



Planning Commission Staff Report

DATE: OCTOBER 23, 2013

SUBJECT: CITY OF PALM SPRINGS PROPOSAL TO AMEND THE PALM SPRINGS ZONING CODE TO ALLOW CHURCH USES IN THE P AND C1AA ZONES AND CHANGE ZONES AND CHURCH USES FROM CONDITIONALLY PERMITTED TO BY-RIGHT IN THE CSC, CSC, C-1, C-2, HC, CM, M1P, M1 AND M2 ZONES; AND TO ALLOW THE INITIATION OF CODE AMENDMENTS BY THE PLANNING DIRECTOR (CASE 5.1306 ZTA).

FROM: DEPARTMENT OF PLANNING SERVICES

SUMMARY:

The proposed text amendment allows for churches to be located in additional appropriate zones and to be allowed by-right in additional zones. Also, an allowance for staff-initiated amendments is proposed.

RECOMMENDATION:

1. Open the public hearing and receive any testimony.
2. Adopt the attached draft resolution recommending approval of the subject Zone Text Amendment to the City Council.

PRIOR ACTIONS TAKEN ON THE PROJECT:

The City Council voted to initiate the church zone text amendment on October 2, 2013. The Planning Commission voted to initiate the initiation amendment on September 25, 2013.

ANALYSIS:

On April 23, 2013, correspondence was received from the Ad Hoc Palm Springs Religious Leaders Task Force (attachment 3). This was the result of their work over 2 years. The July 2011 City Council report includes a proposed revised definition for churches to religious institutions which staff has included in the recommendation.

The code currently allows many places of assembly in our various zoning categories. The land use distinction regarding churches is that they are places of assembly. Therefore, changes to appropriate zoning categories are summarized below:

Zones:	Uses Allowed By-Right (typical)	Proposed Change:
CSC, C-1, C-2, HC, CM, M1P, M1, M2,	Theaters, dancing studios, private clubs, athletic and health clubs.	Churches by-right from CUP
P, CDN, C1AA	P- Museum, library, childcare LUP CDN - Health club, festival LUP C1AA - Health club, festival LUP	Add churches with LUP

- P = Professional
- CBD = Central Business District
- CDN = Designated Neighborhood Shopping Zone
- CSC = Community Shopping Center Zone
- C-1 = Retail Business Zone
- C-1AA= Large Scale Retail Commercial Zone
- C-2 = General Commercial
- HC = Highway Commercial
- CM = Commercial Manufacturing Zone
- M-1-P = Planned Research and Development Zone
- M-2 = Manufacturing Zone

Staff is not recommending that churches be added as uses allowed within the CBD zone. The uses allowed in this zone are not neighborhood serving but meant to serve the tourist and recreation users. The zoning code states:

The CBD zone is intended for the central business district, primarily retail business character with related hotels, multiple family dwellings and service, office, cultural and institutional uses. The CBD is intended to be a compact, lively, active, intensely used area catering to the pedestrian. Planted walkways, covered walks and open plazas that provide for sitting, dining, conversing, gathering and window shopping are permitted and encouraged.

Pedestrian zones need to retain continuous interest. This is why it is crucial to maintain storefronts on parking structures, to ensure continuous interest. When there are significant unused spaces, the street significantly lose continuity and therefore interest and enthusiasm.

The 2005 Downtown Urban Design Plan calls for creation of mixed use developments, events/entertainment center and pedestrian connections. The plan warns to avoid "the creation of voids in the street frontage;" that institutional uses should not be located in the downtown; the mix of uses should include

offices, residential and entertainment, as well as retail and restaurants.

With regard to issue of initiating amendments, the code currently allows only the City Council and Planning Commission to do so.

Staff proposes to add 94.07.01.B.1.c.

- c. The Director of Planning Services may initiate proceedings by submitting the matter to the Planning Commission for public hearing.

Required Findings

In accordance with Section 94.07.01.A.2, any zone text amendment must be evaluated to determine if it is, "...consistent with the intent of this Zoning Code and the general plan..."

Zoning Code Consistency

The proposed zoning code amendment is consistent with the intent of the zoning code, because, according to Section 91.00.00, the Zoning Code is adopted "For the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources...". The amendment proposes to modify existing zoning categories so that said zones may be more zoning consistent regarding allowed land uses. Further, the amended zone will allow for the initiation of amendments deemed necessary or appropriate by staff.

General Plan Consistency

The proposed zoning code amendment is consistent with the intent of the zoning code, because, according to Section 91.00.00, the Zoning Code is adopted "For the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources..."; and the amendment proposes to modify the existing zoning land use categories to allow for additional uses and additional methods to initiate amendments.

