



Planning Commission Staff Report

Date: June 8, 2011

Case No.: 5.1039 – CUP AMEND

Type: Conditional Use Permit Amendment

Location: 1050 East Palm Canyon Drive

APN: 508-432-019

Applicant: Willamette Capital Management, LTD

General Plan: TRC (Tourist Resort Commercial)

Zone: R-3 (Multiple-family Residential and Hotel) & R-2 (Limited Multiple-family Residential)

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

Project Planner: David A. Newell, Associate Planner

PROJECT DESCRIPTION

The applicant is requesting an amendment to an existing Conditional Use Permit to allow the sale of alcohol in the pool area of the Horizon Hotel located at 1050 East Palm Canyon Drive. A Conditional Use Permit was approved for the site in 2005 allowing the sale of alcohol in the lobby area, pool area and hotel rooms for a period of twelve months. The new owner would like to allow the sale of alcohol only in the pool area, under a Type 48 State Alcoholic Beverage Control license.

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit application allowing the sale of alcohol as an accessory use to the hotel located at 1050 East Palm Canyon Drive.

PRIOR ACTIONS

On May 11, 2005, the Planning Commission approved a Conditional Use Permit for a one year term to allow accessory commercial uses, including spa services, alcohol sales and incidental retail sales at the subject property.

On July 6, 2005, the City Council upheld the decision of the Planning Commission to approve the Conditional Use Permit for the one year term to allow the accessory commercial uses at the subject property.

BACKGROUND AND SETTING

The subject site is located on the north side of East Palm Canyon Drive near the Deepwell Road intersection. Approximately one acre of the site is vacant and abuts Deepwell Road. The parcel is L-shaped and totals approximately 3.55 acres in size.

The property was developed in 1952 as the L'Horizon Garden Hotel; William F. Cody is the architect of record. The site contains twenty-two rooms which surround a central pool area. Adjacent Zoning and Land Uses are described in the following table:

	General Plan	Zone	Land Use
North	Very Low Density Residential	R-1-C	Single Family Residential
South	Tourist Resort Commercial	R-3	Hotel (Ocotillo Lodge)
East	Very Low Density Residential	R-3	Multi-family Residential
West	Tourist Resort Commercial	R-3	Multi-family Residential



SITE

PROPOSED POOL
BAR LOCATION

The applicant is proposing the sale of alcohol in the pool area of the hotel. A Type 48 license request has been submitted by the applicant to the State Department of Alcoholic Beverage Control (ABC). The pool bar operating hours would be Monday through Friday from 4:30pm to 6:30pm and Saturday through Sunday 11:30am to 1:30pm and 4:30pm to 7:30pm.

ANALYSIS

General Plan

The General Plan designation of the subject site is TRC (Tourist Resort Commercial). This designation allows for "*large-scale resort hotels and timeshares including a broad range of convenience, fitness, spa, retail, and entertainment uses principally serving resort clientele.*" The subject property is an existing hotel and the incidental sale of alcohol would assist in providing a service to resort clientele. Therefore, the proposed use is consistent with the General Plan.

Zoning

The subject property is split-zoned. The northerly portion of the property is located within the R-2 Zone and the southerly portion of the property is located within the R-3 Zone. Pursuant to Section 92.04.01(D)(9) of the Palm Springs Zoning Code (PSZC), the sale of alcohol as an "*incidental or accessory commercial use to a hotel*" is permitted with the approval of a Conditional Use Permit. The PSZC requires that the use be "*operated primarily for the convenience of the hotel guests*", and "*not occupy more than twenty (20) percent of the gross floor area of the hotel buildings.*"

Parking

Pursuant to Section 93.06.00(D)(16) of the PSZC, no additional parking is required for the proposed use since the hotel has less than 100 guest rooms.

REQUIRED FINDINGS

The Planning Commission must make certain findings in order to approve this Conditional Use Permit pursuant to Section 94.02.00 of the Palm Springs Zoning Code; those findings are analyzed by staff 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.*

Section 92.04.01(D)(9) of the Palm Springs Zoning Code authorizes the sale of alcohol as an "*incidental or accessory commercial use to a hotel*" when approved under a Conditional Use Permit.

