





CITY OF PALM SPRINGS  
DEPARTMENT OF PLANNING SERVICES

MEMORANDUM

**Date:** June 22, 2011  
**To:** Planning Commission  
**From:** Craig A. Ewing, AICP, Director of Planning Services   
**Project Planner:** David A. Newell, Associate Planner   
**Subject:** Case No. 5.1039 CUP – Horizon Hotel at 1050 E. Palm Canyon Drive

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On June 8, 2011, the Planning Commission reviewed a request for a Conditional Use Permit to allow the sale of alcohol in the pool area of the existing hotel located at 1050 East Palm Canyon Drive. At that meeting, the Commission continued the item and requested additional information, including the property's compliance with the original CUP conditions related to noise mitigation and the number of police complaints on the property. The Commission also requested that the applicant pursue further dialogue with the neighbors on a noise mitigation plan.

Staff has attached the City Council staff report and final resolution of approval for the previous Conditional Use Permit at the Horizon Hotel in 2005. Staff notes that there are no specific conditions of approval that require the applicant to mitigate noise through additional landscaping or an increase in wall height. However, there is discussion in the first paragraph of the Council report that the applicant was willing to increase landscaping between the hotel and residential properties. Further research shows that the east property line wall was increased by the hotel to six feet in height for a length of 400 feet. The north property line wall does not appear to have been modified but it is approximately five feet and nine inches in height. Some landscape trees and shrubs were installed at the northeasterly corner of the property. The applicant / current owner has installed some shrubs on the northwesterly corner of the property and states that they intend to install additional shrubs near the north boundary wall.

The call history from the Police Department is attached to this report. The history shows two categories of data, Events and Case History. Events are all calls received for service dispatch. Case History includes all calls received for service which generated some type of written report. The applicant stated that they took ownership of the property on February 23, 2009, and since that time there have been ten disturbance-type calls and one police report filed related to a burglary.

The applicant states they intend to have a neighborhood meeting prior to the Commission meeting. Additional materials from the Horizon Hotel have been submitted on the background and current status of the hotel and efforts made to meet with neighbors.

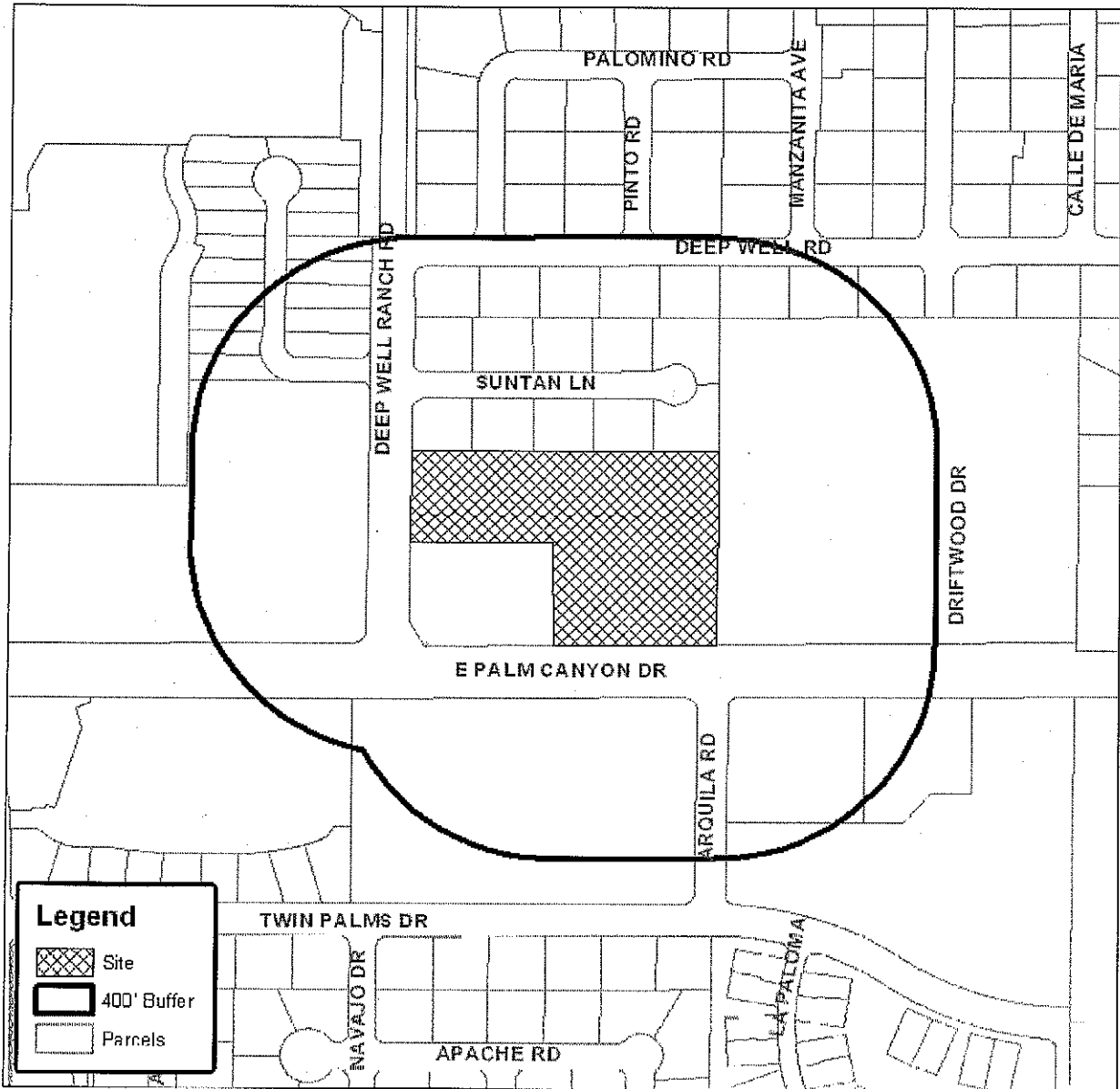
With the information above, staff believes an additional condition may be necessary to recommend approval of the CUP. A landscape plan, subject to City approval, should be prepared and implemented within ninety days of the effective date of the CUP. Since the hours of the bar operation are limited and the applicant will mitigate noise disturbances, staff recommends that the Commission approve the project and adopt the draft resolution, as conditioned.

**Attachments:**

1. Vicinity Map
2. Draft Resolution
3. City Council Staff Report, July 6, 2005
4. City Council Resolution 21331
5. Planning Commission Staff Report, June 8, 2011
6. P.S. Police Dept. Address History Detail
7. Letter from Applicant
8. Progress and Status Report from Horizon Hotel
9. Email and Photographs from Horizon Hotel



# Department of Planning Services Vicinity Map



## CITY OF PALM SPRINGS

**CASE NO:** 5.1039 CUP

**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 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 application (Case 5.1039 CUP) 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 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 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 22<sup>nd</sup> day of June, 2011.

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 5.1039 CUP  
Willamette Capital Management, LTD

1050 East Palm Canyon Drive

June 22, 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. 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.
- PLN 7. Noise Mitigation. Within ninety (90) days of the effective date of the CUP, the applicant shall install landscaping along the north property line, based on a plan that is submitted by the applicant and approved by the Planning Department.

**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**



## City Council Staff Report

DATE: July 6, 2005

Public Hearing

SUBJECT: CASE 5.1039 – AN APPEAL OF THE PLANNING COMMISSION DECISION ON MAY 11, 2005, FOR A CONDITIONAL USE PERMIT FOR THE ACCESSORY COMMERCIAL USE TO AN EXISTING HOTEL OF LESS THAN 100 ROOMS, SPECIFICALLY THE SALES OF ALCOHOL AT THE POOL BAR AND MINI-BARS IN THE ROOMS, 4 SPA ROOMS, AND INCIDENTAL RETAIL SALES OF APPROXIMATELY 24 SQUARE FEET IN THE LOBBY OF THE HORIZON HOTEL, LOCATED AT 1050 EAST PALM CANYON DRIVE, ZONE R-3, SECTION 23.

FROM: David H. Ready, City Manager

BY: Department of Planning Services

### SUMMARY

On May 26, 2005 an appeal of the Planning Commissions decision to approve the Conditional Use Permit for the Horizon Hotel was filed with the City Clerk and all applicable fees were paid. On May 11, 2005, the Planning Commission held a public hearing for Case 5.1039 and voted to approve the Conditional Use Permit. The surrounding properties are not concerned with the four spa rooms and retail in the lobby. The concern is the sales of alcohol and specifically the pool bar. The neighbors are concerned over the noise that could be generated from the pool bar. The surrounding properties have expressed concerns about the loss of privacy. The Planning Commission heard the concerns of the neighboring properties and made the following changes: 1. Changed the operating hours for the pool bar from Sunday through Thursday 8:00 A.M. to 10:00 P.M. and Friday – Saturday 8:00 A.M. to 2:00 A.M. to Sunday through Saturday from 8:00 A.M. to 10:00 P.M.; 2. The Conditional Use Permit will be valid for 12 months after the Certificate of Occupancy is issued. At 12 months, a new Conditional Use Permit can be applied for and a public hearing will be held. A neighborhood meeting was held at the City on April 1, 2005. At the meeting 1 neighbor attended. The applicant and the neighbor discussed the proposed alcohol sales, 4 spa rooms, and small retail area. The attendee was not concerned with the spa rooms or the retails sales. However the attendee did express concerns over the sales of alcohol and the potential noise associated with the sales of alcohol. The applicant agreed to control all activities of the pool bar, increase landscaping between the hotel and the neighbor, and follow the Noise Ordinance. While the attendee was not completely satisfied, the attendee did appreciate the applicants' willingness to provide compromises to any potential noise issues.

Item No. 1.D.

RECOMMENDATION:

Adopt Resolution No. \_\_\_\_\_, 'A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLD THE DECISION OF THE PLANNING COMMISSION TO APPROVE CASE 5.1039 - CONDITIONAL USE PERMIT FOR THE ACCESSORY COMMERCIAL USE LOCATED WITHIN THE HOTEL AND IS LESS THAN 20% OF THE GROSS FLOOR AREA SUBJECT TO THE CONDITIONS STATED, TO SELL ALCOHOL AT THE POOL BAR AND IN MINI-BARS WITHIN THE GUEST ROOMS, SPA, AND INCIDENTAL RETAIL SALES IN THE LOBBY OF THE HOTEL, LOCATED AT 1050 EAST PALM CANYON DRIVE, ZONE R-3, SECTION 23

STAFF ANALYSIS:

The General Plan designation is H43/21 (High Density Residential). These areas are for hotel and high-density residential projects and commercial uses in conjunction with hotels. The hotel already exists and the accessory commercial uses of selling alcohol at the pool bar and in mini-bars within the guest rooms, 4 spa rooms, and incidental retail sales of approximately 24 square feet in the lobby are consistent with the General Plan. Therefore the proposed is consistent with the General Plan.

The Zoning Ordinance designation is R-3 (Multiple-Family Residential and Hotel Zone). The intent of this Zone is for the development of high density apartments, hotels, and similar permanent and resort housing. The existing land use is a hotel; an allowed use in the R-3 Zone. The proposed project is for the accessory commercial uses located within the hotel. The accessory commercial uses are less than 20% of the gross floor area and the hotel has less than 100 rooms, therefore the proposed is consistent with the Zoning Ordinance.

The proposed accessory commercial use located within the hotel is to sell alcohol to the guests of the hotel at the pool bar and in mini-bars within the guest rooms, 4 spa rooms, and a small retail area of approximately 24 square feet in the lobby. This accessory commercial use will utilize the existing entry to the hotel and the existing improvements. Therefore the accessory commercial use will have minimal impact to vehicular and pedestrian traffic.

The 4 spa rooms and small retail area in the lobby will provide additional services to the guests of the hotel. The additional services are consistent with the General Plan goals of providing services to visitors and services to attract visitors to the City.

The sales of alcohol will provide an additional service to the guests of the hotel, which is consistent with the goals of the General Plan to provide services to visitors and attract visitors to the City.

The proposed accessory commercial use located within the hotel is proposing to sell alcohol at the pool bar and in mini-bars within the guest rooms. The sales of alcohol will require a Resolution of Convenience. As such, staff has included a Condition of Approval, that the accessory commercial use to sell alcohol is dependent upon the approval of a Resolution of Convenience or Necessity.

Currently the City Council (City's Legislative body) has not delegated or assigned authority to approve a resolution of convenience or necessity. Staff is proposing that City Council delegate this authority to the Planning Commission and the issue of convenience or necessity be

addressed by the Planning Commission in its deliberations on whether to issue a conditional use permit for alcohol sales. Staff has included a finding of convenience in the Planning Commission Resolution approving the conditional use permit, should the City Council delegate its authority in the near term.

The proposed accessory commercial use located within the hotel to sell alcohol at the pool bar and in mini-bars within the guest rooms, spa, and incidental retail sales is surrounded by other hotels, multiple-family residential, and single-family residential. The impact of the proposed would be minimal; the sales of alcohol, spa, and retail sales would be limited to the guests of the hotel. As such, staff has included a Condition of Approval that would limit the sales of alcohol to the pool bar and mini-bars and to the hotel guests and guest invitees only.

The operating hours of the accessory commercial use for the sales of alcohol at the pool bar will be Sunday through Thursday 8:00 A.M. to 10:00 P.M. and Friday – Saturday 8:00 A.M. to 2:00 A.M. The hotel may occasionally have special events that may exceed the hours stated in the conditional use permit application, in which the applicant will provide details, days, and hours for the event in writing to the Director of Planning Services 30 days prior to the event for review and approval, as such staff has included a Condition of Approval.

The mini-bars would be available every day, 24 hours a day.

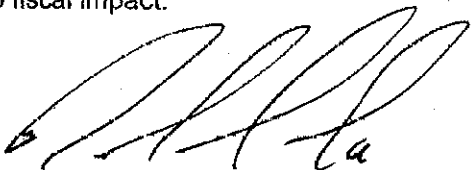
The 4 spa rooms and retail area will be Monday through Sunday from 8:00 A.M. to 8:00 P.M.

If the hotel modifies its operations, a new CUP would be required; as such staff has included a Condition of Approval.

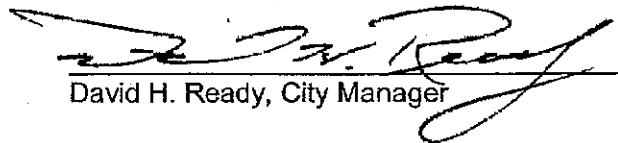
The proposed project has been determined to be a project in accordance with the California Environmental Quality Act (CEQA). The application has been deemed complete (Section 15060), the project is not exempt (15061), an Initial Study was conducted (Section 15063), a proposed Negative Declaration was prepared (Section 15070), a Notice of Intent to Adopt a Negative Declaration was published and mailed out (Section 15072), Public Review (Section 15073), and Consideration and Adoption of a Negative Declaration (Section 15074) in accordance with the California Environmental Quality Act (CEQA).

FISCAL IMPACT:

No fiscal impact.



\_\_\_\_\_  
Name and Title of Dept. Director



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

Attachments:

City Council Vicinity Map  
City Council Draft Resolution  
City Council Draft Conditions of Approval  
Copy of Planning Commission Report

RESOLUTION NO. 21331

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO APPROVE CASE 5.1039 - CONDITIONAL USE PERMIT FOR THE ACCESSORY COMMERCIAL USE LOCATED WITHIN THE HOTEL AND IS LESS THAN 20% OF THE GROSS FLOOR AREA SUBJECT TO THE CONDITIONS STATED, TO SELL ALCOHOL AT THE POOL BAR AND IN MINI-BARS WITHIN THE GUEST ROOMS, SPA, AND INCIDENTAL RETAIL SALES IN THE LOBBY OF THE HOTEL, LOCATED AT 1050 EAST PALM CANYON DRIVE, ZONE R-3, SECTION 23

WHEREAS, the City Council has received a request for a public hearing to appeal the Planning Commission decision on May 11, 2005 to approve Case 5.1039, a Conditional Use permit for the accessory commercial use located within the hotel and is less than 20% of the gross floor area, to sell alcohol at the pool bar and in the mini-bars within the guest rooms, spa, and incidental retail sales in the lobby of the hotel; and

WHEREAS, the Section 92.04.01 of the Zoning Ordinance requires that accessory commercial uses located within the hotel and less than 20% of the gross floor area obtain a Conditional Use Permit; and

WHEREAS, the sales of alcohol at the pool bar and in mini-bars within the guest rooms, 4 spa rooms, and retail sales of 24 square feet in the lobby are accessory commercial uses located within the hotel and are less than 20% of the gross floor area; and

WHEREAS, the sales of alcohol at the pool bar and in mini-bars within the guest rooms require a Resolution of Convenience or Necessity by the City Council; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the project, including but not limited to the staff report; and

WHEREAS, all Conditions of Approval established at the time the use was established are to remain in full force and effect; and

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a licenses to sell alcohol;

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a license to sell alcohol: license numbers 66 - Controlled Access Cabinet Permit, and 70 - On-Sales General Restrictive Service;

I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL RESOLUTION.  
RESOLUTION No. 21331 DULY ADOPTED BY THE  
CITY COUNCIL OF THE CITY OF PALM SPRINGS IN A MEETING  
THEREOF HELD ON THE 7<sup>TH</sup> DAY OF JULY, 2005  
DATED AT PALM SPRINGS, CALIFORNIA  
THIS 7<sup>TH</sup> DAY OF JULY, 2005.  
CITY CLERK James Thomas  
CITY OF PALM SPRINGS, CALIFORNIA

WHEREAS, the City Council is being asked to adopt a Resolution of Convenience pursuant to the requirements of the Alcoholic Beverage Control Board; and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider the application for a Conditional Use Permit No. 5.1039 was circulated and published in accordance with applicable law; and

WHEREAS, on May 11, 2005, a public hearing on the application for a Conditional Use Permit was held by the Planning Commission in accordance with applicable law; and

WHEREAS, notice of public hearing of the City Council of the City of Palm Springs to consider the appeal to the Planning Commission approval of Case 5.1039, a Conditional Use Permit was circulated and published in accordance with applicable law; and

WHEREAS, on July 6, 2005, a public hearing on the application for a Conditional Use Permit was held by the Planning Commission in accordance with applicable law; 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 CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS

Section 1: Pursuant to CEQA, the City Council finds the Initial Study and Negative Declaration adequately addresses the general setting of the project, its potentially significant impacts, and the mitigation measures related to each significant effect for the proposed project. The City Council further finds that with the adoption of proposed Negative Declaration, potentially significant environmental impacts resulting from this project will be reduced to a level of insignificance.

Section 2: Pursuant to Zoning Ordinance Section 94.02.00, the City Council finds that:

- a. The use applied for at the location set forth in the application is properly one for which a Conditional Use Permit is authorized by the City's zoning ordinance.

Pursuant to the Section 92.04.01 of the Zoning Ordinance, accessory commercial uses are a use that is conditionally permitted in the R-3 zone, subject that the accessory commercial use is located within the hotel and less than 20% of the gross floor area. The pool bar and mini-bars are accessory commercial uses located within the hotel and less than 20% of the gross floor area.

- b. The said use is necessary or desirable for the development of the community, and is in harmony with the various elements or objectives of the General Plan, and is

not detrimental to the existing or future uses specifically permitted in the zone in which the proposed use is to be located.

The proposed use is desirable in that the proposed accessory commercial uses are located within the hotel and is less than 20% of the gross floor area of the hotel. The proposed will provide an additional service and incentive for visitors looking for a hotel to stay at, thus attracting visitors to the City. The proposed accessory commercial use located within the hotel is consistent with the objectives of the General Plan, and will not be detrimental to the existing or future permitted uses within the R-3 zone in which the proposed use is to be located.

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

The project site is adequate in size and shape to accommodate the proposed accessory commercial uses.

- d. 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.

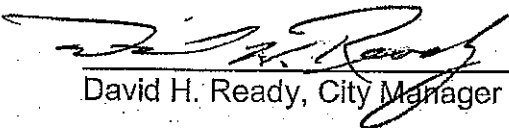
The project site is accessed by public streets, which are adequate to serve the hotel and other serves within which the site is located. No additional parking is required for the proposed accessory commercial uses. There will be minimal vehicular and pedestrian traffic generated by the accessory commercial use to sell alcohol at the pool bar and in the mini-bars within the guest rooms.

- e. The conditions to be imposed are deemed necessary to protect the public health, safety and general welfare, of the existing neighborhood in which this project is situated.

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

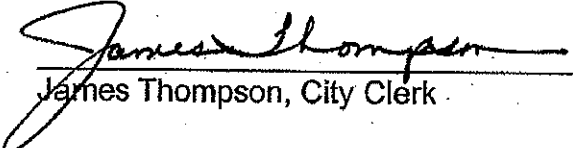
Section 3: The City Council finds the sales of alcohol is a convenience for the existing hotel, in that the sales of alcohol will provide an additional service to the guests and attract visitors to the City, which is consistent with the goals of the General Plan.

ADOPTED THIS 6th day of July, 2005.

  
David H. Ready, City Manager



ATTEST:

  
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. 21331 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 July 6, 2005, by the following vote:

AYES: Councilmember Foat, Councilmember Mills, Councilmember Pougnet,  
Mayor Pro Tem McCulloch and Mayor Oden.  
NOES: None.  
ABSENT: None.  
ABSTAIN: None.

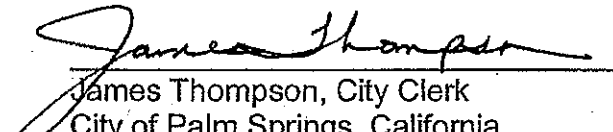
  
James Thompson, City Clerk  
City of Palm Springs, California

EXHIBIT A

CASE 5.1039

CONDITIONAL USE PERMIT

CONDITIONS OF APPROVAL

SCHARF HOPITALITY LLC

THE HORIZON HOTEL

1050 EAST PALM CANYON DRIVE

JULY 6, 2005

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

**PLANNING DEPARTMENT:**

1. The proposed development of the premises shall conform to all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, or any other City Codes, ordinances and resolutions which supplement the zoning district regulations.
  - 1a. 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 – Conditional Use Permit. 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 further indemnification hereunder, 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.

2. 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 Planning and Zoning, may result in commencement of proceedings to revoke the Conditional Use Permit pursuant to Section 94.02.00.1 of the Zoning Ordinance. In addition, violations of City Codes and Ordinances will result in enforcement actions that may include citations, arrest, temporary business closure, or revocation of this permit in accordance with law.
3. Conditional Use Permit approval shall be valid for a period of 12 months after Certificate of Occupancy is issued. The Planning Commission, upon demonstration of good cause, may grant extensions of time of the CUP shall be valid provided all Conditions of Approval are complied with.
4. The appeal period for a Conditional Use Permit application is 15 calendar days from the date of project approval. Permits will not be issued until the appeal period has concluded.
5. Separate architectural approval and permits shall be required for all signs. A detailed sign program shall be submitted for review and approval by the Planning Commission prior to issuance of building permits.
6. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
7. This Conditional Use Permit is limited to Department of Alcohol Beverage Control license number 66 (Controlled Access Cabinet Permit) and license number 70 (On-Sale General Restrictive Service).
8. The applicant shall apply for a Resolution of Convenience and Necessity that determines that the establishment that wants to sell alcohol is both necessary and a convenience for the community. If the Resolution of Convenience and Necessity is not approved, this CUP application will not be valid.
9. The applicant shall be required to maintain the business plan and hours of operation, as stated on the Conditional Use Permit application.
10. The sales of alcohol shall be limited to the pool bar and in min-bars within the guest rooms. Any future modifications shall require a new Conditional Use Permit.

11. The operating hours for the sales of alcohol at the pool bar will be Monday through Sunday 8:00 A.M. to 10:00 P.M. Any future modifications to the hours of operation shall require a new Conditional Use Permit
12. The hotel occasionally will have special events that may require special event hours. The applicant will provide details, days, and hours for the event in writing to the Director of Planning Services 30 days prior to the event for review and approval.
13. The mini-bars would be available every day, 24 hours a day.
14. The 4 spa rooms and retail area will be Monday through Sunday from 8:00 A.M. to 8:00 P.M. Any future modifications to the hours of operation shall require a new Conditional Use Permit
15. The applicant shall be limited to a maximum of 4 spa rooms. Any future additional spa rooms will require a new Conditional Use Permit.
16. The retail sales in the lobby shall be limited to 24 square feet. Any future addition and/or modifications to the retail area will require a new Conditional Use Permit.
17. The City reserves the right to modify or restrict the business hours based upon documented operational circumstances.
18. The applicant/owner shall notify the Director of Planning Services in writing 30 days in advance of any changes in the operation of business. Any change to business plan or transference of this Conditional Use Permit upon change of ownership is subject to review and approval by the City.
19. 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.

#### **BUILDING**

20. The applicant shall obtain any and all building permits prior to construction

#### **FIRE:**

21. The applicant shall comply with any and all Fire Department regulations and codes.

**ENGINEERING:**

22. The applicant shall comply with any and all Engineering Department regulations and codes.



## 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

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### **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

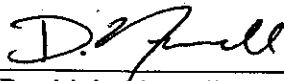
The project is consistent with the land use policies of the General Plan and Zoning Code. Staff is able to recommend findings necessary for approval of the proposed use. On that basis, staff is recommending approval of the proposal.

## ENVIRONMENTAL

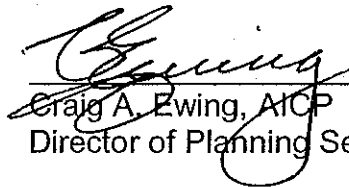
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project has been determined to be categorically exempt from further environmental review pursuant to Section 15301 (Existing Facilities).

## 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

**Palm Springs PD**  
200 S. Civic Drive  
CA0331100

### Address History Detail

Business License

Address  
**1050 E Palm Canyon Dr**

Location Name  
**L Horizon Hotel**  
**Horizon Hotel**

#### LOCUS

Jurisdiction:

X Street 1: Deepwell Rd

X Street 2: Sagebrush Rd

Beat: 5

Sector: U32

Map: 266

Side of Street:

Parcel #: 508432019

Notes:

PHONE #s (No records.)

CONTACT INFO (No records.)

ALARM INFO (No records.)

ALERTS (No records.)

#### EVENTS

Event #	Date / Time	Final Type
0704P-5588	04/25/2007 22:27	Vandalism
0707P-1350	07/07/2007 17:31	Petty Theft
0707P-1356	07/07/2007 17:48	Burglary Hotel Past
0707P-1373	07/07/2007 20:21	Burglary Hotel Past
0709P-2917	09/13/2007 21:01	Vagrant
0709P-6504	09/29/2007 21:34	Disturbance/Music
0710P-0213	10/01/2007 22:44	Traffic Stop
0710P-6596	10/29/2007 18:45	Vehicle Burglary Past
0711P-1449	11/07/2007 13:50	Traffic Stop
0711P-3604	11/18/2007 11:06	Burglary Hotel Past
0804P-5516	04/25/2008 14:42	Disturbance/Music
0804P-5573	04/25/2008 19:57	Disturbance/Music

**Palm Springs PD**  
 200 S. Civic Drive  
 CA0331100

**Address History Detail**

Business License

Location Name  
**L Horizon Hotel**  
**Horizon Hotel**

Address  
**1050 E Palm Canyon Dr**

0804P-5600	04/25/2008 22:11	Disturbance/Music
0804P-5630	04/26/2008 00:28	Disturbance/Music
0804P-5646	04/26/2008 01:54	Disturbance/Music
0804P-5657	04/26/2008 03:04	Grand Theft
0804P-5746	04/26/2008 14:21	Disturbance/Music
0804P-5847	04/26/2008 22:14	Disturbance/Music
0804P-5904	04/27/2008 02:22	Disturbance/Music
0804P-5989	04/27/2008 15:02	Disturbance/Music
0804P-6003	04/27/2008 16:26	Disturbance/Music
0804P-6042	04/27/2008 21:29	Disturbance/Music
0804P-6076	04/28/2008 03:10	Disturbance/Other
0806P-1496	06/07/2008 23:08	Disturbance/Music
0808P-2320	08/12/2008 15:10	Spousal Abuse
0809P-4367	09/23/2008 00:25	Burglary Hotel Past
0810P-2410	10/11/2008 00:49	Overdose
0810P-2645	10/11/2008 22:06	Disturbance/Music
0811P-4352	11/21/2008 01:55	Disturbance/Other
0811P-5937	11/28/2008 11:10	Traffic Stop
0812P-1602	12/08/2008 21:28	Suspicious Circumstances
0812P-1603	12/08/2008 21:30	Vandalism
0903P-7234	03/29/2009 03:23	Suspicious Circumstances
0907P-0979	07/04/2009 21:13	Animal Stray
0909P-0110	09/01/2009 15:29	Test Event
0909P-0114	09/01/2009 15:52	Test Event
0909P-0117	09/01/2009 15:58	Test Event
0912P-2648	12/12/2009 19:19	Extra Patrol Check
0912P-2842	12/13/2009 17:35	Suspicious Person
0912P-2873	12/13/2009 19:52	Suspicious Person
0912P-5643	12/26/2009 20:01	Burglary Hotel Past
1007P-5835	07/24/2010 22:51	Flag down
1008P-0689	08/04/2010 13:32	Terrorist Threats

*Continued*

**Palm Springs PD**  
 200 S. Civic Drive  
 CA0331100

**Address History Detail**

Address: **1050 E Palm Canyon Dr** Location Name: **L Horizon Hotel** Business License  
**Horizon Hotel**

Case#	Input Date	Crime
1008P-1774	08/09/2010 18:45	Keep The Peace
1010P-0435	10/03/2010 00:10	Disturbance Verbal
1011P-1174	11/06/2010 17:23	Disturbance/Music
1011P-1229	11/06/2010 20:47	Disturbance/Music
1011P-2731	11/14/2010 18:20	Disturbance/Music
1011P-3488	11/19/2010 00:13	Disturbance/Other
1011P-3846	11/20/2010 19:53	Disturbance/Music
1011P-3853	11/20/2010 20:47	Disturbance/Music
1101P-2244	01/11/2011 20:35	Suspicious Person
1103P-3817	03/19/2011 20:23	Disturbance/Music
1103P-5007	03/25/2011 22:48	Disturbance/Music
1105P-4380	05/21/2011 23:53	Disturbance/Music

**CASE HISTORY**

Case#	Input Date	Crime
0707P-1356	07/07/2007	459 - PC; Burglary:Second Degree
0707P-1373	07/12/2007	459 - PC; Burglary:First Degree
0708P-5345	08/27/2007	594(A)(1) - PC; Vandalism:Deface Property
0710P-6596	10/29/2007	459V - PC; Vehicle Burglary +\$400
0711P-3604	11/18/2007	459 - PC; Burglary:First Degree
0804P-5516	05/02/2008	INFO ONLY - Information Only
0804P-5573	05/04/2008	11.08.040 - MC; Loud Noise/Music, Etc
0804P-5600	05/04/2008	11.08.040 - MC; Loud Noise/Music, Etc
0804P-5657	04/26/2008	487(A) - PC; Grand Theft:Money/Labor/Property Over \$400
0804P-5847	05/04/2008	11.08.040 - MC; Loud Noise/Music, Etc
0804P-5904	05/04/2008	11.08.040 - MC; Loud Noise/Music, Etc
0804P-5989	05/04/2008	11.08.040 - MC; Loud Noise/Music, Etc
0804P-6003	05/04/2008	11.08.040 - MC; Loud Noise/Music, Etc
0804P-6042	05/04/2008	11.08.040 - MC; Loud Noise/Music, Etc
0809P-4367	09/29/2008	459 - PC; Burglary:First Degree
0812P-1603	12/08/2008	594(A)(1) - PC; Vandalism:Deface Property
0912P-2873	12/13/2009	602(O) - PC; Trespass:Refuse To Leave Property

*Continued*

**Palm Springs PD**  
200 S. Civic Drive  
CA0331100

**Address History Detail**

Address

1050 E Palm Canyon Dr

0912P-5643  
1008P-0689

12/31/2009  
08/24/2010

459 - PC; Burglary-Second Degree  
INFO ONLY - Information Only

Location Name

L Horizon Hotel  
Horizon Hotel

Business License



RECEIVED

June 15, 2011

JUN 16 2011

PLANNING SERVICES  
DEPARTMENT

Dear Planning Staff and Commissioners,

Thank you for taking the time to consider our conditional use permit amendment. I am writing to reiterate that the CUP amendment is not related to, and in many way will help reduce, the wedding-events that have been the source of recent neighbors' complaints.

We first considered hosting weddings as a way to save the Horizon Hotel. In 2009, after taking over management of the hotel, it was running an annual occupancy rate of about 30% and losing money every month. At that time, we worked with our manager to explore options for increasing occupancy for the property. The hotel had been a popular destination for weddings, and we decided to work toward hosting more events. Because we require a full hotel buyout at the rack rate, such events are a good way to increase occupancy. Since that time, we have been able to increase average occupancy rates to approximately 55%.

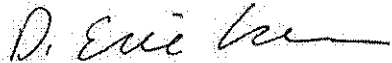
In the fall of 2010, having hosted a number of weddings in 2009 and 2010, we started to receive noise complaints from Jim Seavey. He also began to retaliate by initiating construction (jack hammering and such) during the early morning hours on Saturdays, which led to complaints from our guests. Furthermore, several loyal guests voiced frustration over being unable to book rooms during event weekends. All of this put our manager, staff, and guests under significant stress. Therefore, in late 2010, we began to reevaluate our strategy. We took a number of actions to reduce the impact on Mr. Seavey including moving receptions offsite, reorienting sound equipment, hiring private security, and rewriting our events contract to include noise-restrictions. We also considered ways to support a sustainable occupancy level through regular guest bookings rather than events.

We outlined services and improvements that would support increasing occupancy while reducing the number of events. One important service included the ability to serve alcoholic beverages at the hotel (a common request of our guests). We subsequently began the process of securing a liquor license for the hotel. Importantly, the liquor license will not be used to host weddings. In fact, we will have to forfeit the liquor license, temporarily, whenever we elect to host a wedding, as the license does not allow for minors to be on the premises when it is active (and all of our wedding events include minors). So, contrary to supporting more event activity, the liquor license actually serves as a deterrent, as we will have to go through the hassle and fee-expense to forfeit the license for each event. Furthermore, if our overall plan succeeds, the liquor license will help obviate the hotel's need to host weddings to supplement revenue and occupancy.

I appeal to the council to please consider what is best for the neighborhood and for the Horizon Hotel. I empathize with the concern of our neighbors, but I feel that some neighbors' opposition is retaliatory, and does not help us mitigate their complaints. By applying for the liquor license and CUP amendment, we are executing a strategy that will actually move us closer to alleviating neighbors' concerns by

reducing the hotel's reliance on weddings for revenue. Please support the Horizon Hotel and the Deepwell Estates Neighborhood by voting in favor of the amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Eric Cress", written in a cursive style.

Eric Cress  
CFO, Willamette Capital Management



# Progress and Status Report from The Horizon Hotel

by David Martin, Director of Public Relations and Marketing

Wednesday, June 15, 2011

RECEIVED

JUN 16 2011

## Background:

PLANNING SERVICES  
DEPARTMENT

In response to recent complaints by neighbors of The Horizon Hotel about noise levels from weddings and related events which have been held on the grounds of the Hotel property by parties who have rented the space and facilities for private use at these private functions, the Hotel's owners, Willamette Capital Management have undertaken extraordinary actions in their efforts to be good neighbors and valuable contributors to the neighborhood which developed around the Hotel, and to a large degree, because of the Horizon's important cultural significance to Palm Springs history since it's design by architect William Cody in 1952.

Among the numerous actions the Hotel's owners have taken to satisfy their neighbors, while struggling to preserve and protect the Hotel, some have included:

- Installed full-sized ficus trees along much of the northern wall of the property, as a sound buffer; (SEE ATTACHED PHOTOS). Additional landscaping will be completed as soon as practical, based upon the coincidence of the respective conditions of Hotel occupancy and permissible weather, at the rate of about ten trees per week.
- The Horizon has arranged for certain wedding parties to move their celebrations from the Hotel's premises to the that of their competitors, such as The Ace Hotel, at The Horizon Hotel's expense.
- The Hotel has made an offer to neighbors in adjoining properties to enjoy dinner or an evening out, during any event which might possibly disturb them in any way, at the Hotel's expense.
- The Hotel has enhanced security in an effort to maintain a quiet presence by hiring a security guard to be present on the grounds of the Hotel from the time the Front Desk closes until 2:00 AM during private events.
- Around or about New Years, 2011, the Hotel instituted a voluntary moratorium to any new wedding and event contracts for 2011 (other than the few events which were already under contract) and 2012, in order to develop new screening criteria and operating procedures appropriate for the prevention of future noise issues in response to these complaints. This has caused the Hotel to incur *substantial* losses to income.
- The owners have hired an all new Management Team to review every step, top to bottom, and entirely rewrite our screening process, our event procedures, the actual terms of our contract, our list of "Approved Vendors" and our rules with them, and

taken numerous other measures to protect from noise disturbance and improve all standards of performance.

### **History:**

The Horizon Hotel is about to celebrate it's 60th Anniversary, it was built almost two decades before Suntan Estates was developed, and before the properties on Suntan Lane were built. The Hotel was designed and intended simultaneously as a reclusive, family retreat and as a location to entertain and host glamorous parties for large numbers of Hollywood celebrities. It became one of the iconic and defining properties in Palm Springs' cultural and architectural history for those reasons. This was well known and understood before any houses were ever built on Suntan Lane.

The Hotel has continued it's long history, both as an exclusive, quiet, peaceful retreat, and as a spacious open air location for events throughout these 60 years. As property owners on Suntan purchased their homes, both when new and at resale, they have been well aware of the Hotel's existence and important history.

This is not the first time that the City has looked at these issues of liquor licensing at The Horizon Hotel, and the City has decided in the past that significantly more widespread implementation of liquor licenses was appropriate for the Hotel and beneficial to the community. In 2005 The Horizon Hotel was approved for Pool Bar hours every day from 8:00 AM to 10:00 PM (a total of 98 hours per week), AND in 4 Spa Rooms, AND at a Retail Sales Area in the Lobby, AND in Mini-Bars in every guest room at the Hotel, from 6:00 AM to 2:00 AM every day. In fact, the current applicants have voluntarily restricted this application to a mere fraction of what has been found, via a unanimous vote of the City Council, to be appropriate just a few years ago. We are asking for a much smaller and significantly more limited and restrictive permission than has been granted in the past.

### **Changes at The Horizon Hotel:**

Since the hiring of a new General Manager, Jesse Garza, as well as a new Director of Public Relations and Marketing, David Martin, all Hotel standards, policies, procedures and rules are being redesigned, especially as they relate to future weddings and events.

Among the many changes to the Hotel's new procedures, include:

#### **New Policies for Weddings and other Events at The Horizon Hotel**

- A reduction to a maximum allowable number of 100 guests at private events
- All private events for which the Hotel will be rented **must** have a professional Wedding or Event Planner who **must** be under a paid contract by the Host Party.

- The professional Event Planner **must** be approved by the Hotel Management and **must** be qualified as an "Approved Vendor".
- The professional Event Planner **must** be onsite and available to respond to Hotel Management throughout the entire event, and **must not** be a participant in the wedding or event for which they have been hired to coordinate.
- We are presently revising our "Approved Vendor List" for events, requiring the highest of professional standards and experience, doubling our insurance requirements to a minimum of \$2,000,000 of liability coverage, as well as defining in writing an extensive list of additional detailed requirements.
- Other requirements to become an "Approved Vendor", include: at least 30 days before an event, all outside service providers must tour the entire property with Management to become familiar with the site and its limitations, and sign an Agreement with the Hotel to perform within all of the Hotels rules and procedures, which includes the City of Palm Springs Noise Ordinance, and other relevant local safety codes and ordinances.
- No "Approved Vendor" may be a direct relative of, or a participant in the wedding or other event for which they have been hired to provide services. The services being provided **must** be strictly and exclusively on a professional basis, for which they have been hired under contract, and a copy of this contract **must** be provided to Hotel Management to be approved by the Management, no less than 30 days in advance, and their contract **must** be in accordance with all of the Hotels rules and procedures.
- Further, the Hotel will require all "Approved Vendors" to sign an additional acknowledgment, with in 24 hours of each and every event for which they have been contracted, affirming their understanding of the Hotels rules and procedures, which includes the City of Palm Springs Noise Ordinance and other relevant local safety codes and ordinances. This will ensure that no "Approved Vendor" forgets the rules.
- All amplified music and speeches **must** have all speakers pointed away from neighbors (who are to the north and east) and may only be directed toward the south and west.
- All music and other amplification **must not** exceed a reasonable, pre-approved volume level below the noise ordinance, and a sound check **must** be performed in advance, during which we will confirm the volume with our sound pressure meter.
- All "Approved Vendors" who are providers of music or other audio services **must** agree in writing to immediately respond to a request by the Hotel's Management to reduce the volume to an acceptable level, or may be required to immediately cease operation and may forfeit their client's security deposit.

- All amplification **must** end before 10:00 PM.

**General Rules at Horizon Hotel, already long-established:**

The Horizon is an adult only hotel. No one under the age of 21 is permitted on the grounds, unless the entire hotel has been rented out for a private function, and the child's parent or guardian has signed a Waiver of Liability and an Acknowledgement the Hotel's Rules, which require that children will be under the supervision of their parents or guardian, they will not be allowed around the pool without supervision, and never will be permitted in the Bar and certain other areas.

**Recent efforts to communicate and negotiate solutions with neighbors who are opposing the application for a liquor license at The Horizon Hotel:**

Immediately following the Planning Commission meeting on June 8, 2011, The Horizon Hotel group who had attended the meeting all left together and we were soon met on the steps outside City Hall by the three neighbors who had spoken in opposition: Mr. Jim Seavey, who holds the position as the group's leader and representative, Mr. Chuck Cantrell, and Mr. James Rider. It was very difficult to understand much of what was being said, as the neighbors engaged in more of a shouting match than a conversation.

In the approximately one hour period that this encounter lasted, I was not able to speak much more than introducing myself to each of them, without being interrupted.

I also attempted on several occasions to introduce Jesse Garza, the Hotel's new General Manager, and with each individual, I attempted to assure them that whatever experience they may have had attempting to resolve their complaints in the past, that we are new management who are committed to working things out. However, of the three, only James Rider was willing to allow me to say that much, without screaming over me. Although I did hand each of them my business card with my contact information, none of them were willing to exchange their contact information with me. I moved from person to person during this hour, and with each individual I mostly listened to screaming and hostility, and attempted to meet it with a calm, friendly and understanding tone. I methodically invited them each three times to sit down for coffee, either in the moment, or at any time and place of their choosing, to calmly discuss their complaints, and try to find a resolution; however, none of them would accept my offer.

As follows, is another account of this event, by Melinda Burnham:

*"After our CUP section was heard and our group was gathering up to leave, Jim Seavey came up to me and asked if we could all talk outside, I agreed. Mr. Seavey knows me from past meetings as I have reached out to him in person and via email on numerous occasions.*

*As we grouped together outside, many conversations were going on at once, but none were in respect to the CUP application with regard to having a liquor license, it was all about music noise during wedding receptions, dust from the empty lot, and many issues that had taken place before we took possession of the property. I informed the 3 neighbors that we had a wedding the very next day, and there might be music heard, and if they would like, we would be happy treat them to dinner out while the reception was taking place; none took me up on the offer. I invited him on site the next day to witness our efforts; he declined. I was trying to get the point across that with the liquor license it would give us the revenue that is currently generated by the weddings, and we prefer to reduce the number of weddings, but the Hotel desperately needs the revenue, we are at cross-purposes. I felt he did not want to listen, raising his voice well over the City of Palm Springs Noise Ordinance. Mr. Seavey also mentioned (and I took this as harassment, or a threat) that he would also be at the ABC hearing. All in all, I felt that we were wasting our time talking with people who were not interested in cooperating, did not want to hear our predicament with wedding groups, did not care that we were bending over backwards to make everyone happy, so we ended the conversations."*  
-- Melinda Burnham, Willamette Capital Management.

The following day, I telephoned Mr. Seavey, as he was identified as the spokesperson, and his was the only phone number which I had access to. The following are my notes from two telephone calls which I placed to Jim Seavey:

**Thursday, June 9 12:28 PM** (Call lasted 31 seconds)

Phoned Mr. Seavey, who told me that he was driving and could not speak. I asked him when to call him back, he said that he would be available at anytime after 4:00 PM, later today. I promised that I would call him back.

**Thursday, June 9 4:19 PM** (Call lasted 22 minutes)

I phoned Mr. Seavey and again introduced myself. Mr. Seavey then proceeded to tell me that a major issue is that in 2009, before he purchased his property, there was an extraordinary rain and wind storm which caused flooding all around town, and one of his neighbors had their pool filled with dirt and mud, and he felt that this was somehow the Hotel's fault.

He stated that the neighbors and he have two demands, which he stated were both written into the 2005 CUP of the previous owner and never complied with.

These items are:

- 1: That there be no use of amplifiers, and
- 2: The dirt lot

He did not elaborate what he believed had been required by the 2005 CUP with regard to the Hotel's adjoining open lot.

**[NOTE: Neither of these were, in fact, required conditions of the 2005 CUP]**

When I asked if we could discuss possible solutions, Mr. Seavey stated that he refused to have any further discussion about either problems or solutions unless every one of his neighbors was in the same room.

I agreed, and asked him when and where he would like this meeting to occur. He refused to discuss any possible dates for a group/neighbor meeting with the Hotel's new staff, other than to require that it must be at the Hotel, and that it could not occur before the June 22 Planning Commission Hearing, in two weeks. Then Mr. Seavey stated that if there were to be a meeting, that it would also be conditioned that he would not participate in any discussion that included either the words "Decibel Level" or "Sound Meter".

I then stated that it was my desire to listen to each of the neighbor's complaints, both individually and as a group, so that I could best understand their concerns, and that it was my goal to understand what their problems were as soon as possible, so that at the time of a group meeting we could all focus on finding solutions that will work for everyone. Mr. Seavey then responded that he would discourage his neighbors from either meeting as a group within the next two weeks, or talking with me one-on-one.

I explained to Mr. Seavey that for the past several months (approximately the start of the year) the Hotel has put a moratorium on any new contracts for new events for the remainder of 2011, other than the contracts which were already signed previously, and I explained that the new Management team already had, and were continuing to, renegotiate any existing contract that would agree to a change in terms to assure control of noise and other issues, including, when possible, paying to move the events to competing hotels and pay the costs.

I told Mr. Seavey that Willamette's commitment to improving matters went as far as terminating the prior Management and bringing in new, better qualified Management, who are part of the community, and that Jesse Garza, the new GM, and I would be running things very differently than they had been in the past.

I tried to explain to Mr. Seavey that we are re-writing our entire Wedding and Events screening process, and the Events Rules and Policies to run events in a manner which we hope will be more acceptable to him and his neighbors. I explained to him that it was important to us to hear their input sooner than two weeks from now, so that we could re-write our Events Contract in a manner which could address their concerns. I began to explain to him some of the new Policies and Rules that are being formed to effectuate changes, and Mr. Seavey interrupted me and refused to hear what I had to say, stating once again, that he would not discuss any matter with me before two weeks.

I then asked Mr. Seavey if, rather than discussing these matters, he would prefer me to send to him in writing some of our new Event screening procedures and conditions and a draft of our new Rules and Policies for Events, and Mr. Seavey told me that he would not read anything that I would send to him or have any further discussion any sooner

than two weeks. He suddenly said that he had an appointment that he immediately had to go to and he terminated the call. ###

**Current Status:**

On Monday, June 13th, following several unproductive attempts to resolve, or even to discuss the complaints directly with the protesting neighbors, I contacted Diane Ross of the Deepwell Estates Neighborhood Organization (DENO). Because Diane is no longer the Chair, and I could not approach Leslie Munger (she currently serves on the Planning Commission), Diane referred me to Tamara Hedges.

Working with Tamara Hedges of DENO, I have scheduled a Neighborhood Meeting for Monday, June 20, to be held at The Horizon Hotel at 6:00 PM. At least six members of the Board of the Deepwell Estates Neighborhood Organization (DENO) have committed to attend this Neighborhood Meeting. In addition to the independent efforts that DENO will make to notify and encourage attendance and participation by the residents of Suntan Lane who have objected to The Horizon Hotel's liquor license application, I have sent notifications/invitations by mail directly to every property on Suntan Lane (SEE ATTACHED)

**Conclusion:**

Willamette Capital Management, the owners of The Horizon Hotel, has authorized broad authority to me and the General Manager of the Hotel to negotiate a range of fair and reasonable accommodations to satisfy reasonable and realistic requests made by the complainants in the spirit of cooperation. The vast combination of actions taken to date, those currently in process, and others being offered are generous and gracious attempts by the Hotel to satisfy these property owners have far exceeded the reasonable standard for a business in this unique position, with the existing precedent, and established history of this property. Accordingly, I urge the Commission to approve this application, and to fairly consider the depth and degree of cooperation, credibility, and character exhibited to date by both parties, as the Commission contemplates whatever conditions may be placed upon this approval.

Finally, it is essential that we all remember that the issue upon which this hearing is based is an application for a liquor license, not permission to host private events, not landscaping or a building permit, nor any other separate matter. This Hearing is about whether the Community and the Applicant both will benefit by permitting the sale of alcoholic beverages to Hotel guests, only at the Hotel's already existing Poolside Bar, and during what hours, and under what conditions, that sale is an appropriate and necessary convenience.



THE HORIZON HOTEL

June 15, 2011

Dear Neighbor:

You are invited to a neighborhood meeting to discuss solutions to neighborhood complaints about the liquor license application currently pending for The Horizon Hotel. The meeting will be held on Monday, June 20, 2011 at 6:00 PM at The Horizon Hotel, 1050 East Palm Canyon, Palm Springs, CA. The meeting will be held at "The Residence" at the Northwest corner of the property. Directions to this room will be posted outside of the lobby of the Hotel.

We look forward to seeing you there.

Best regards,

  
David Martin  
Director of Public Relations and Marketing  
The Horizon Hotel

1050 EAST PALM CANYON DRIVE PALM SPRINGS CA 92204  
TEL: 760.323.1856 FAX: 760.327.2933  
THEHORIZONHOTEL.COM



Postage and Delivery Confirmation fees must be paid before mailing. Article fees for the insured item must be paid before mailing.

**George Bagdon & Neil Durvas**  
**7083 EAST SUNTAN LANE**  
**PALM SPRINGS, CA 92264**

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**JAMES SEANEY & VERENA MORRIS**  
**1084 EAST SUNTAN LANE**  
**PALM SPRINGS, CA 92264**

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**JAMES RIDER**  
**1036 EAST SUNTAN LANE**  
**PALM SPRINGS, CA 92264**

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**MICHAEL GOLD**  
**1070 SUNTAN LANE**  
**PALM SPRINGS, CA 92264**

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**RESIDENT**  
**1080 EAST SUNTAN LANE**  
**PALM SPRINGS, CA 92264**

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Article Sent To: (to be completed by mailer)

DELIVERY CONFIRMATION NUMBER:  
0310 3230 0002 2044 7043

RESIDENT  
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PS Form 3822, May 2002

Back Reversed

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PS Form 3822, May 2002

Back Reversed

## David Newell

---

**From:** David Martin [david@thehorizonhotel.com]  
**Sent:** Thursday, June 16, 2011 12:54 PM  
**To:** David Newell  
**Subject:** Photos of landscaping along north wall of Horizon Hotel

**Attachments:** Photos of North Wall Landscape.pdf; ATT51070.txt

**RECEIVED**

JUN 16 2011

**PLANNING SERVICES  
DEPARTMENT**



Photos of North Wall Landscape... ATT51070.txt (349 B)

David,

Attached are a few photos of the completed landscaping along the north wall at The Horizon Hotel.

I have been confirmed that the work is continuing and ongoing, as both occupancy and weather conditions allow for new planting, at a rate of about 10 additional trees per week.

If you have any difficulty opening or viewing these photos, or if you have any other questions, please give me a call

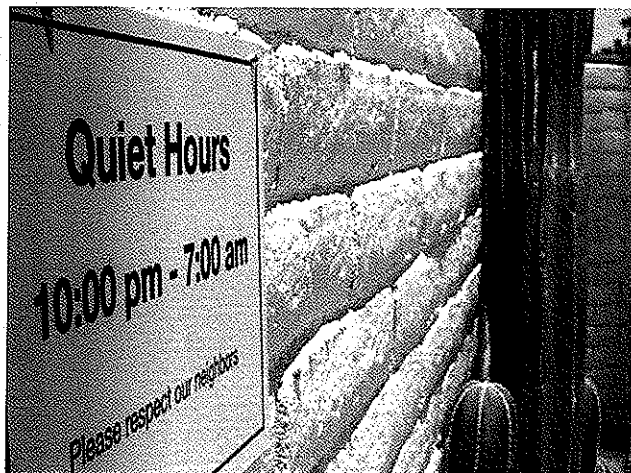
RECEIVED

JAN 18 2011

PLANNING SERVICES  
DEPARTMENT



North Wall (western end of property)



North Wall at eastern end of property