The proposed zoning code amendment is consistent with the intent of the general plan, because, the General Plan priorities include:

Encourage the creative mixing of land use to promote vibrant neighborhoods and reduce the need for vehicle use;

and a Vision that states:

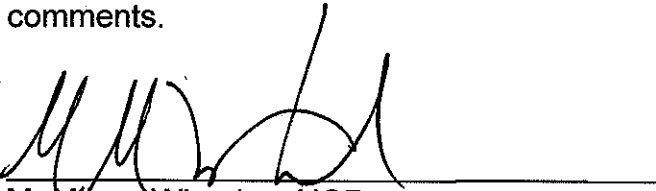
We provide responsive, friendly, efficient public services within a government that fosters unity among all our citizens.

ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the proposed Zone Text Amendment has been deemed a "project". Staff has determined that the proposed zone text amendment (Case 5.1306 ZTA) may be deemed Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendment proposes only insignificant changes to the title and provides for increased locations for churches and allowing staff to initiate amendments.

NOTIFICATION:

A public hearing notice was advertised in accordance with the requirements of State law and local ordinance. As of the writing of this report, staff has not received any comments.



M. Margo Wheeler, AICP
Director of Planning Services

ATTACHMENTS

1. Draft Resolution
2. July 2011 City Council Staff Report
3. April 23, 2013 correspondence from AdHoc Subcommittee
4. List of existing churches

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA RECOMMENDING APPROVAL OF A PROPOSED ZONE TEXT AMENDMENT OF THE PALM SPRINGS MUNICIPAL CODE TO ALLOW CHURCH USES IN THE P AND C1AA ZONES AND CHANGE CHURCH USES FROM CONDITIONALLY PERMITTED TO BY-RIGHT IN THE CSC, C-1, C-2, HC, CM, M1P, M1 AND M2 ZONES; AND TO ALLOW THE INITIATION OF CODE AMENDMENTS BY THE PLANNING DIRECTOR (CASE 5.1306 ZTA).

WHEREAS, the proposed amendment is considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and the it has been recommended that the proposed amendment be determined to be Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendment proposes only insignificant changes to the title and provides for increased locations for churches and allowing staff to initiate amendments.

WHEREAS, a notice of public hearing of the Planning Commission of the City of Palm Springs, California for Case 5.1306 ZTA (Zone Text Amendment) was given in accordance with applicable law; and

WHEREAS, on October 23, 2013 a public hearing of the Planning Commission was held to review said case, and at said hearing the Planning Commission reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

SECTION 1. Pursuant to CEQA, the Planning Commission hereby recommends that the City Council determine that the proposed zone text amendment (Case 5.1306 ZTA) is Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendment proposes only insignificant changes to the title and provides for increased locations for churches and allowing staff to initiate amendments.

SECTION 2: Pursuant to PSZC Section 94.07.01 (Zoning Ordinance Text Amendment), the Planning Commission finds as follows:

- A. The proposed zoning code amendment is consistent with the intent of the zoning code, because, according to Section 91.00.00, the Zoning Code is adopted "For the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of

land resources ..."; and the amendment proposes to modify the existing zoning land use categories to allow for additional uses and additional methods to initiate amendments.

- B. The proposed zoning code amendment is consistent with the intent of the general plan, because, the General Plan priorities include:

Encourage the creative mixing of land use to promote vibrant neighborhoods and reduce the need for vehicle use;

and a Vision that states:

We provide responsive, friendly, efficient public services within a government that fosters unity among all our citizens.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby recommends that the City Council determine that the proposed zone text amendment Case 5.1306 ZTA is Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act and also recommends adoption of an ordinance to approve a zone text amendment (Case 5.1306 ZTA), as set forth in Exhibit A.

ADOPTED this 23rd day of October, 2013.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

M. Margo Wheeler, AICP
Director of Planning Services

Exhibit A
Case 5.1306 ZTA - Church Uses
October 23, 2013

Definitions:

- Section 1: Section 91.00.10.B of the Palm Springs Zoning Code is amended as follows:
Delete - "Church"
Add - "Religious institution - Facilities operated by religious organizations for worship, or the promotion of religious activities, including churches, mosques, synagogues, temples, etc., and religious schools; and ancillary uses on the same site, such as living quarters for ministers and staff, and child day care facilities accessory to the religious facility itself. Other establishments maintained by religious organizations, including full-time educational institutions, hospitals, and other potentially related operations (for example, a recreational camp) are classified according to their respective activities."
- Section 2: P Zone:
Section 92.08.00.01.C of the Palm Springs Zoning Code is amended to add: 2. Religious Institutions
- Section 3: CDN Zone:
Section 92.10.01.C. of the Palm Springs Zoning Code is amended to add: 9. Religious Institutions
- Section 4: CSC Zone:
Section 92.11.01.A of the Palm Springs Zoning Code is amended to add: 7. Religious Institutions
- Section 5: C-1 Zone:
Section 92.12.01.A of the Palm Springs Zoning Code is amended to add: 56. Religious Institutions
- Section 6: C1A A Zone:
Section 92.13.01.C.1. of the Palm Springs Zoning Code is amended to add: 1. Religious Institutions
- Section 7: C2 Zone:
Section 92.14.01.A. of the Palm Springs Zoning Code is amended to add: 21. Religious Institutions
- Section 8: CM Zone:
Section 92.15.01.A. of the Palm Springs Zoning Code is amended to add: 33. Religious Institutions
- Section 9: M-1-P Zone:

Section 92.16.01.A. of the Palm Springs Zoning Code is amended to
add: 8. Religious Institutions

Section 10: Section 94.07.01.B.1. of the Palm Springs Zoning Code is amended to
add: c. The director of Planning Services may initiate proceedings
by submitting the matter to the Planning Commission for
public hearings.



CITY COUNCIL STAFF REPORT

DATE: July 6, 2011

PUBLIC HEARING

SUBJECT: Case No. 5.1211- ZONE TEXT AMENDMENT TO AMEND POLICIES AND STANDARDS FOR OUTDOOR DISPLAY IN COMMERCIAL ZONES AND RELIGIOUS INSTITUTIONS THROUGHOUT THE CITY

FROM: David H. Ready, City Manager

BY: Planning Department

SUMMARY

An amendment to the Palm Springs Zoning Code is proposed regarding the regulation of outdoor accessory uses ("outdoor display") in commercial zones and the definition of "religious institutions" throughout the City. This report provides an analysis of the two issues and the Planning Commission's recommendation for each. A public hearing is required.

RECOMMENDATION:

1. Open the public hearing and receive public testimony;
2. Waive the reading of the ordinance text in its entirety and read by title only; and
3. Introduce on first reading ordinance no. ____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 92.09.01, 92.12.01, 92.13.01 AND 92.14.01 OF THE PALM SPRINGS ZONING CODE RELATING TO OUTDOOR USES, AND 91.00.10, AND ALL OTHER SECTIONS OF THE PALM SPRINGS ZONING CODE RELATING TO CHURCHES AND RELIGIOUS INSTITUTIONS."

PRIOR ACTIONS

On September 3, 2008, the Planning Commission conducted a study session on the subjects and initiated a Zone Text Amendment to consider revisions regarding outdoor accessory uses in commercial zones and "churches", as used in the Code.

ITEM NO. 10

On October 22, 2008, the Planning Commission conducted a public hearing and adopted a resolution recommending a Zone Text Amendment to revise the regulations regarding outdoor accessory uses in commercial zones and "churches".

On May 11, 2011, the Planning Commission continued two separate applications for Land Use Permits for outdoor display in the C-B-D zone (LUP 11-024 / 301 N. Palm Canyon Drive, and LUP 11-025 / 123 N. Palm Canyon Drive).

On June 8, 2011, the Planning Commission conducted a public hearing on the proposed amendments and adopted a resolution recommending that the Zoning Code be amended as noted in the attached draft ordinance.

ANALYSIS

This proposal addresses two proposed amendments to the Zoning Code. The first addresses how merchants may seek approval for the outdoor display of goods in the Central Business District, C-1 and C-2 zones. The second amendment introduces a more generic definition for places of worship, replacing the word "church" with "religious institution".

Land Use Permits – Outdoor Accessory Uses

Presently, the Zoning Code allows merchants in the Central Business District (C-B-D), C-1 and C-2 commercial zones to display a limited set of commercial products outside their shops, subject to approval of a Land Use Permit (LUP). Included in this list are: Plants and floral displays, postcard racks and vending carts limited to food, beverages, crafts and floral items (see attached zoning code excerpt). The LUP is used to regulate the size, type and location of the display to assure that full access is provided to patrons and passersby, as well as to assure that the display materials are appropriately sized, designed and maintained.

The Zoning Code also allows the issuance of a Land Use Permit for vending carts that display other goods beside food, beverages, crafts and floral items, subject to approval by the Planning Commission. In short, the Code allows a wide variety of items to be displayed in vending carts, but only after a higher level of review is performed (Commission approval, instead of staff).

Recently, staff and the Commission have been petitioned by merchants seeking approval for outdoor display of other products which do not lend themselves to placement on vending carts: Books and electric bicycles. The amendment would give the Commission the authority to consider such requests.

The current language for C-B-D, C-1 and C-2 zones identify the Commission's authority on the last line of the following typical sub-section (emphasis added):

Outdoor uses as an accessory to a permitted main use and located on the same property as the permitted use:

- a. *Art displays;*
- b. *Artisans, artists;*

- c. *Car shows;*
- d. *Christmas tree sales not as an accessory use to a main use;*
- e. *Display cases in malls or courts;*
- f. *Farmers market;*
- g. *Fashion shows;*
- h. *Festivals, exhibits and special events;*
- i. *Florists;*
- j. *Musicians/entertainment (subject to provisions of noise ordinance);*
- k. *Outdoor dining including beverage service;*
- l. *Plant and floral sales and displays;*
- m. *Postcard displays (limited to one per store frontage);*
- n. *Theatre and public assembly;*
- o. *Vending carts dispensing the following:*
 - i. *Food,*
 - ii. *Beverages,*
 - iii. *Crafts,*
 - iv. *Floral items,*
 - v. ***Other uses as determined by the planning commission.***

The proposed amendment would provide new opportunities for merchants to create interesting and attractive outdoor displays for a wider variety of product. The specific change recommended by the Planning Commission would have the above sub-section conclude as follows:

- ...
- m. *Postcard displays (limited to one per store frontage);*
- n. *Theatre and public assembly;*
- o. *Vending carts dispensing the following:*
 - i. *Food,*
 - ii. *Beverages,*
 - iii. *Crafts,*
 - iv. *Floral items,*
- p. ***Other uses as determined by the planning commission.***

As noted above, this broader allowance for outdoor display would still be subject to Planning Commission review so that the issues of design, size, location and relationship to surrounding properties (avoiding potential clutter) could be reviewed and addressed.

Churches and Religious Institutions

At present, all religious institutions in the City are named "churches" in the Zoning Code. Further, churches are defined in the Zoning Code as structures dedicated to worship:

"Church" means a permanently located building commonly used for religious worship, fully enclosed with walls (including windows and doors) and having a roof (canvas or fabric excluded) and conforming to applicable legal requirements affecting design and construction.

Staff believes that the current wording does not reflect how many religious traditions describe their facilities or practices. Most modern zoning codes avoid the use of terms

which imply a particular religious faith or practice. Further, the City's definition focuses on a "building commonly used for religious worship...", yet many smaller religious groups are seeking worship space within industrial or commercial complexes which are not commonly used for worship.

Staff also notes that the City must take account of the federal "Religious Land Use and Institutionalized Persons Act" (RLUIPA) of 2000, which requires that the City do the following with regarding to religious institutions and the City's zoning powers:

1. Make adequate provisions for churches and other religious institutions so that these uses are not unreasonably limited within the City.
2. Assure that any regulations directed at religious institutions are based on indirect impacts of the use – traffic, noise, etc. – rather than regulating the use itself.
3. Assure that the regulations are applied uniformly among religious institutions, other non-commercial, and commercial activities.

Staff believes that the City's Zoning Code should be brought up to date with regard to regulating religious institutions as a land use, while remaining sensitive to RLUIPA. In order to accomplish these objectives, staff recommends that a definition be created for the phrase, "religious institution":

Religious Institution - Facilities operated by religious organizations for worship, or the promotion of religious activities, including churches, mosques, synagogues, temples, etc., and religious schools; and ancillary uses on the same site, such as living quarters for ministers and staff, and child day care facilities accessory to the religious facility itself. Other establishments maintained by religious organizations, including full-time educational institutions, hospitals, and other potentially related operations (for example, a recreational camp) are classified according to their respective activities.

The Planning Commission also considered the zones within which churches are presently permitted or conditionally permitted, as shown on the next page. In addition, it should be noted that Churches are not currently permitted in the following zones:

- P – Professional
- C-B-D – Central Business District
- C-D-N – Designed Neighborhood Shopping Center
- C-1AA – Large-scale Retail Commercial
- C-M – Commercial Manufacturing
- E-I – Energy Industrial
- A - Airport

Further, churches are specifically prohibited in the N and W overlay zones, and the O zone. The chart on the next page summarizes the current status of churches as a land use in the City's zone districts.

Zone	Allowed by Right	Allowed by CUP	Prohibited
G-R-5		X	
R-1		X ¹	
R-G-A		X ²	
R-2		X	
R-3		X	
R-4		X	
R-MHP			X
P			X
C-B-D			X
C-D-N			X
C-S-C		X ³	
C-1		X	
C-1AA			X
C-2	X		
H-C	X		
C-M			X
M-1-P		X	
M-1	X		
M-2	X		
E-I			X
A			X
N			X
O			X
U-R		X ⁴	

¹ Allowed only on Major or Secondary Thoroughfares

² Allowed only on sites of 2 acres or more

³ Free-standing only

⁴ Allowed only with a Planned Development District

The Commission recommended that religious institutions be permitted anywhere in the City subject to a Conditional Use Permit (or Planned Development Permit). The primary effects would be twofold:

1. Eliminate the "by right" allowance for religious institutions in the C-2, H-C, M-1 and M-2 zones, and
2. Allow consideration of religious institutions in R-MHP, P, C-B-D, C-D-N, C-1AA, C-M, E-I, A, N and O zones.

Staff has concluded that the Commission's recommendation provides greater oversight of religious institutions, but that removing the "by right" status in the C-2, H-C, M-1 and M-2 zones may be unduly restrictive. Of greater concern to staff, however is that certain zones may be inappropriate for religious institutions at all due to the underlying character of the zone, especially the Airport (A), "N" (Noise Impact and Nonsuit Covenant Combining Zone), and W (Watercourse) zones. Staff notes that commercial and other zones are of lesser concern, as specific sites within these zones may be acceptable for religious institutions if properly conditioned through the CUP. Staff is recommending a

modification of the Commission's recommendation: To specifically exclude religious institutions from the Airport, Noise Impact and Watercourse zones.

ENVIRONMENTAL DETERMINATION


Staff has evaluated the potential environmental impacts of the proposed Zoning Ordinance text amendment and determined that it is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act. The proposed amendment does not result in any changes in land use or density.

FISCAL IMPACT:

None.



Craig A. Ewing, AICP,
Dir. of Planning Services



Tom A. Wilson,
Asst. City Manager, Dev't Services



David H. Ready,
City Manager

Attachments:

1. Draft Ordinance – Zone Text Amendment – Massage Use in Commercial Zones
2. Planning Commission Staff Reports and Meeting Minutes (excerpts);
 - a. September 3, 2008
 - b. October 22, 2008
 - c. May 11, 2011 (Land Use Permit requests), and
 - d. June 8, 2011
3. Planning Commission Resolution No. 6205

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 92.09.01, 92.12.01, 92.13.01 AND 92.14.01 OF THE PALM SPRINGS ZONING CODE RELATING TO OUTDOOR USES, AND 91.00.10, AND ALL OTHER SECTIONS OF THE PALM SPRINGS ZONING CODE RELATING TO CHURCHES AND RELIGIOUS INSTITUTIONS.

City Attorney's Summary

This Ordinance modifies how "outdoor uses" may be allowed by the Planning Commission in certain commercial zones, establishes a definition for "religious institutions" and allows "religious institutions" to be established in most zones, subject to a Conditional Use Permit.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:

Section 1. The following Sections shall be revised to allow "outdoor uses" to include "Other uses as determined by the planning commission" and deleted from "vending carts dispensing the following": Sections 92.09.01.C.2, 92.09.01.C.3, 92.09.1.C.4 (C-B-D Zone), 92.12.01.C.2, 92.12.01.C.3, 91.12.01.C.4 (C-1 Zone), 92.13.01.C.2, 92.13.01.C.3, 92.13.01.C.4 (C-1AA Zone), 92.14.01.C.2, 92.14.01.C.3 and 92.14.01.C.4 (C-2 Zone).

Section 2. Sections 91.00.10 shall be amended to include the following definition:

Religious Institution - Facilities operated by religious organizations for worship, or the promotion of religious activities, including churches, mosques, synagogues, temples, etc., and religious schools; and ancillary uses on the same site, such as living quarters for ministers and staff, and child day care facilities accessory to the religious facility itself. Other establishments maintained by religious organizations, including full-time educational institutions, hospitals, and other potentially related operations (for example, a recreational camp) are classified according to their respective activities.

Section 3. Sections 92.00.01.C (G-R-5 Zone), 92.01.01.D (R-1 Zone), 92.02.01.C (R-G-A Zone), 92.03.01C (R-2 Zone), 92.04.01.D (R-3 Zone), 92.05.01.D (R-4 Zone),

92.11.01.D (C-S-C Zone), 92.12.01.C (C-1 Zone), 92.14.01.A (C-2 Zone) shall be amended to delete the word "churches" and renumbered accordingly.

Section 4. Section 94.02.00.A.1 shall be amended to read, as follows:

1. The following uses may be permitted subject to the provisions of this section. The commission shall review and approve or disapprove the use. The commission's action shall be final unless appealed to the council.
 - a. Uses listed in the zones as "Uses Permitted by Conditional Use Permit".
 - b. High-rise buildings permitted by a zone's development standards, and pursuant to Section 93.04.00.
 - c. Religious institutions in any zone, except in the "A" (Airport), "N" (Noise Impact and Nonsuit Covenant Combining Zone), and W (Watercourse) zones

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2011.

MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

APPROVED AS TO FORM:

DOUGLAS HOLLAND, CITY ATTORNEY

3D. Case 5.1211 ZTA - An application by the City of Palm Springs to amend the Palm Springs Zoning Code relating to the establishment of policies and standards for outdoor accessory and religious institutions.

Director Ewing provided background information as outlined in the staff report dated June 8, 2011.

Chair Caffery opened the public hearing and with no appearances coming forward the public hearing was closed.

Vice Chair Donenfeld expressed concern with losing the quality of the display by allowing everything and having a carnival atmosphere. He preferred the Planning Commission have the discretion in keeping with what Palm Springs should be.

Commissioner Conrad requested staff research the number of outdoor displays that have been issued.

Commissioner Roberts spoke in favor of the Commission reviewing outdoor displays and questioned the possibility of reviewing non-permitted displays. Director Ewing responded that code enforcement pro-actively patrols the downtown area and the applicant is notified of non-permitted outdoor displays.

Chair Caffery expressed concern that outdoor displays are completely out of control especially on weekends.

ACTION: To adopt draft resolution and recommend approval to the City Council.
Motion J.R. Roberts, seconded by Doug Donenfeld and carried 6-1 on a roll call vote.

AYES: Leslie Munger, Tracy Conrad, Doug Donenfeld, Doug Hudson, Philip Klatchko, and J.R. Roberts.
NOES: Chair Caffery.

April 23, 2013
Palm Springs, California

cc DHR
Jay T
Margo

Honorable Steve Pougnet, Mayor
City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs, California 92262

Dear Mayor Pougnet;

In accordance with your request, the attached document presents the recommendations of this Palm Springs religious leaders task force for moving our city zoning ordinance into compliance with the Religious Land Use and Institutionalized persons Act of 2000 (RLUIPA).

We've been working and building support among our congregations on this action since July 2011. We presented the issue to the council in May 2012. At that time, you directed staff to seek input from us as religious leaders. We consulted with Director of Planning Craig Ewing on several occasions. Independently, our group drafted land-use language with legal counsel to **establish that churches and/or religious assemblies of instruction or worship be treated the same manner that theaters, arenas, auditoriums, community centers, civic centers, fraternal lodges and other secular assembly uses are now treated.** Furthermore, the language is inclusive of land uses beyond "churches."

Compliance with RLUIPA has far reaching implications for the vitality, mobility and growth of religious congregations in Palm Springs.

We now ask you to present this language to the Council for action.

Please keep us apprised of the progress and schedule for official consideration of this very important process.

Sincerely,
Ad Hoc Palm Springs Religious Leaders Task Force

Rev. Kevin A. Johnson Bloom the Desert Ministries United Church of Christ	Rev. Dr. Sharon Stroud Innerfaith Spiritual Center Worldwide	Rev. Dr. Micheal Kearny Center for Spiritual Living Palm Springs
Pastor Jerold Thompson Hope Community Seventh-day Adventist Church	Rev. Dr. Amanda Burr United Methodist Church of Palm Springs	Fr. Andrew Green Church of St. Paul in the Desert (Episcopal)
Sr. Diane Smith St Theresa's Catholic Church	Rev. Dr. William Godwin, Peace Christian Fellowship	

cc: Margo Wheeler, Director of Planning
David Ready, City Manger

James Thompson, City Clerk

April 23, 2013

Religious Leaders Request for Compliance with Religious Land Use and Institutionalized Persons Act (RLUIPA) in Palm Springs Zoning

Palm Springs' zoning ordinance is in need of amendment to treat churches (religious exercise and assembly) fairly and according to federal law. Local religious leader are concerned that current zoning ordinances impose, directly or indirectly, unreasonable burdens on religious groups based on the sole fact that their use of the property is religious in nature. The nondiscrimination provision of the Religious Land Use and Institutionalized Persons Act, "RLUIPA", mandates that a city cannot lawfully treat similar assembly uses differently based on content (i.e. religious v. secular). RLUIPA prohibits any burden on religious free exercise without a "compelling state interest", which we respectfully submit is utterly lacking under the City's current Zoning Code as applied to religious assemblies.

Therefore, we urge the Palm Springs City Council to establish that churches and/or religious assemblies of instruction or worship be treated the same manner that theaters, arenas, auditoriums, community centers, civic centers, fraternal lodges and other secular assembly uses are now treated. We also urge the language defining land use be inclusive beyond "churches."

To advance municipal code compliance with RLUIPA, we recommend that the City adopt four changes to the Zoning Code:

1. An addition of an amendment to the Zoning Code to clarify that the Code cannot impose unsubstantiated burdens on religious expression. (see attached, "Proposed Amendment Section 91.01.11 Protection of First Amendment Rights")
2. A change in terminology from "Churches" to "Churches and Religious Assemblies of Instruction or Worship" throughout the Zoning Code (see attached)
3. The addition of "Churches and/or Religious Assemblies of Instruction or Worship" to four zones (Zones: 'P', 'C-B-D', 'C-D-N', and 'C-1AA') and equalizing those uses to given comparable uses
4. The revision of land use designation for "Churches and/or Religious Assemblies of Instruction or Worship", from "Conditional Use Permit" to a "by right" permit, to equate with comparable uses in Zones 'C-S-C' and 'C-1'.

Quoting the United States Department of Justice: "...RLUIPA, as a federal civil rights law, takes precedence and the zoning law must give way."

***Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA)**

"Religious assemblies, especially, new, small, or unfamiliar ones, may be illegally discriminated against on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation. Zoning codes and landmarking laws may **illegally exclude religious assemblies in places where they permit theaters, meeting halls, and other places** where large groups of people assemble for secular purposes. Or the zoning codes or landmarking laws may **permit religious assemblies only with individualized permission** from the zoning board or landmarking commission, and zoning boards or landmarking commission may use that authority in illegally discriminatory ways. To address these concerns, **RLUIPA prohibits zoning and landmarking laws that substantially burden the religious exercise of churches** or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest."

<http://www.justice.gov/crt/about/hce/rluipaexplain.php>

Addendum 1: Proposed Amendment Section 91.01.11 Protection of First Amendment Rights:

"New Suggested Section 91.01.11 Protection of First Amendment Rights. It is also the purpose of the ordinance codified in this Zoning Code to incorporate the protections set forth in Federal Law protecting the exercise of First Amendment rights pursuant to the Religious Freedom Restoration Act of 1993 and Religious Land Use and Institutionalized Persons Act of 2000. Without limiting the generality of the foregoing, every provision of this ordinance shall be interpreted to any manner which does not impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person including a religious assembly or institution, unless the City demonstrates that such imposition of the burden on that person, assembly or institution furthers a compelling governmental interest and uses the least restrictive means of furthering that compelling governmental interest. In like kind, this zoning ordinance shall not be imposed or implemented in a manner which discriminates against any assembly or institution on the basis of religion or religious denomination."

Addendum 2: Proposed Revisions to Assembly-type Uses in the Palm Springs Zoning Code

G-R-5 – Guest Ranch Zone

- Public schools at locations indicated on the general plan (CUP)
- Country clubs, golf courses, driving ranges, tennis and swimming clubs and private parks and recreation areas (CUP)
- ~~Churches~~Churches and/or religious assemblies of instruction or worship (CUP)
- Private educational institutions (CUP)

R-1 – Single Family Residential Zone

- ~~Churches~~Churches and/or religious assemblies of instruction or worship located on a major or secondary thoroughfare (CUP)
- Private schools located on a major or secondary thoroughfare (CUP)
- Public schools at locations indicated on the general plan (CUP)
- Recreational facilities such as country clubs, golf courses, riding clubs (CUP)
- Private clubs (CUP)
- Community center building (CUP)

R-G-A – Garden Apartment and Cluster Residential Zone

- Public parks, recreational areas and public schools (CUP)
- Private clubs, golf courses, tennis and swimming clubs (CUP)
- ~~Churches~~Churches and/or religious assemblies of instruction or worship on sites of two (2) acres or more (CUP)

R-3 – Multiple-family Residential and Hotel Zone

- Athletic, sport and recreation clubs (CUP)
- ~~Churches~~Churches and/or religious assemblies of instruction or worship (CUP)
- Convention centers (CUP)
- Country clubs, golf courses, driving ranges, tennis and swimming clubs (CUP)

- Museums (CUP)
- Private educational institutions (CUP)
- Public schools at locations indicated on the general plan (CUP)

R-4 – Large-scale Hotel and Multiple-family Residential Zone

- Private clubs not as an accessory to a hotel (CUP)
- Churches Churches and/or religious assemblies of instruction or worship (CUP)
- Civic uses and community center buildings (CUP)
- Convention centers (CUP)
- Museums (CUP)

P – Professional Zone

- Conservatories (by right)
- Libraries (by right)
- Museums (by right)
- Churches and/or religious assemblies of instruction and worship (LUP)

C-B-D – Central Business District Zone

- Convention centers (by right)
- Dance studios (by right)
- Private clubs and condominiums (by right)
- Libraries (by right)
- Movie theaters (by right)
- Museums (by right)
- Theaters, legitimate stage (by right)
- Churches and/or religious assemblies of instruction and worship (by right)
- Art schools (LUP)
- Farmers market (LUP)
- Festivals and exhibits (LUP)
- Lodges, meeting halls, private clubs (CUP)
- Recreational facilities, commercial (CUP)

C-D-N - Designed Neighborhood Shopping Center Zone

- Athletic and health clubs (by right)
- Festivals, exhibits and special events (LUP)
- Churches and/or religious assemblies of instruction and worship (by right)

C-S-C – Community Shopping Center Zone

- Athletic and health clubs (by right)
- Theaters (by right)
- Festivals, exhibits and special events (LUP)
- Business schools not exceeding 40,000 SF of gross building area (CUP)
- Churches Churches and/or religious assemblies of instruction or worship; freestanding (by right CUP)

- Recreation centers, not otherwise regulated herein (CUP)

C-1 – Retail Business Zone

- Art schools (by right)
- Athletic or health clubs (by right)
- Beauty parlors and colleges (by right)
- Dancing studios (by right)
- Libraries (by right)
- Modeling schools (by right)
- Museums (by right)
- Private clubs (by right)
- Security exchange (by right)
- Theaters, movie and legitimate stage (by right)
- Auction houses (LUP)
- Farmers market (LUP)
- Festivals and exhibits (LUP)
- Special purpose schools (LUP)
- Churches and/or religious assemblies of instruction or worship (by right CUP)
- Commercial recreational facilities (CUP)
- Convention center (CUP)
- Lodges, meeting halls (CUP)

C-1AA – Large-scale Retail Commercial Zone

- Conservatories (by right)
- Health/athletic clubs (by right)
- Theaters, indoor (by right)
- Churches and/or religious assemblies of instruction and worship (by right)
- Farmers market (LUP)
- Festivals and exhibits (LUP)

C-2 – General Commercial Zone

- Art schools (by right)
- Athletic or health clubs (by right)
- Beauty parlors and colleges (by right)
- Business schools (by right)
- Churches and/or religious assemblies of instruction or worship (by right)
- Convention center (by right)
- Dancing studios (by right)
- Libraries (by right)
- Lodges, meeting halls (by right)
- Modeling schools (by right)
- Museums (by right)
- Private clubs (by right)

- Security exchange (by right)
- Theaters, movie and legitimate stage (by right)
- Farmers market (LUP)
- Festivals and exhibits (LUP)
- Recreational facilities, commercial (CUP)

HC – Highway Commercial Zone

- Art schools (by right)
- Athletic or health clubs (by right)
- Beauty parlors and colleges (by right)
- Business schools (by right)
- ~~Churches~~ Churches and/or religious assemblies of instruction or worship (by right)
- Convention center (by right)
- Dancing studios (by right)
- Libraries (by right)
- Lodges, meeting halls (by right)
- Modeling schools (by right)
- Museums (by right)
- Private clubs (by right)
- Security exchange (by right)
- Theaters, movie and legitimate stage (by right)
- ~~Churches~~ (CUP)
- Commercial recreational facilities (CUP)
- Convention center (CUP)
- Lodges, meeting halls (CUP)

C-M – Commercial Manufacturing Zone

- Art schools (by right)
- Athletic or health clubs (by right)
- Beauty parlors and colleges (by right)
- Business schools (by right)
- ~~Churches~~ Churches and/or religious assemblies of instruction or worship (by right)
- Convention center (by right)
- Dancing studios (by right)
- Libraries (by right)
- Lodges, meeting halls (by right)
- Modeling schools (by right)
- Museums (by right)
- Private clubs (by right)
- Security exchange (by right)
- Theaters, movie and legitimate stage (by right)
- Commercial recreational facilities (LUP)
- Lodges, meeting halls (LUP)

M-1-P – Planned Research and Development Park Zone

- Art schools (CUP)
- Athletic or health clubs (CUP)
- Beauty parlors and colleges (CUP)
- Business schools (CUP)
- ~~Churches~~Churches and/or religious assemblies of instruction or worship (CUP)
- Convention center (CUP)
- Dancing studios (CUP)
- Libraries (CUP)
- Lodges, meeting halls (CUP)
- Modeling schools (CUP)
- Museums (CUP)
- Private clubs (CUP)
- