double-sided bays – a total of eight gasoline service pumps. Based on the size of the lot, the zoning code permits a total of seventeen gasoline service pumps. The site also includes a 750 square foot kiosk building, paving, parking and

landscaping. Approximately forty-six percent of the site is landscaping, which includes berming. Therefore, the subject site is adequate in size and shape to accommodate such use to those existing or permitted future uses of land in the neighborhood.

- 4) *That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*

The only access to the site is from within the existing shopping center. The site plan shows fifty feet of driveway for vehicle queuing, which will allow for safe circulation within the center and surrounding streets.

- 5) *That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards. mitigation measures outlined in an environmental assessment.*

Specific conditions of approval include operational limitations. All proposed conditions of approval are necessary to ensure compliance with the Zoning Ordinance requirements and to ensure the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves Case 5.1241-CUP / 6.521-VAR, for the construction of an automobile service station at 4701 East Palm Canyon Drive, subject to the attached conditions set forth in Exhibit A.

ADOPTED this 23<sup>rd</sup> day of June, 2010.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Craig A. Ewing, AICP  
Director of Planning Services

RESOLUTION NO. \_\_\_\_\_

**EXHIBIT A**

Case 5.1241 CUP & 6.521 VAR  
Automobile Service Station

4701 East Palm canyon Drive

June 23, 2010

**CONDITIONS OF APPROVAL**

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer, the Director of Planning Services, the Director of Building and Safety, the Chief of Police, the Fire Chief or their designee, depending on which department recommended the condition.

Any agreements, easements or covenants required to be entered into shall be in a form approved by the City Attorney.

**ADMINISTRATIVE CONDITIONS**

- ADM 1. Project Description. This approval is for the project described per Case 5.1241 CUP & 6.521 VAR, except as modified by the conditions below.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans including site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division, except as modified by the conditions below.
- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 5.1241 CUP & 6.521 VAR. The City of Palm Springs will promptly notify the applicant of any such claim, action, or

proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

- ADM 6. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 7. Time Limit on Approval. Approval of this Conditional Use Permit shall be valid for a period of two (2) years from the effective date of the approval. Once constructed, the Conditional Use Permit, provided the project has remained in compliance with all conditions of approval, does not have a time limit.
- ADM 8. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 9. Public Art Fees. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon the total building permit valuation as calculated pursuant to the valuation table in the Uniform Building Code, the fee being 1/2% for commercial projects or 1/4% for residential projects with first \$100,000 of total building permit valuation for individual single-family units exempt. Should the public art be located on the project site, said location shall be reviewed and approved by the Director of Planning and Zoning and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.

- ADM 10. Cause No Disturbance. The owner shall monitor outdoor parking areas, walkways, and adjoining properties and shall take all necessary measures to ensure that customers do not loiter, create noise, litter, or cause any disturbances while on-site. The owner and operator shall ensure that at closing time, all customers leave the property promptly and that the property is clean and secure before the owner / operator leaves the premises. The Police Chief, based upon complaints and/or other cause, may require on-site security officers to ensure compliance with all City, State, and Federal laws and conditions of approval. Failure to comply with these conditions may result in revocation of this permit, temporary business closure or criminal prosecution.
- ADM 11. Comply with City Noise Ordinance. This use shall comply with the provisions of Section 11.74 Noise Ordinance of the Palm Springs Municipal Code. Violations may result in revocation of this Conditional Use Permit.
- ADM 12. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers.

#### **ENVIRONMENTAL ASSESSMENT CONDITIONS**

- ENV 1. Tribal Habitat Conservation Plan (THCP). Prior to issuance of grading permit, the applicant shall provide verification to the City that the has been paid to the Agua Caliente Band of Cahuilla Indians in accordance with the Tribal Habitat Conservation Plan.
- ENV 2. Notice of Exemption. The project is exempt from the California Environmental Quality Act (CEQA); therefore, an administrative fee of \$64 shall be submitted by the applicant in the form of a money order or a cashier's check payable to the Riverside County Clerk within two business days of the Commission's final action on the project. This fee shall be submitted by the City to the County Clerk with the Notice of Exemption. Action on this application shall not be considered final until such fee is paid (projects that are Categorically Exempt from CEQA).

#### **PLANNING DEPARTMENT CONDITIONS**

- PLN 1. Outdoor Lighting Conformance. Exterior lighting plans, including a photometric site plan showing the project's conformance with Section 93.21.00 Outdoor Lighting Standards of the Palm Springs Zoning ordinance, shall be submitted for approval by the Department of Planning prior to issuance of a building permit. Manufacturer's cut sheets of all exterior lighting on the building and in the landscaping shall be included. If lights are proposed to be mounted on buildings, down-lights shall be utilized. There shall be no

footcandle spill onto adjacent streets or properties from the subject use. No lighting of hillsides is permitted.

- PLN 2. Water Efficient Landscaping Conformance. The project is subject to the Water Efficient Landscape Ordinance (Chapter 8.60.00) of the Palm Springs Municipal Code and any state water efficiency ordinances. The applicant shall submit a landscape and irrigation plan to the Director of Planning for review and approval prior to the issuance of a building permit. Landscape plans shall be wet stamped and approved by the Riverside County Agricultural Commissioner's Office prior to submittal. Prior to submittal to the City, landscape plans shall also be certified by the Desert Water Agency that they are in conformance with the State Water Efficient Landscape Ordinance. Refer to Chapter 8.60 of the Municipal Code for specific requirements.
- PLN 3. Sign Applications Required. No signs are approved by this action. Separate approval and permits shall be required for all signs in accordance with Zoning Ordinance Section 93.20.00.
- PLN 4. Flat Roof Requirements. Roof materials on flat roofs must conform to California Title 24 thermal standards for "Cool Roofs". Such roofs must have a minimum initial thermal emittance of 0.75 and minimum initial solar reflectance of 0.70. Only matte (non-specular) roofing is allowed in colors such as off-white, beige or tan. Bright white should be avoided where possible."
- PLN 5. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned.
- PLN 6. Screen Roof-mounted Equipment. All roof mounted mechanical equipment shall be screened per the requirements of Section 93.03.00 of the Zoning Ordinance.
- PLN 7. Surface Mounted Downspouts Prohibited. No exterior downspouts shall be permitted on any facade on the proposed building(s) that are visible from adjacent streets or residential and commercial areas.
- PLN 8. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 9. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 10. No off-site Parking. Vehicles associated with the operation of the proposed development including company vehicles or employees vehicles shall not be permitted to park off the proposed building site unless a parking management plan has been approved.

PLN 11. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level measured at property lines shall not exceed street background noise normally occurring at the site location.

### **POLICE DEPARTMENT CONDITIONS**

POL 1. Developer shall comply with Section II of Chapter 8.04 "Building Security Codes" of the Palm Springs Municipal Code.

### **BUILDING DEPARTMENT CONDITIONS**

BLD 1. Prior to any construction on-site, all appropriate permits must be secured.

### **ENGINEERING DEPARTMENT CONDITIONS**

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer.

#### **STREETS**

ENG 1. Any improvements within the public right-of-way require a City of Palm Springs Encroachment Permit and/or a copy of an approved Caltrans encroachment permit (for work on Highway 111).

#### **E. PALM CANYON DRIVE (STATE HIGHWAY 111)**

ENG 2. All broken or off grade street improvements shall be repaired or replaced.

#### **MATTHEW DRIVE**

ENG 3. All broken or off grade street improvements shall be repaired or replaced.

#### **ON-SITE**

ENG 4. Nothing shall be constructed or planted in the corner cut-off area of any on-site intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance in accordance with City of Palm Springs Zoning Code Section 93.02.00, D.

ENG 5. The minimum pavement section for all on-site drive aisles and parking spaces shall be 2½ inches asphalt concrete pavement over 4 inches crushed miscellaneous base with a minimum subgrade of 24 inches at 95% relative compaction, or equal. If an alternative pavement section is proposed, the

proposed pavement section shall be designed by a California registered Geotechnical Engineer using "R" values from the project site and submitted to the City Engineer for approval.

## SANITARY SEWER

ENG 6. All sanitary facilities shall be connected to the public sewer system. The existing sewer service to the property shall be used for new sanitary facilities. New laterals shall not be connected at manholes.

## GRADING

ENG 7. Submit a Precise Grading and Paving Plan prepared by a California registered Civil engineer to the Engineering Division for review and approval. The Precise Grading and Paving Plan shall be approved by the City Engineer prior to issuance of grading permit.

- a. A Fugitive Dust Control Plan shall be prepared by the applicant and/or its grading contractor and submitted to the Engineering Division for review and approval. The applicant and/or its grading contractor shall be required to comply with Chapter 8.50 of the City of Palm Springs Municipal Code, and shall be required to utilize one or more "Coachella Valley Best Available Control Measures" as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met. The applicant's or its contractor's Fugitive Dust Control Plan shall be prepared by staff that has completed the South Coast Air Quality Management District (AQMD) Coachella Valley Fugitive Dust Control Class. The applicant and/or its grading contractor shall provide the Engineering Division with current and valid Certificate(s) of Completion from AQMD for staff that have completed the required training. For information on attending a Fugitive Dust Control Class and information on the Coachella Valley Fugitive Dust Control Handbook and related "PM10" Dust Control issues, please contact AQMD at (909) 396-3752, or at <http://www.AQMD.gov>. A Fugitive Dust Control Plan, in conformance with the Coachella Valley Fugitive Dust Control Handbook, shall be submitted to and approved by the Engineering Division prior to approval of the Precise Grading and Paving Plan.
- b. The first submittal of the Precise Grading and Paving Plan shall include the following information: a copy of final approved conformed copy of Conditions of Approval; a copy of a final approved conformed copy of the Site Plan; a copy of current Title Report; a copy of Soils Report; and a copy of the project-specific Water Quality Management Plan/Report.

ENG 8. Prior to approval of the Precise Grading and Paving Plan, the applicant shall obtain written approval to proceed with construction from the Agua Caliente

Band of Cahuilla Indians, Tribal Historic Preservation Officer or Tribal Archaeologist. The applicant shall contact the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760) 699-6800, to determine their requirements, if any, associated with grading or other construction. The applicant is advised to contact the Tribal Historic Preservation Officer or Tribal Archaeologist as early as possible. If required, it is the responsibility of the applicant to coordinate scheduling of Tribal monitors during grading or other construction, and to arrange payment of any required fees associated with Tribal monitoring.

- ENG 9. In accordance with an approved PM-10 Dust Control Plan, perimeter fencing shall be installed. Fencing shall have screening that is tan in color; green screening will not be allowed. Perimeter fencing shall be installed after issuance of Grading Permit, and immediately prior to commencement of grading operations.
- ENG 10. Perimeter fence screening shall be appropriately maintained, as required by the City Engineer. Cuts (vents) made into the perimeter fence screening shall not be allowed. Perimeter fencing shall be adequately anchored into the ground to resist wind loading.
- ENG 11. Within 10 days of ceasing all construction activity and when construction activities are not scheduled to occur for at least 30 days, the disturbed areas on-site shall be permanently stabilized, in accordance with Palm Springs Municipal Code Section 8.50.022. Following stabilization of all disturbed areas, perimeter fencing shall be removed, as required by the City Engineer.
- ENG 12. Prior to issuance of grading permit, the applicant shall provide verification to the City that the fee has been paid to the Agua Caliente Band of Cahuilla Indians in accordance with the Tribal Habitat Conservation Plan (THCP).
- ENG 13. A Geotechnical/Soils Report prepared by a California registered Geotechnical Engineer shall be required for and incorporated as an integral part of the grading plan for the proposed development. A copy of the Geotechnical/Soils Report shall be submitted to the Engineering Division with the first submittal of a grading plan.
- ENG 14. The applicant shall provide all necessary geotechnical/soils inspections and testing in accordance with the Geotechnical/Soils Report prepared for the project. All backfill, compaction, and other earthwork shown on the approved grading plan shall be certified by a California registered geotechnical or civil engineer, certifying that all grading was performed in accordance with the Geotechnical/Soils Report prepared for the project. Documentation of all compaction and other soils testing are to be provided. No certificate of occupancy will be issued until the required certification is provided to the City Engineer.

- ENG 15. The applicant shall provide pad elevation certifications for all building pads in conformance with the approved grading plan, to the Engineering Division prior to construction of any building foundation.
- ENG 16. In cooperation with the Riverside County Agricultural Commissioner and the California Department of Food and Agriculture Red Imported Fire Ant Project, applicants for grading permits involving a grading plan and involving the export of soil will be required to present a clearance document from a Department of Food and Agriculture representative in the form of an approved "Notification of Intent To Move Soil From or Within Quarantined Areas of Orange, Riverside, and Los Angeles Counties" (RIFA Form CA-1) prior to approval of the Grading Plan. The California Department of Food and Agriculture office is located at 73-710 Fred Waring Drive, Palm Desert (Phone: 760-776-8208).

#### WATER QUALITY MANAGEMENT PLAN

- ENG 17. A Final Project-Specific Water Quality Management Plan (WQMP) shall be submitted to and approved by the City Engineer prior to issuance of a grading or building permit. The WQMP shall address the implementation of operational Best Management Practices (BMP's) necessary to accommodate nuisance water and storm water runoff from the site. Direct release of nuisance water to the adjacent property or public streets is prohibited. Construction of operational BMP's shall be incorporated into the Precise Grading and Paving Plan.
- ENG 18. Prior to issuance of any grading or building permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument on a standardized form to inform future property owners of the requirement to implement the approved Final Project-Specific WQMP. Other alternative instruments for requiring implementation of the approved Final Project-Specific WQMP include: requiring the implementation of the Final Project-Specific WQMP in Commercial Shopping Center Covenants, Conditions, and Restrictions (CC&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the Final Project-Specific WQMP; or equivalent. Alternative instruments must be approved by the City Engineer prior to the issuance of any grading or building permits.
- ENG 19. Prior to issuance of certificate of occupancy or final City approvals, the applicant shall: (a) demonstrate that all structural BMP's have been constructed and installed in conformance with approved plans and specifications; (b) demonstrate that applicant is prepared to implement all non-structural BMP's included in the approved Final Project-Specific WQMP, conditions of approval, or grading/building permit conditions; and (c)

demonstrate that an adequate number of copies of the approved Final Project-Specific WQMP are available for the future owners (where applicable).

## DRAINAGE

- ENG 20. The applicant shall provide a summary of existing and proposed drainage to Caltrans District 8, as requested by letter from Caltrans dated September 1, 2009.
- ENG 21. All stormwater runoff across the property shall be accepted and conveyed in a manner acceptable to the City Engineer and released to an approved drainage system. Stormwater runoff may not be released directly to the adjacent streets without first intercepting and treating with approved Best Management Practices (BMP's).
- ENG 22. A portion of the property is located within a special flood hazard area (SFHA), identified by Zone A0 (Depth = 2 feet) as shown on the current Federal Insurance Rate Map (FIRM) for the City of Palm Springs, California, Riverside County, Community Panel Number 06065C1586G, dated August 28, 2008, and is subject to the provisions of Chapter 8.68 *et. seq.* ("Flood Damage Prevention") of the Palm Springs Municipal Code, and applicable state and federal laws and regulations. The applicant shall comply with all applicable local, state and federal laws and regulations associated with development occurring within a SFHA. Note: Chapter 8.68 *et. seq.* ("Flood Damage Prevention") of the Palm Springs Municipal Code only applies if a "structure" (as defined in the Code) is proposed to be constructed within the SFHA. The applicant shall provide an exhibit of the site plan showing the limits of the SFHA extending across the property.
- ENG 23. This project will be required to install measures in accordance with applicable National Pollution Discharge Elimination System (NPDES) Best Management Practices (BMP's) included as part of the NPDES Permit issued for the Whitewater River Region from the Colorado River Basin Regional Water Quality Control Board (RWQCB). The applicant is advised that installation of BMP's, including mechanical or other means for pre-treating stormwater runoff, will be required by regulations imposed by the RWQCB. It shall be the applicant's responsibility to design and install appropriate BMP's, in accordance with the NPDES Permit, that effectively intercept and pre-treat stormwater runoff from the project site, prior to release to the City's municipal separate storm sewer system ("MS4"), to the satisfaction of the City Engineer and the RWQCB. Such measures shall be designed and installed on-site; and provisions for perpetual maintenance of the measures shall be provided to the satisfaction of the City Engineer, including provisions in Covenants, Conditions, and Restrictions (CC&R's) required for the development (if any).

ENG 24. The project is subject to flood control and drainage implementation fees. The acreage drainage fee at the present time is \$7,522.00 per acre per Resolution No. 15189. Fees shall be paid prior to issuance of a building permit.

#### GENERAL

- ENG 25. Any utility trenches or other excavations within existing asphalt concrete pavement of off-site streets required by the proposed development shall be backfilled and repaired in accordance with City of Palm Springs Standard Drawing No. 115. The developer shall be responsible for removing, grinding, paving and/or overlaying existing asphalt concrete pavement of off-site streets as required by and at the discretion of the City Engineer, including additional pavement repairs to pavement repairs made by utility companies for utilities installed for the benefit of the proposed development (i.e. Desert Water Agency, Southern California Edison, Southern California Gas Company, Time Warner, Verizon, etc.). Multiple excavations, trenches, and other street cuts within existing asphalt concrete pavement of off-site streets required by the proposed development may require complete grinding and asphalt concrete overlay of the affected off-site streets, at the discretion of the City Engineer. The pavement condition of the existing off-site streets shall be returned to a condition equal to or better than existed prior to construction of the proposed development.
- ENG 26. All proposed utility lines shall be installed underground.
- ENG 27. The record property owner(s) shall enter into a covenant agreeing to underground all of the existing overhead utilities required by the Municipal Code in the future upon request of the City of Palm Springs City Engineer at such time as deemed necessary. The covenant shall be executed and notarized by the property owner(s) and submitted to the City Engineer prior to issuance of a grading permit. A current title report or a copy of a current tax bill and a copy of a vesting grant deed shall be provided to verify current property ownership. A covenant preparation fee in effect at the time that the covenant is submitted shall be paid by the applicant prior to issuance of any grading or building permits.
- ENG 28. All existing utilities shall be shown on the improvement plans required for the project. The existing and proposed service laterals shall be shown from the main line to the property line.
- ENG 29. Upon approval of any improvement plan by the City Engineer, the improvement plan shall be provided to the City in digital format, consisting of a DWG (AutoCAD 2004 drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variation of

the type and format of the digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.

- ENG 30. The original improvement plans prepared for the proposed development and approved by the City Engineer shall be documented with record drawing "as-built" information and returned to the Engineering Division prior to issuance of a final certificate of occupancy. Any modifications or changes to approved improvement plans shall be submitted to the City Engineer for approval prior to construction.
- ENG 31. Nothing shall be constructed or planted in the corner cut-off area of any intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance per City of Palm Springs Zoning Code Section 93.02.00, D.
- ENG 32. All proposed trees within the public right-of-way and within 10 feet of the public sidewalk and/or curb shall have City approved deep root barriers installed in accordance with City of Palm Springs Standard Drawing No. 904.

#### TRAFFIC

- ENG 33. All damaged, destroyed, or modified pavement legends, traffic control devices, signing, striping, and street lights, associated with the proposed development shall be replaced as required by the City Engineer prior to issuance of a Certificate of Occupancy.
- ENG 34. Construction signing, lighting and barricading shall be provided during all phases of construction as required by City Standards or as directed by the City Engineer. As a minimum, all construction signing, lighting and barricading shall be in accordance with Part 6 "Temporary Traffic Control" of the California Manual on Uniform Traffic Control Devices for Streets and Highways, dated September 26, 2006, or subsequent editions in force at the time of construction.
- ENG 35. This property is subject to the Transportation Uniform Mitigation Fee which shall be paid prior to issuance of building permit.

#### FIRE DEPARTMENT CONDITIONS

- FID 1. These conditions are subject to final plan check and review. Initial fire department conditions have been determined on the site plan dated 3/1/2010. The submitted plans do not provide enough detail. Additional requirements may be required at that time based on revisions to site plans.

- FID 2. Fire Department Conditions were based on the 2007 California Fire Code. Four complete sets of plans for private fire service mains, fire alarm, or fire sprinkler systems must be submitted at time of the building plan submittal.
- FID 3. **CFC Chapter 22 Motor Fuel-Dispensing Facilities:** Applicant shall adhere to the requirements stated in Chapter 22 of the California Fire Code as they apply to Motor Fuel-Dispensing Facilities.
- FID 4. **NFPA 30A Motor Fuel Dispensing Facilities and Repair Garages, 2008 Edition:** Applicant shall adhere to the requirements stated in NFPA 30A as they apply to Motor Fuel-Dispensing Facilities.
- FID 5. **Access During Construction (CFC 503):** Access for firefighting equipment shall be provided to the immediate job site at the start of construction and maintained until all construction is complete. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13'6". Fire Department access roads shall have an all weather driving surface and support a minimum weight of 73,000 lbs.
- FID 6. **Buildings and Facilities (CFC 503.1.1):** Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.
- FID 7. **Premises Identification (CFC 505.1):** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4" high with a minimum stroke width of 0.5".
- FID 8. **Operational Fire Hydrant(s) (CFC 508.1, 508.5.1 & 1412.1):** A new commercial fire hydrant shall be installed within 250 feet of all combustible construction. It shall be installed and made serviceable prior to and during construction. No landscape planting, walls, or fencing is permitted within 3 feet of fire hydrants, except ground cover plantings.
- FID 9. **Fire Flow (CFC 508.3):** Fire flow requirements for buildings or portions of buildings and facilities are estimated to be 1,500 GPM. The fire flow is based on Appendix B of the 2007 CFC.
- FID 10. **Fire Alarm System:** Fire alarm system is required and installation shall comply with the requirements of NFPA 72, 2002 Edition.

- FID 11. Portable Fire Extinguisher (CFC 906.1):** Portable fire extinguishers shall be installed. Provide one 2-A:20-B:C portable fire extinguisher for every 75 feet of floor or grade travel distance for normal hazards. Portable fire extinguishers shall not be obstructed or obscured from view. Portable fire extinguishers shall be installed so that the top is not more than 5 feet above the floor.
- FID 12. Gasoline Vapor Recovery System:** Installation or modifications of Phase II EVR and In-Station Diagnostic systems must comply with all applicable laws and regulations including the Palm Springs Fire Department requirements, NFPA 30A and California Code of Regulations, Title 19, Chapter 11.5, Gasoline Vapor Control Systems.
1. The vapor unit shall be listed by the California State Fire Marshal's Office.
  2. The vapor unit and all associated pieces shall be individually, or as a whole, tested and listed by a third party testing laboratory for the intended use in a specified manner.
  3. Installation contractors must be licensed by the International Code Council and by the vapor recovery system manufactures.
  4. The vapor unit shall be located at or above grade.
  5. Sources of ignition shall be located not less than 50 feet from fuel-transfer and not less than 18 inches above tank fill openings and tops of dispenser islands. The vapor unit shall be located not less than 10 feet from the nearest building or lot line of a property that can be built upon.  
Exception: Where distances in this requirement are unable to be met, the following are acceptable ways to meet a minimum level of fire protection.
    1. Install an approved, fire-resistant or non-combustible enclosure.\*  
Enclosure must extend 18 inches above the equipment. Adequate ventilation is required to prevent vapor pocketing.
    2. Install an approved water-spray system. \*\*
  6. The vapor unit shall be located at least 20 feet from any dispensing devices.
  7. The vapor unit shall be protected against physical damage (via guard-posts, guardrails, or approved fire-resistant enclosure).
  8. The vapor unit shall be securely mounted on concrete, masonry or structural steel supports (steel supports on noncombustible foundation).
  9. Vents from the vapor unit must be 12 feet above ground level. Vent outlets shall be located such that flammable vapors will not accumulate or travel to an unsafe location or enter buildings.
  10. Underground piping affected by the installation of the vapor unit shall be tested according to the California Fire Code and the piping manufacturer's instructions.
  11. A "No Smoking" sign shall be posted at the unit.

\* Non-combustible is defined in section 202 of the 2007 CFC. A simple benchmark –enclosure material must meet ASTM 136. The entire wall must be non-combustible, e.g. no wood framing and a non-combustible exterior. If this option is used, plan submittal to the building department is required.

**END OF CONDITIONS**



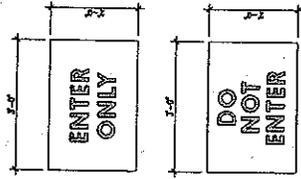


# EXTERIOR FINISH SCHEDULE

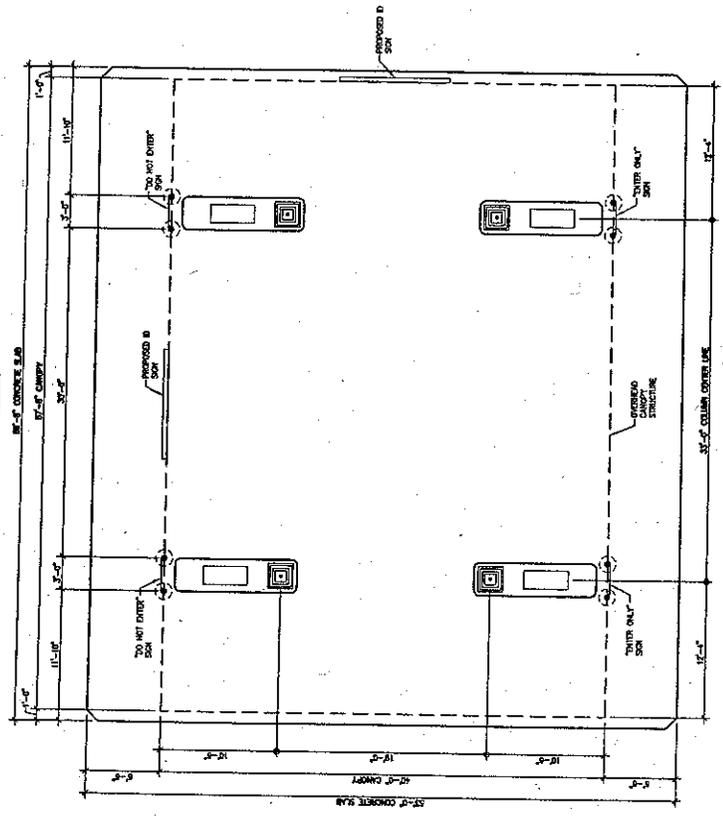
NO.	MATERIAL / FINISH / COLOR
01	METAL FLASHING
02	STAINED STONE GRANITE
03	TEXTURED ALUMINUM CHANNEL LETTERS SIGNAGE (NOT PAINT OR GILD FINISH)
04	TEXTURED COATINGS OF AMERICA MANUFACTURER, TC-600-CT, APPLIED AT 45-50 SQ. FT. PER GALLON
05	STEEL ISLAND FORM
06	DISPENSER TOPPER
07	PREFINISHED ALUM. PANEL
08	6" DIA. STEEL BOLLARD
09	DIRECTIONAL SIGNAGE

**LEGEND:**

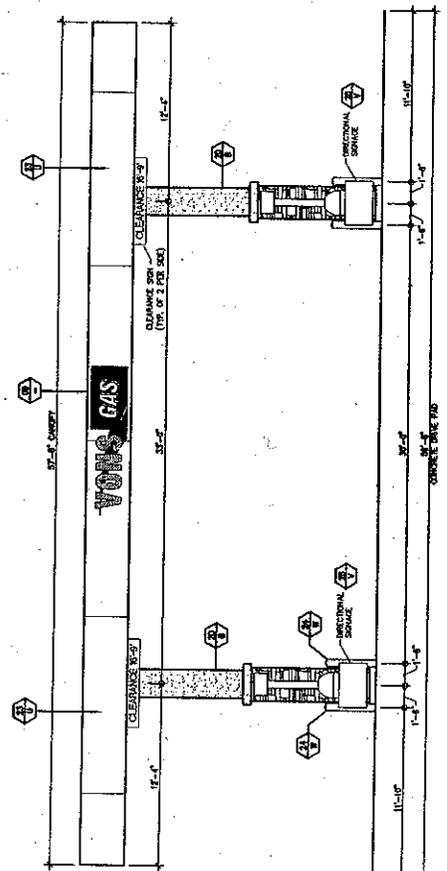
B	SEMI-GLOSS PNC-83 - "SHERVY BEIGE"
C	GLASS ENAMEL #65172 - "BIRCHWOOD TAPE"
D	CALUMET STONE - TEL. (800) 255-1727
E	ALUMINUM SIGNAGE
F	ALUMINUM SIGNAGE
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Z	ALUMINUM SIGNAGE



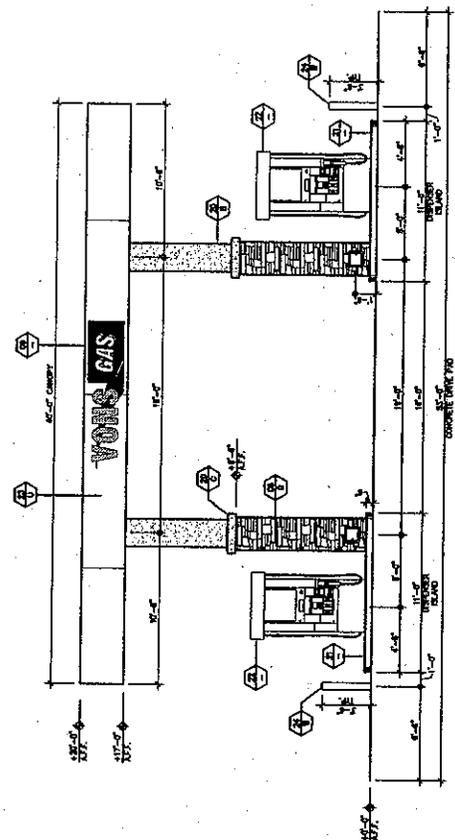
**DIRECTIONAL SIGN**  
SCALE: NONE



**FLOOR PLAN**  
SCALE: 3/16" = 1'-0"



**NORTH ELEVATION**  
SCALE: 1/4" = 1'-0"



**EAST ELEVATION**  
SCALE: 1/4" = 1'-0"

DATE: \_\_\_\_\_  
DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
SCALE: \_\_\_\_\_

**VONS**  
A GREAT SIGNAGE COMPANY  
10000 W. CENTRAL EXPRESSWAY  
DALLAS, TEXAS 75243  
TEL: (214) 416-8000  
FAX: (214) 416-8001

**Travis Companies, Inc.**  
10000 W. CENTRAL EXPRESSWAY  
DALLAS, TEXAS 75243  
TEL: (214) 416-8000  
FAX: (214) 416-8001

DATE: \_\_\_\_\_  
DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
SCALE: \_\_\_\_\_

**CANOPY PLAN**  
VONS #2384 FUELING FACILITY  
4701 E. PALM CANYON DRIVE  
PALM SPRINGS, CALIFORNIA 92264

**A0.3**  
DRAWING NUMBER  
6/14/2010  
CUP PKG. NO.: 2

**David Newell**

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**From:** Sandi Clifford [sandi\_clifford@yahoo.com]  
**Sent:** Monday, April 26, 2010 1:18 PM  
**To:** David Newell  
**Subject:** Vons filling station

Sandi Clifford  
3052 Karen Avenue  
Long Beach, CA 90808  
[sandi\\_clifford@yahoo.com](mailto:sandi_clifford@yahoo.com)

Mr. David Mewell  
Palm Springs Planning Commission

April 26, 2010

Dear Mr. Newell,

My husband and I own a second home in the Wavely Park condominium community on Gene Autry Trail near South Palm Canyon Drive, and we just became aware of the proposal by Vons to add a gas station at Hwy.111 and Matthews Street. I would like to express my strong opposition to this plan.

My concerns with this proposal include the pollution of a gas station, increased traffic, and the drop in property values that may ensue from both of the previous issues. In addition to the air pollution caused by idling cars and escaping fumes, there is the danger of fuel leaking into the ground. Also, a minimart is likely to have a lot of litter around it, as people can be careless with wrappers, etc. Increased traffic is also a major concern. Our condominium unit backs up to Gene Autry Trail, so any increase in traffic (and the accompanying noise) will definitely have an adverse affect on our property values, not to mention the peace and enjoyment we get from our second home. I would also hate to have our view of the hills destroyed by the garish sign of a gas station, not to mention the building itself.

I also question the wisdom of yet another new construction project with all the empty storefronts in the Rimrock shopping center (and elsewhere in town). I understand that a gas station has different building requirements than a regular store, but there are vacant gas stations around town— why can't one of those be refurbished instead? Not only would it be a "greener" solution, but it would remove the eyesore of a vacant gas station. A new building was recently added in the parking lot of Rimrock Center – months after its completion, and it remains empty. It seems ridiculous to add yet another building, especially one that brings the toxicity of a fuelling station.

I hope you and the planning commission will consider the feelings of the neighbors of Rimrock when you make your decision on this project. Thank you for your time in reading this.  
Sincerely,

Sandi Clifford  
4790 N. Winners Circle  
Palm Springs, CA 92264

**RECEIVED**

APR 26 2010

48

PLANNING SERVICES  
DEPARTMENT

5.1241 CUP

**CITY OF PALM SPRINGS  
PUBLIC HEARING NOTIFICATION**



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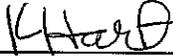
City Council  
Meeting Date: July 21, 2010  
Subject: Travis Companies, Inc  
Case 5.1241 CUP – Gas Service Station at Rimrock Palza

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**AFFIDAVIT OF PUBLICATION**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun on July 10, 2010.

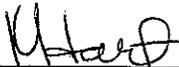
I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Kathie Hart, CMC  
Chief Deputy City Clerk

**AFFIDAVIT OF POSTING**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board and in the Office of the City Clerk on July 8, 2010.

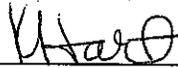
I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Kathie Hart, CMC  
Chief Deputy City Clerk

**AFFIDAVIT OF MAILING**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on July 8, 2010, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California. (128 notices)

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Kathie Hart, CMC  
Chief Deputy City Clerk

NOTICE OF PUBLIC HEARING  
CITY COUNCIL  
CITY OF PALM SPRINGS

CASE NO. 5.1241 CONDITIONAL USE PERMIT & 6.521 VARIANCE  
TRAVIS COMPANIES, INC.  
4701 EAST PALM CANYON DRIVE

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of Wednesday, July 21, 2010. The City Council meeting begins at 6:00 p.m. in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider an appeal of the Planning Commission's June 23, 2010, denial of a Conditional Use Permit and Variance application for the construction and operation of a gasoline service station within the Rimrock Plaza at the southeast corner of East Palm Canyon Drive (HWY 111) and Matthew Drive (4701 East Palm Canyon Drive), Zone W-C-D-N. The application included a Variance to Section 94.02.00(H)(2) of the Zoning Code to allow a reduced setback from a residential zone.

**ENVIRONMENTAL DETERMINATION:** This project is categorically exempt from environmental review pursuant to Section 15332 (Class 32 – In-Fill Development Projects) of the California Environmental Quality Act (CEQA).

**REVIEW OF PROJECT INFORMATION:** The proposed application, site plan and related documents are available for public review at City Hall between the hours of 8:00 a.m. to 11:00 a.m. and 2:00 p.m. to 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

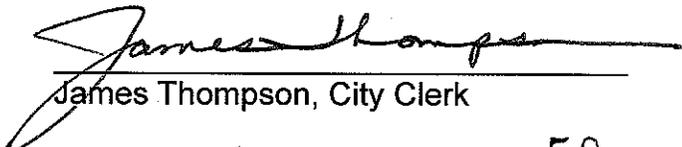
**COMMENT ON THIS APPLICATION:** Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the Planning Commission by letter (for mail or hand delivery) to:

James Thompson, City Clerk  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior to, the public hearing. (Government Code Section 65009[b][2]).

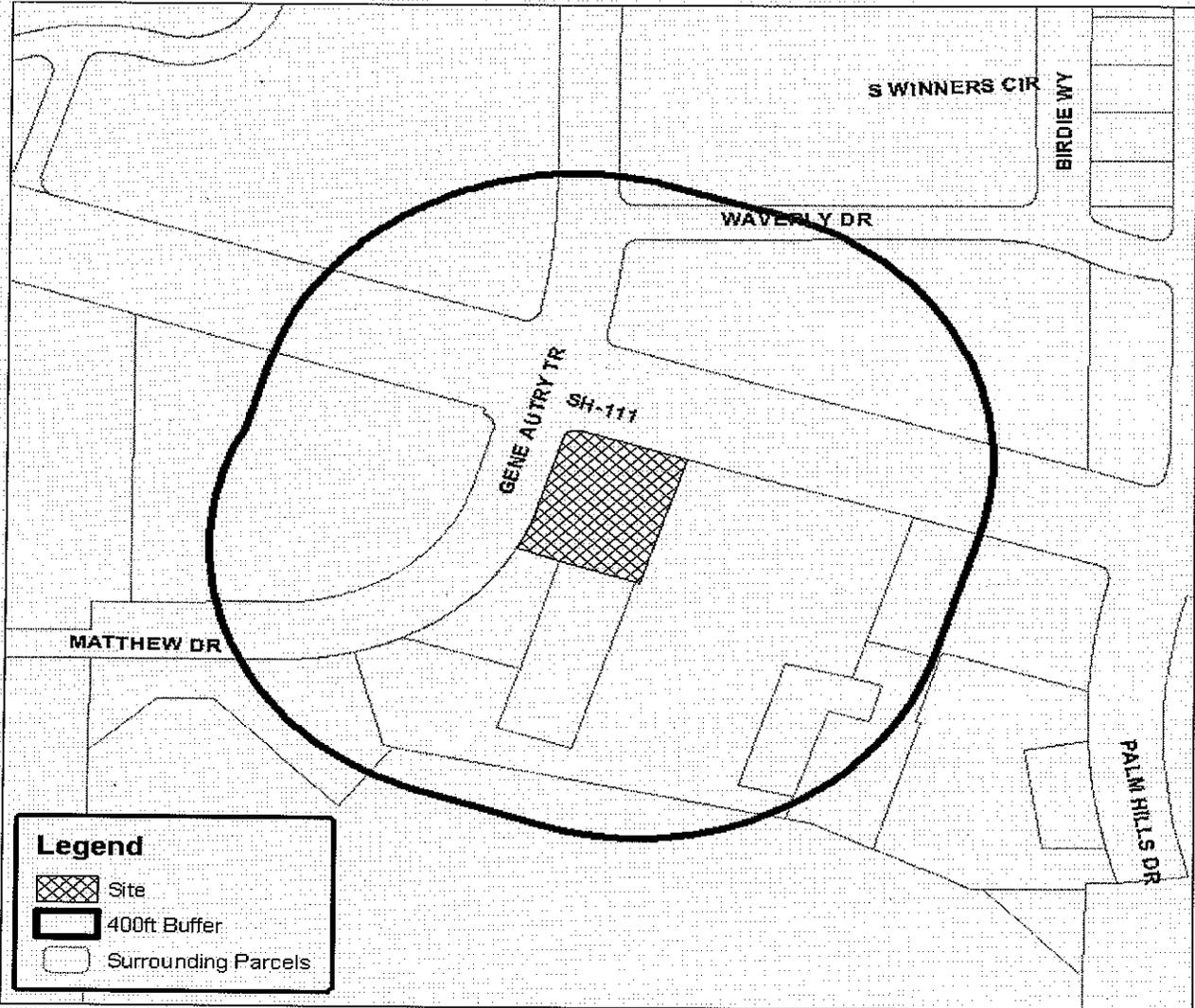
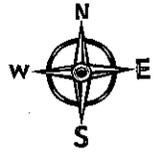
An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to David A. Newell, Planning Services Department at (760) 323-8245.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.

  
James Thompson, City Clerk



# Department of Planning Services Vicinity Map



**Legend**

-  Site
-  400ft Buffer
-  Surrounding Parcels

## CITY OF PALM SPRINGS

**CASE:** 5.1241 CUP & 6.521 VAR

**APPLICANT:** Travis Companies, Inc.

**DESCRIPTION:** A request by Travis Companies, Inc. to consider an appeal of the Planning Commission's June 23, 2010, denial of a Conditional Use Permit and Variance application for the construction and operation of a gasoline service station within the Rimrock Plaza at the southeast corner of East Palm Canyon Drive (HWY 111) and Matthew Drive (4701 East Palm Canyon Drive), Zone W-C-D-N.



# City of Palm Springs

Office of the City Clerk

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262  
Tel: (760) 323-8204 • Fax: (760) 322-8332 • Web: [www.palmspringsca.gov](http://www.palmspringsca.gov)

July 8, 2010

Ms. Claudia Salgado  
Bureau of Indian Affairs  
P. O. Box 2245  
Palm Springs, CA 92263

Dear Ms. Salgado:

RE: City Council Meeting – July 21, 2010  
Allotment Numbers for Public Hearing Notice  
Case 5.1082 AMND – PD 321, TTM 34165  
Nexus Development

The City Council of the City of Palm Springs will be conducting a to consider an appeal of the Planning Commission's June 23, 2010, denial of a Conditional Use Permit and Variance application for the construction and operation of a gasoline service station within the Rimrock Plaza at the southeast corner of East Palm Canyon Drive (HWY 111) and Matthew Drive (4701 East Palm Canyon Drive), Zone W-C-D-N.

Enclosed are copies of the public hearing notice to be forwarded to the appropriate Indian landowner(s) within the 400 ft. radius of the project location.

The allotment numbers corresponding with the APN numbers are as follows:

APN	Allotment Number
681-152-055	92C
681-372-011 thru 681-372-018	76C, 1000
681-372-024 thru 681-372-030	76C

I have enclosed these notices for distribution and your file but should you require more notices, please let me know.

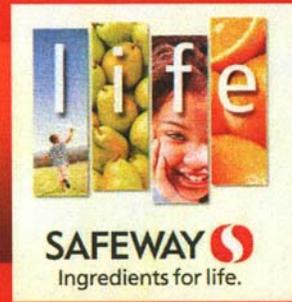
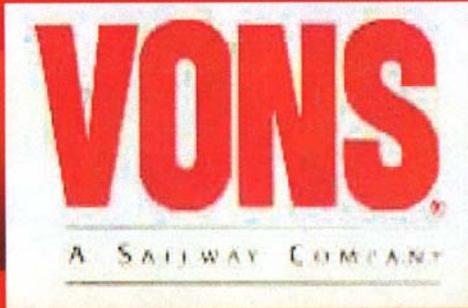
Thank you for your continuous help and cooperation. Please feel free to contact me if there are any questions or concerns, 323-8206.

Sincerely,

Kathie Hart, CMC  
Chief Deputy City Clerk

/kdh

Encl: Public Hearing Notices (10 copies)



# Palm Springs Fuel Palm Canyon & Gene Autry

ITEM 1.A.  
07/21/10

**PROPOSED VONS FUEL STATION  
PALM CANYON AND GENE AUTRY  
PALM SPRINGS, CA.**

**THE PROJECT**

To construct a 4 pump Vons fuel station and 750 SF kiosk on the undeveloped owned corner pad of the shopping center. This is Phase II of the original project which included the approximate \$3M remodel of the grocery store completed in October 2009.

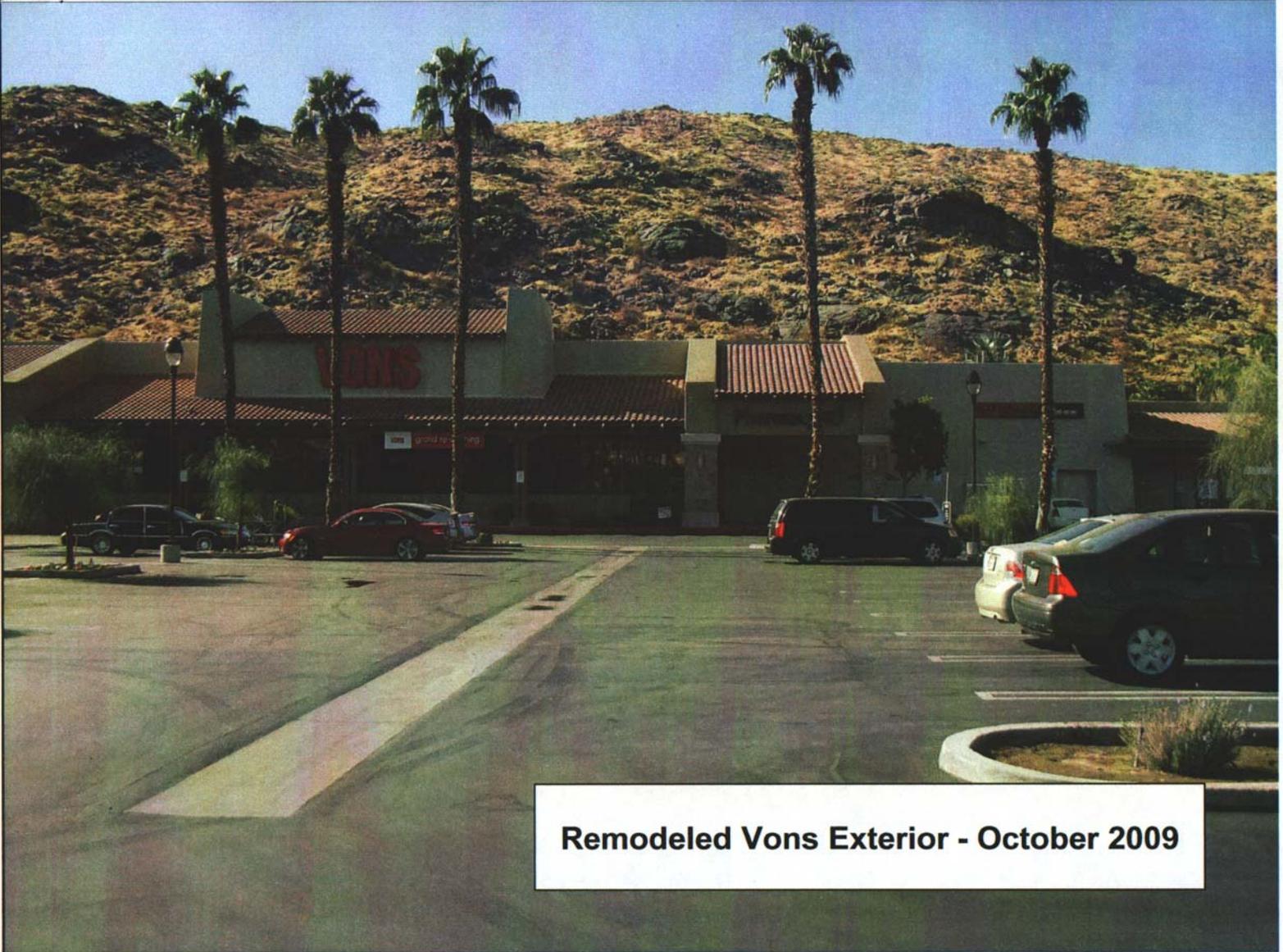
**REASON FOR APPEAL**

The internal funding for the project is time sensitive. Assurance of preservation of the capital to construct requires full entitlement in 2010.

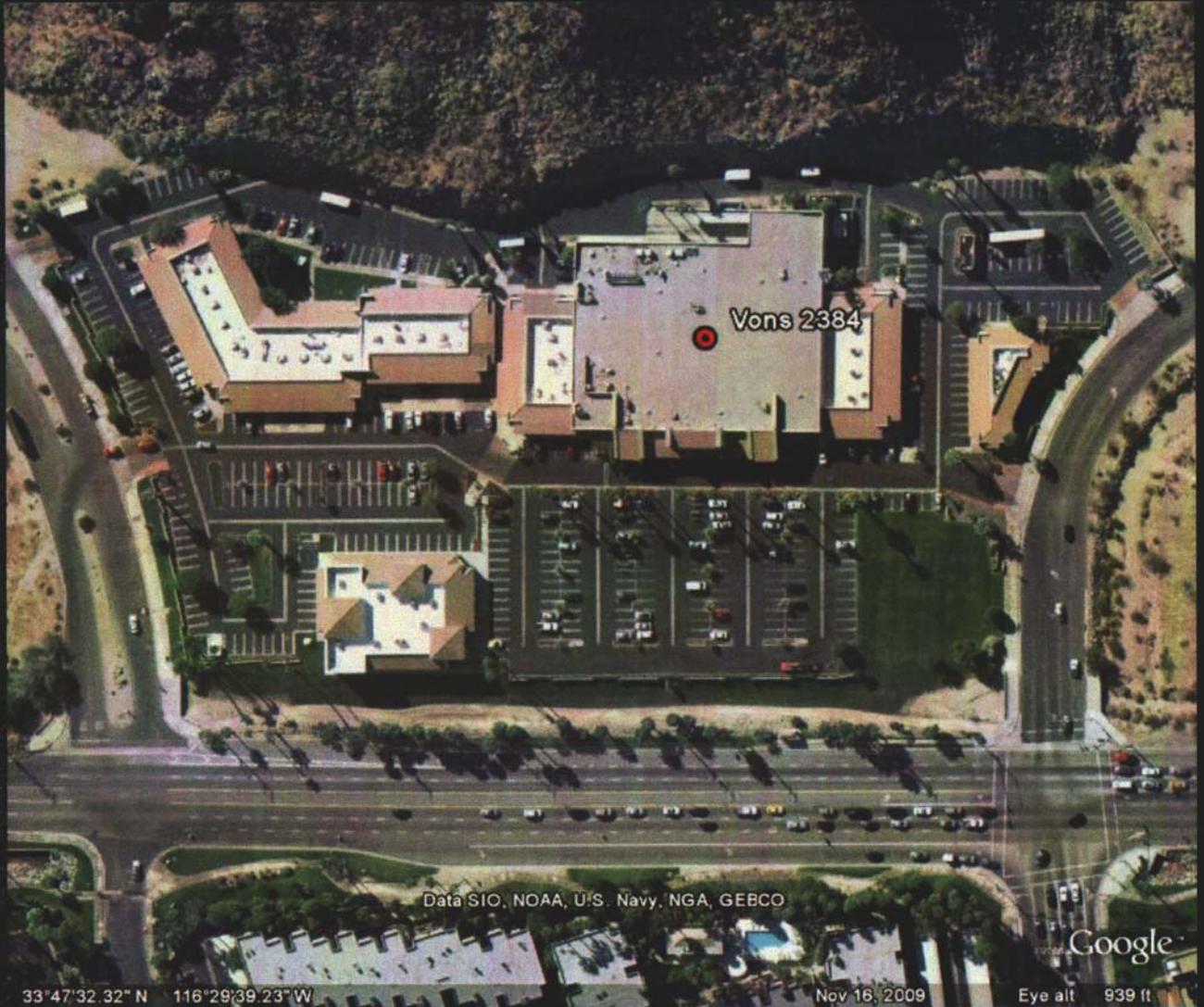
**CIRCUMSTANCES LEADING UP TO THE APPEAL**

1. The project was initially informally presented to certain members of city council and senior staff approximately two years ago. At that time we unveiled our intent to remodel the store, renovate the exterior and construct the fuel station. We asked for and received informal preliminary support for the project as a whole.
2. Based on that support Vons embarked on the planning for both projects. The entitlements for the remodel were much less comprehensive resulting in the completion of Phase I in October, 2010.
3. In September of 2010 our plans for the fuel station were taken to the Architectural Advisory Committee for their initial comments and direction. Our design plans at that time emulated that of the immediately adjacent store which had recently been approved by the AAC. Notwithstanding, we were directed that the fuel station should not follow the shopping center design, but look like a fuel station in a nostalgic sense.
4. We revised our drawings and took the project back to our internal committee for approval subsequent to budget revision.
5. In April of 2010 we took the revisions back to AAC for what we thought would be a few minor design tweaks and then approval. We were unaware of the fact that during the intervening period several members of the AAC had been replaced. The design was almost immediately rejected and we were directed to take an entirely different approach (which is pictorially described in the attached presentation).

6. Undaunted, we took the opportunity to solicit the input of the City Planning Department and revised the plans once again. We then presented the plans for to AAC for a third time. Once again the plans were deemed unacceptable and the project was denied. The reasons for the denial are addressed in detail in the attached presentation.
7. With the clock ticking on our funding and having spent 10 months in the design process with ever changing, subjective and somewhat unclear direction, we had no choice but to stop this process and take our case to the Planning Commission.
8. On June 23, 2010 our case was heard by the Planning Commission. **The City of Palm Springs Planning Department gave a presentation recommending approval of the project. A motion was made and seconded to approve the project.** It was only after discussion on the motion that the project was denied. The relevant factors both in support and leading to the denial are as follows:
  - a) Commissioner Donenfeld in support of the project stood up said he was the **only** Commissioner that attended the AAC meetings on the subject. He said that VONS had been unfairly caught up in a change in the AAC members which resulted in time consuming and costly misdirection. That VONS had complied with almost every macro design request made of them. Ten months to approve the design of a 750 SF kiosk and surrounding improvements was indeed unreasonable. He publicly offered VONS an apology on behalf of the City of Palm Springs.
  - b) One Commissioner indicated that he was concerned with the traffic circulation within the shopping center. (Circulation had been designed by traffic engineers. Palm Springs Public Works have reviewed intensively and raised no such concern.)
  - c) Another Commissioner said that irrespective of the circumstances, the Planning Commission should feel compelled to support the AAC, it being somewhat a sub-body of the Commission.Based on that, the project was denied by the Planning Commission.



**Remodeled Vons Exterior - October 2009**



33°47'32.32" N 116°29'39.23" W

Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Nov 16, 2009

Eye alt 939 ft

Google

**THE SHOPPING CENTER**



New LL  
Bldg

Fuel  
Site

**E. Palm Canyon Dr. (Hwy 111)**

Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Google

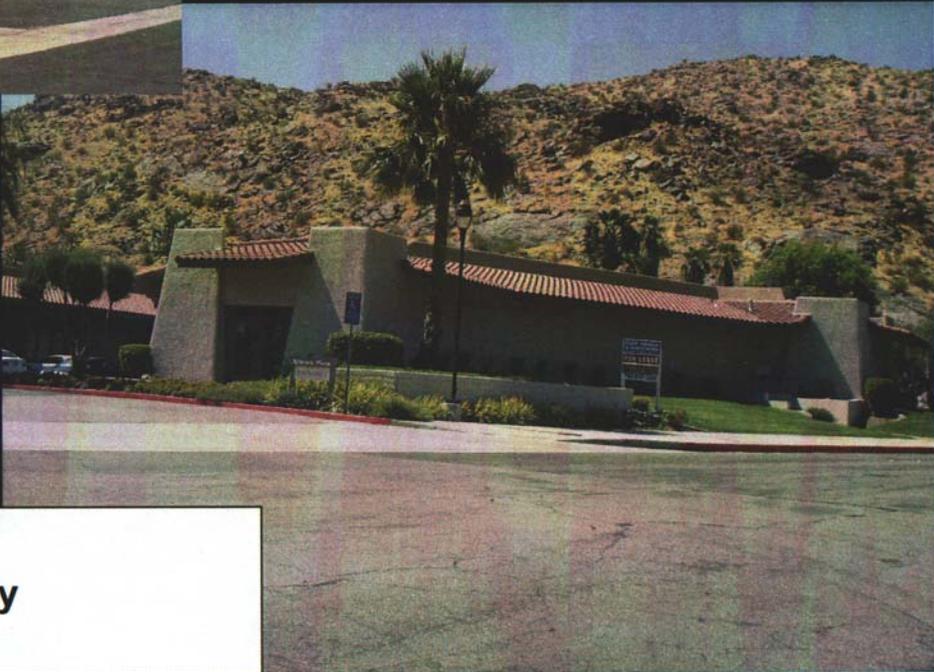
33°47'32.32" N 116°29'39.23" W

Nov 16, 2009

Eye alt 939 ft



The center has experienced serious difficulty in its leasing program. These are pictures of a few of shops that have been vacant for over a year.



**3,900 S.F. of Vacancy**

**Further vacancy on the east side of the Shopping Center**

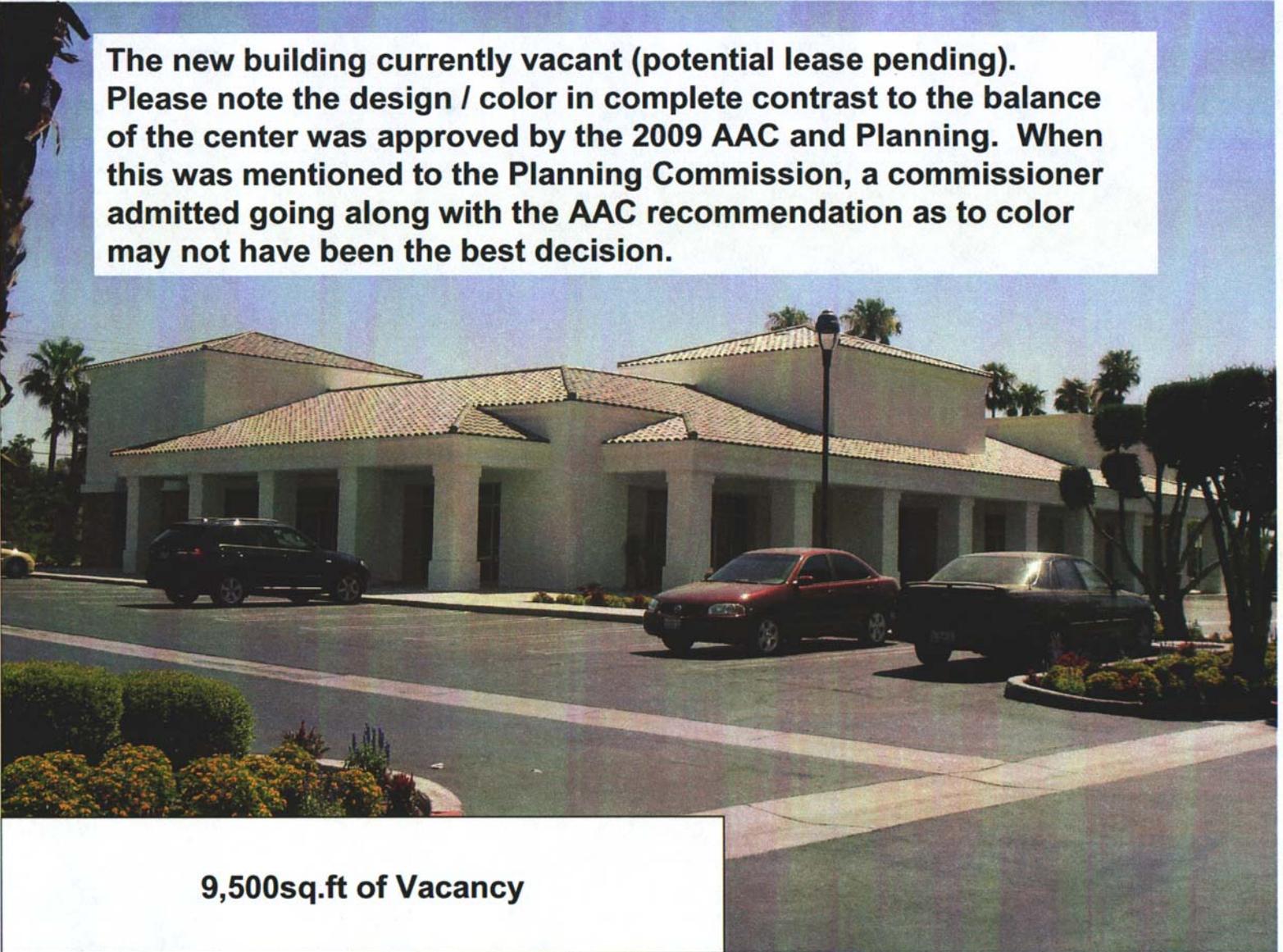
**Desert Condo** RENTALS & SALES

**3,600 S.F. of Vacancy**

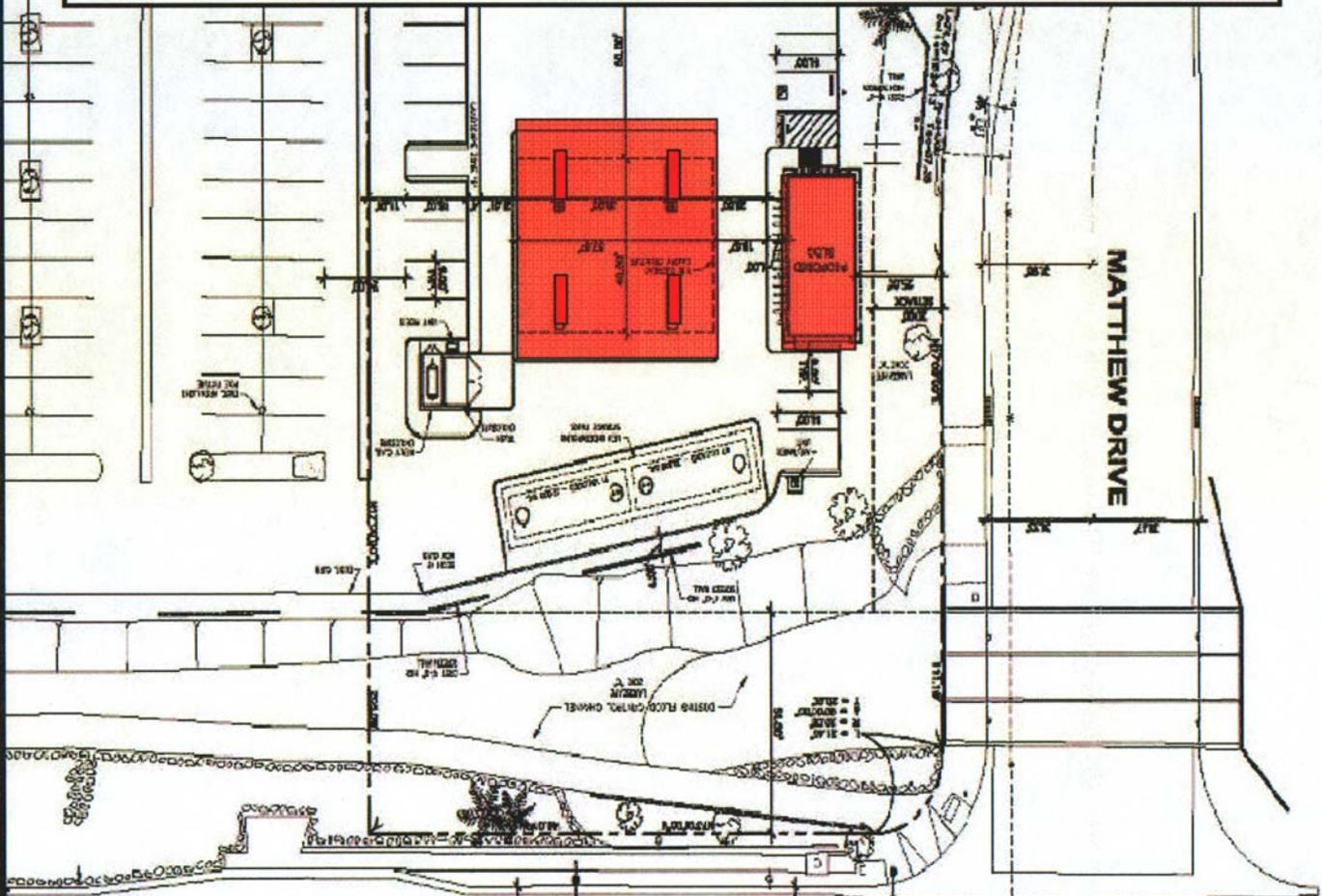


**The new building currently vacant (potential lease pending). Please note the design / color in complete contrast to the balance of the center was approved by the 2009 AAC and Planning. When this was mentioned to the Planning Commission, a commissioner admitted going along with the AAC recommendation as to color may not have been the best decision.**

**9,500sq.ft of Vacancy**



The proposed siteplan. Please note that the only enclosed structure is the kiosk which measures 750 SF or about the size of a triple car garage in a residential neighborhood.

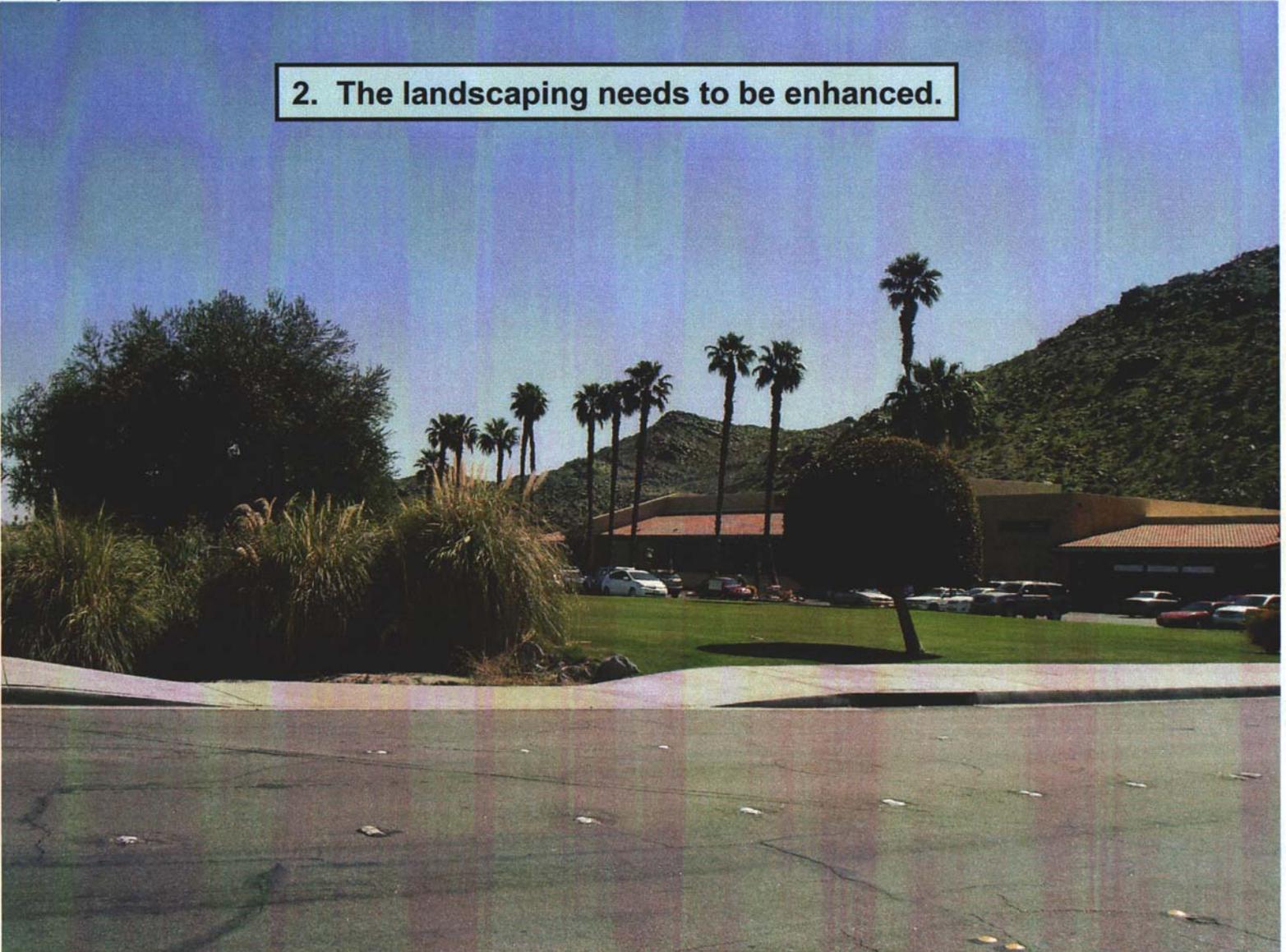


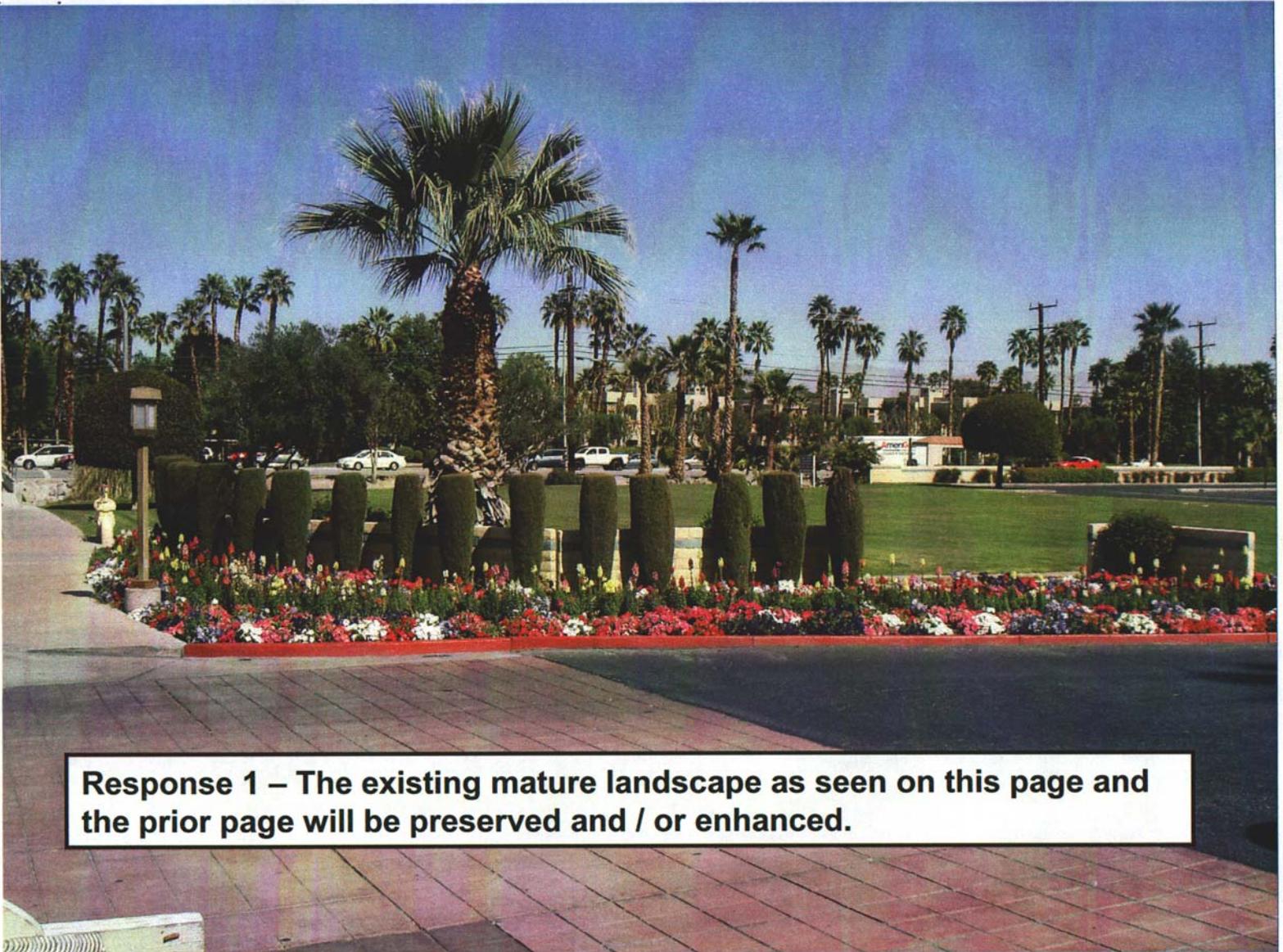
## **ARCHITECTURAL ADVISORY COMMITTEE**

**On June 21, 2010 the AAC recommended denial of the project based on 10 comments as reported by the Director of Planning Services for the City of Palm Springs. These comments are addressed in the following slides:**

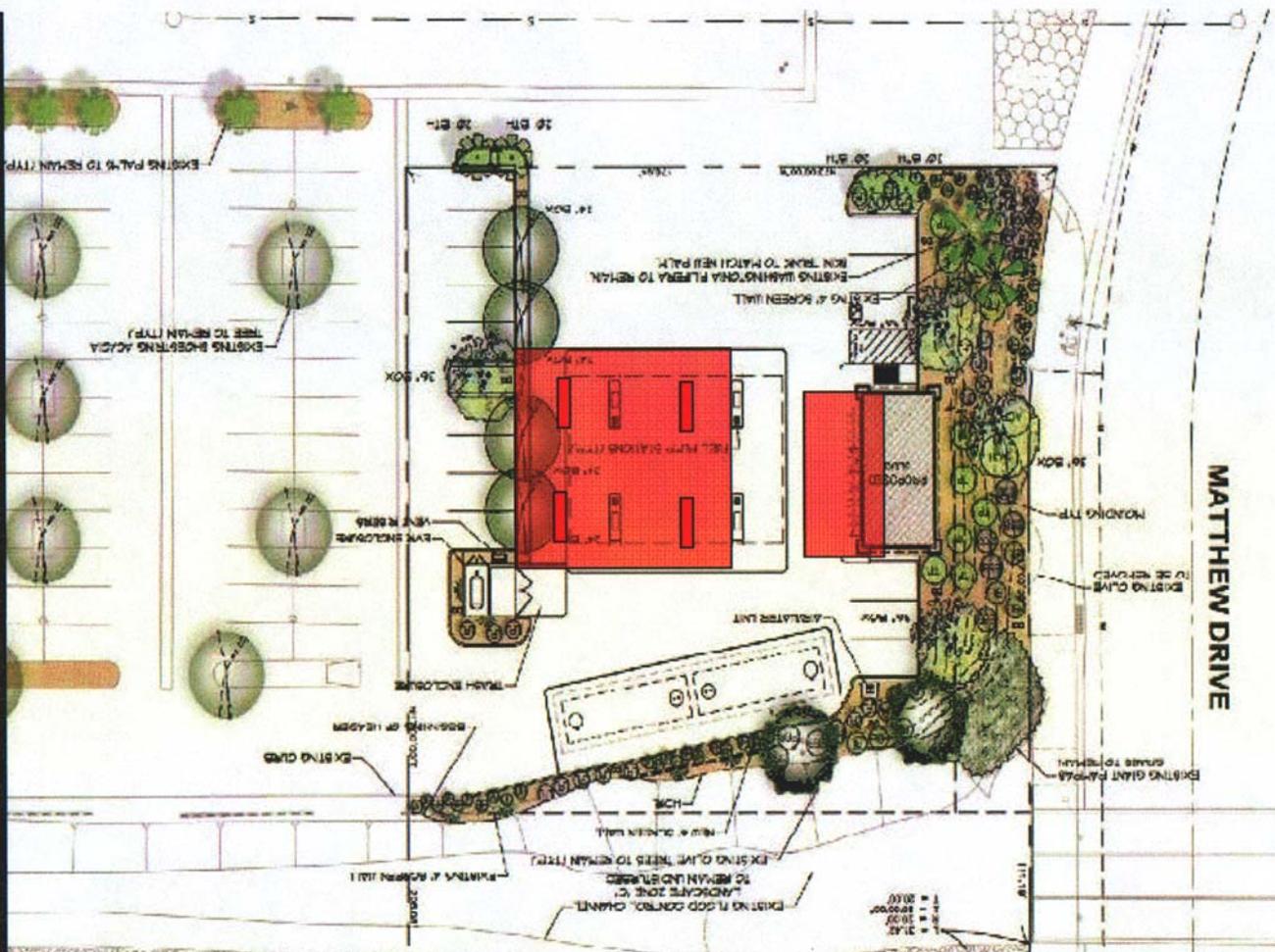


**2. The landscaping needs to be enhanced.**

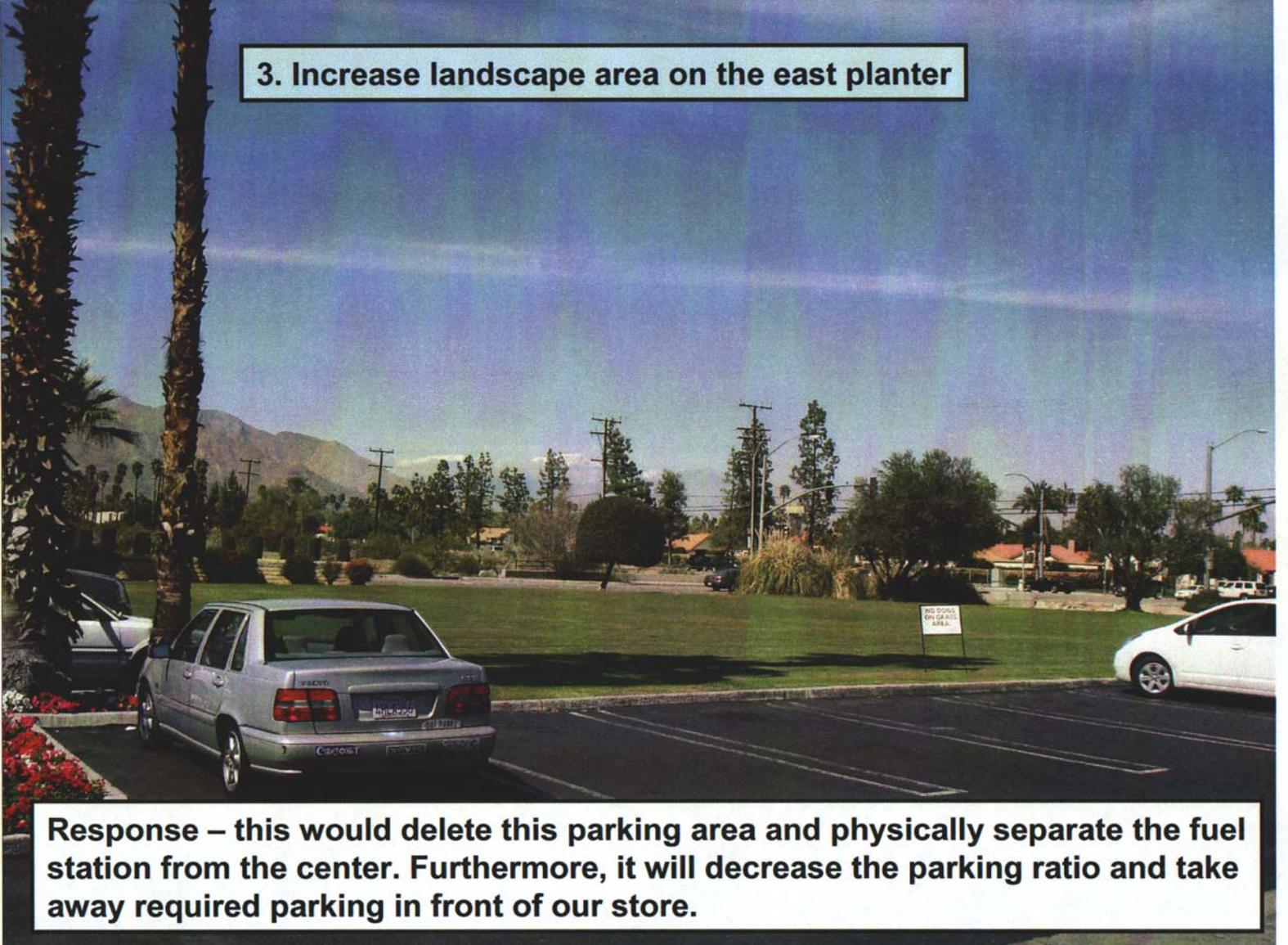




**Response 1 – The existing mature landscape as seen on this page and the prior page will be preserved and / or enhanced.**



**Response 2 – The city requirement calls out for a 10% landscape component. 40% of our site will be covered in landscape!**



**3. Increase landscape area on the east planter**

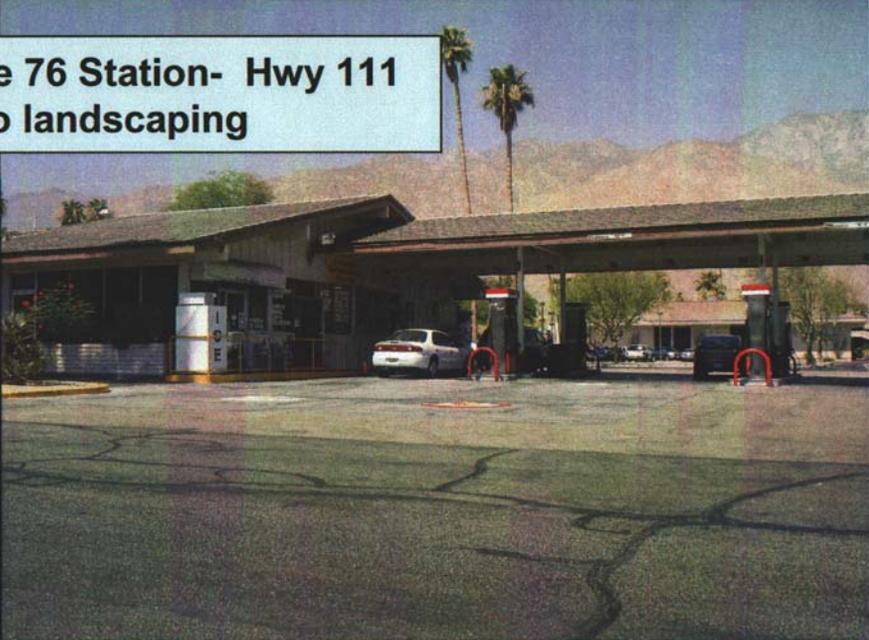
**Response – this would delete this parking area and physically separate the fuel station from the center. Furthermore, it will decrease the parking ratio and take away required parking in front of our store.**



**4. The applicant should review the following gas stations in Palm Springs:**

**a. Smoketree 76 Station- Hwy 111  
- as to landscaping**

**Response – we have done so and believe our landscaping scheme to be significantly better. Further, our proposed project set back from Hwy 111 is much greater than this older 76 station.**



**b. Shell on Ramon Road  
- as to berming**



**Response – this is a much larger fuel station building that includes a car wash set right on the corner. The berming was intended to hide the car wash from the corner. Notwithstanding our berm is of equal or greater height as will be described in our formal presentation.**



**c. Shell- Palm Canyon  
- as to design**



**Response – difficult to provide  
as this is a very old decaying  
Shell prototype that offers no  
endearing design characteristics.**



## **ADDITIONAL AAC DESIGN COMMENTS**

- 5. Canopy and Kiosk structure are too tall.**
  - the Kiosk design was to fit in with the balance of the adjacent structures. The height is also to hide necessary rooftop equipment. The Canopy height is to avoid the occurrence of tall construction type vehicles from collision that could provide a liability issue. Notwithstanding, since AAC we have been able to lower the kiosk to 17' and canopy clearance to 13' in keeping with other stations in the area.**
  
- 6. Two structures (kiosk and canopy) should have an integral design.**
  - the canopy has very few structural components. We removed a 'mansard' roof structure to decrease the mass and lower the canopy. However, as can be seen on the following slides, we do maintain design elements such as the stone on the columns.**

## **ADDITIONAL AAC DESIGN COMMENTS (cont.)**

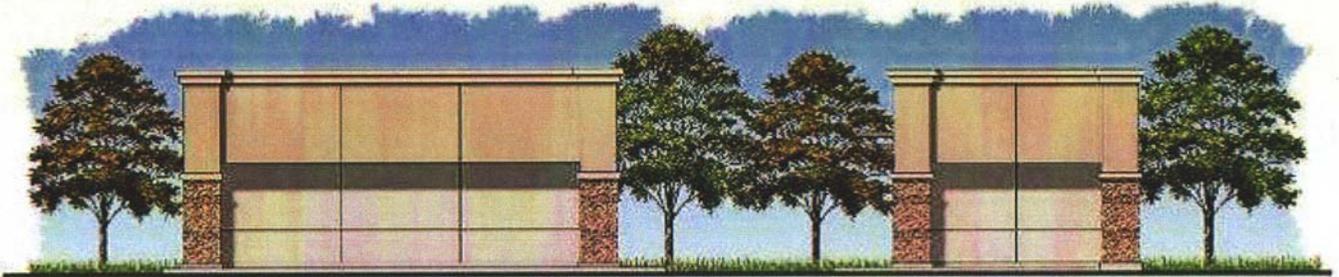
- 7. 'Box and lid' design unacceptable for Palm Springs.**
- 8. Kiosk building has 'back of house' design on three sides.**
- 9. Design has no response to surrounding areas (beyond shopping center)**
  - we believe we have made many changes to the design to avoid it resembling a 'box with a lid'. This is accomplished through reveals, material changes and appendages. The 'back of house' design is essentially because that is exactly what it is. In those areas are the mechanical room, janitorial closets, storage and restrooms. Please appreciate that this is a very tiny structure of only 750 SF or 13 times smaller than the white building that was recently approved at council and constructed on site. In addition, these elevations will be mostly obscured by the set backs, berms and landscaping. Our intent in design was to create some harmony with the shopping center such that it blends with the main structures. In addition, we would contend there is no design theme apparent in the surrounding area, which is a mix of residential and commercial.**
- 10. Lighting will be too bright for the area**
  - All onsite and canopy lights will comply with the city's lighting ordinance.**

# VONS #2384 FACILITY

VONS #2384 FACILITY

4201 E. PEBBLE CANYON DRIVE PALM SPRINGS, CALIFORNIA 92264

**VONS**  
A Division of  
KROGER



**Travis Companies, Inc.**

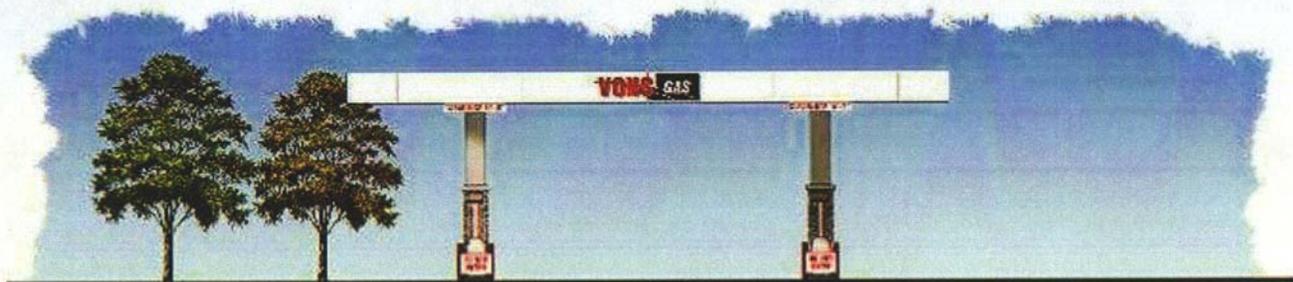
4000 S. HARRISON AVENUE, SUITE 100, CHICAGO, ILLINOIS 60631

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# VONS #2384 FACILITY

VONS #2384 FACILITY

4701 E. PALM CANYON DRIVE, PALM SPRINGS, CALIFORNIA 92262



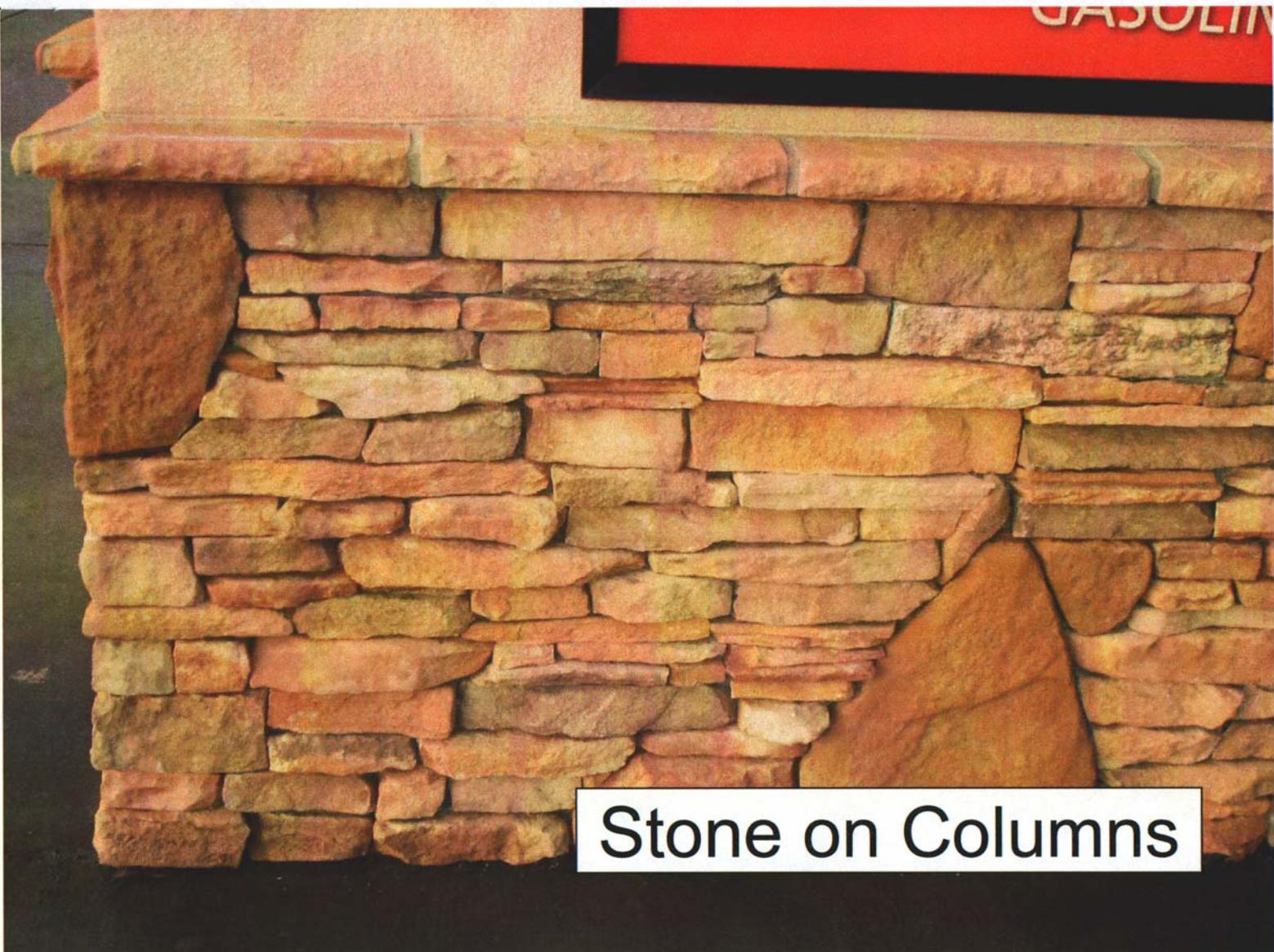
**Travis Companies, Inc.**

4441 E. MICHIGAN AVENUE, SUITE 8 ANAHEIM, CALIFORNIA 92807

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GASOLIN

Stone on Columns





Monument Signage

Lastly, the project requires a variance commonly granted along Hwy 111. That being it's 100' distance from the adjacent vacant lands that are zoned Hotel / Commercial / Residential. This is commonly granted as the vast majority of developed and undeveloped land along the Hwy 111 corridor is similarly zoned. The building developed just to the south in the shopping center would have required the same variance. The eventual development of this pad should not be a surprise, as it was intended since the shopping center was first formulated. Please note the real distances to existing residential.