- 2. That the use is necessary or desirable for the development of the community, is in harmony with the various elements of 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 incidental sale of alcohol is intended to be an amenity to guests at the hotel and therefore, will not be detrimental to existing or future uses permitted in the zone. The proposed spa is an accessory to the primary use of the site as a 22-room hotel. The General Plan designation for the site is Tourist Resort Commercial. This land use designation provides for large-scale resort hotels and timeshares including a broad range of convenience, fitness, spa, retail, and entertainment uses principally serving resort clientele. Therefore, the proposed use complies with the General Plan.

- 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 overall site is approximately 3.55 acres in size. The proposed use will operate in the pool area only and will occupy floor space within an existing building. No additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.

- 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.*

No additional floor space is necessary to accommodate the proposed alcohol sale use. The use is accessory to the hotel and will only serve hotel guests. The site is located along East Palm Canyon Drive which is designated as a Major Thoroughfare under the General Plan Circulation Element. Therefore, the site is adequately served by an improved street that will sufficiently carry the type and quantity of traffic generated by the proposed use.

- 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.*

The proposal is to operate a pool bar within an existing structure. Conditions of Approval have been included in the attached Exhibit A to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance and a specific requirement to direct outdoor speakers away from the adjacent residential properties

to the north and east. Other conditions include limitations on operating hours and other safety requirements.

CONCLUSION

The project is consistent with the land use policies of the General Plan and Zoning Code. Staff is able to recommend findings necessary for approval of the proposed use. On that basis, staff is recommending approval of the proposal.

ENVIRONMENTAL

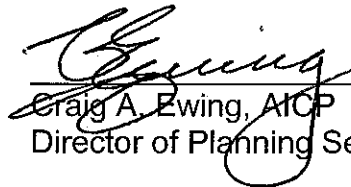
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project has been determined to be categorically exempt from further environmental review pursuant to Section 15301 (Existing Facilities).

NOTIFICATION

A public hearing notice was mailed to all property owners within 400 feet radius of the subject property. As of the writing of this report, staff has not received any public correspondence.



David A. Newell
Associate Planner



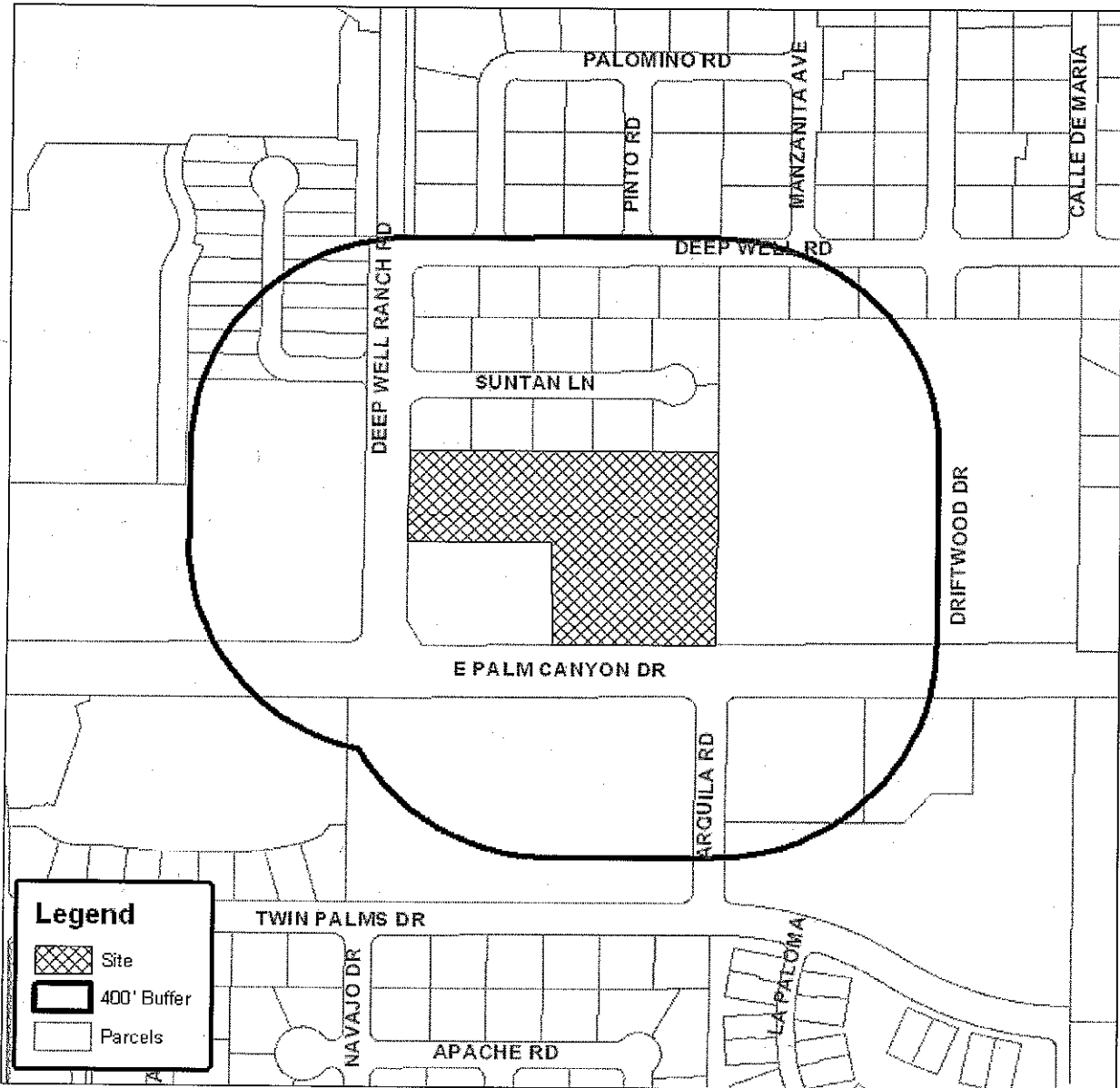
Craig A. Ewing, AICP
Director of Planning Services

ATTACHMENTS

1. Vicinity Map
2. Draft Resolution with Conditions of Approval
3. Letter of Request from Applicant



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.1039 CUP AMND

APPLICANT: Willamette Capital Management, LTD
For the Horizon Hotel

DESCRIPTION: To consider an application by Willamette Capital Management, LTD, for a Conditional Use Permit Amendment to allow the sale of alcohol in the pool area for the convenience of hotel guests at the Horizon Hotel located at 1050 East Palm Canyon Drive, Zone R-2 / R-3, Section 23.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO ALLOW THE SALE OF ALCOHOL AT THE POOL BAR AT THE EXISTING HORIZON HOTEL LOCATED AT 1050 EAST PALM CANYON DRIVE.

WHEREAS, Willamette Capital Management, LTD. ("Applicant") has filed a Conditional Use Permit Amendment application (Case 5.1039 CUP AMEND) with the City pursuant to Section 94.02.00 of the Zoning Code to allow the sale of alcohol in the pool area for the hotel located at 1050 East Palm Canyon Drive, Zone R-3 & R-2, Section 23, APN: 508-432-019; and

WHEREAS, incidental or accessory commercial uses to a hotel may be permitted in the R-3 Zone with the approval of a Conditional Use Permit, pursuant to Section 92.04.01(D)(9) of the Zoning Code; and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider Case No. 5.1039 – CUP AMEND was given in accordance with applicable law; and

WHEREAS, on June 8, 2011, a public hearing on the application was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed project is considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and has been determined to be Categorically Exempt as a Class III exemption (Existing Facilities) pursuant to Section 15301 of the CEQA Guidelines; 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: Section 94.02.00(B)(6) of the Zoning Code requires the Planning Commission not approve a Conditional Use Permit unless it 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.*
- 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.

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.*
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.*
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.*

Section 2: Based upon the foregoing, the Planning Commission finds as follows:

1. Section 92.04.01(D)(9) of the Palm Springs Zoning Code authorizes the sale of alcohol as an "incidental or accessory commercial use to a hotel" when approved under a Conditional Use Permit.
2. The incidental sale of alcohol is intended to be an amenity to guests at the hotel and therefore, will not be detrimental to existing or future uses permitted in the zone. The proposed spa is an accessory to the primary use of the site as a 22-

room hotel. The General Plan designation for the site is Tourist Resort Commercial. This land use designation provides for large-scale resort hotels and timeshares including a broad range of convenience, fitness, spa, retail, and entertainment uses principally serving resort clientele. Therefore, the proposed use complies with the General Plan.

3. The overall site is approximately 3.55 acres in size. The proposed use will operate in the pool area only and will occupy floor space within an existing building. No additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.
4. No additional floor space is necessary to accommodate the proposed alcohol sale use. The use is accessory to the hotel and will only serve hotel guests. The site is located along East Palm Canyon Drive which is a designated as a Major Thoroughfare under the General Plan Circulation Element. Therefore, the site is adequately served by an improved street that will sufficiently carry the type and quantity of traffic generated by the proposed use.
5. The proposal is to operate a pool bar within an existing structure. Conditions of Approval have been included in the attached Exhibit A to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance and a specific requirement to direct outdoor speakers away from the adjacent residential properties to the north and east. Other conditions include limitations on operating hours and other safety requirements.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves Case No. 5.1233 – CUP, a Conditional Use Permit to allow a cocktail lounge at 224 North Palm Canyon Drive, subject to the conditions set forth in the attached Exhibit A.

ADOPTED this 8th day of June, 2011.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Craig A. Ewing, AICP
Director of Planning Services

RESOLUTION NO.

EXHIBIT A

Case 5.1039 CUP AMEND
Willamette Capital Management, LTD

1050 East Palm Canyon Drive

June 8, 2011

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 5.1039 CUP AMEND except as modified the conditions below.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans 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 5.1039 CUP AMEND. 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 the use is implemented, the Conditional Use Permit does not have a time limit, provided the project has remained in compliance with all conditions of approval.
- 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. 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 10. Grounds for Revocation. Non-compliance with any of the conditions of this approval or with City codes and ordinances, State laws; any valid citizen complaints or policing and safety problems (not limited to excessive alcohol consumption, noise, disturbances, signs, etc) regarding the operation of the establishment; as determined by the Chief of Police or the Director of Building and Safety, may result in proceedings to revoke the Conditional Use Permit. In addition, violations of the City Codes and Ordinances will result in enforcement actions which may include citations, arrest, temporary business closure, or revocation of this permit in accordance with law.

- ADM 11. Comply with City Noise Ordinance. This use and property shall comply with the provisions of Section 11.74 Noise Ordinance of the Palm Springs Municipal Code. Any outdoor speakers shall be directed away from the residential properties to the north and east. 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.

PLANNING DEPARTMENT CONDITIONS

- PLN 1. Hours of Operation. The operating hours for the sales of alcohol at the pool bar shall be Monday through Friday 4:30 P.M. to 6:30 P.M. and Saturday through Sunday 11:30 A.M. to 1:30 P.M. and 4:30 P.M. to 7:30 P.M. These hours shall be posted in a conspicuous location at the pool bar. Any future modifications to the hours of operation shall require an amendment to this Conditional Use Permit.
- PLN 2. Letter of Convenience or Necessity. The applicant shall obtain a Letter of Convenience or Necessity from the City Council prior to commencement of the cocktail lounge use. If the Resolution of Convenience and Necessity is not approved, this CUP application will not be valid.
- 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. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned.
- PLN 5. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 6. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.

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.

END OF CONDITIONS

AMENDMENT

April 15, 2011

City of Palm Springs
Department of Planning Services
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

**RE: CASE 5.1039 PCN
THE HORIZON HOTEL, 1050 East Palm Canyon Dr., Palm Springs
Conditional Use Permit (CUP), Statement of Use**

The current granted CUP limited the Horizon Hotel to Department of Beverage Control Type 66 License (Controlled Access Cabinet Permit) and Type 70 License (On-Sale General Restrictive Service). Both these licenses are not in use at this time.

This Amendment to the application is being put forth for Department of Beverage Control Type 48 License (On-Sale General Public Premises).

The area serviced by the ABC Type 48 License will be strictly limited to the area surrounding the main pool and the pool bar, which is adjacent to the main pool.

The Operating hours for the sales of alcohol at the pool bar will be changed. New hours will be Monday through Friday 4:30 P.M. to 6:30 P.M. and Saturday through Sunday 11:30 A.M. to 1:30 P.M. and 4:30 P.M. to 7:30 P.M. The 4 spa rooms are no longer in use.

Feel free to contact me at 503-546-4230 ext 106 if you have any questions.

Sincerely,



Melinda Burnham

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**PLANNING SERVICES
DEPARTMENT**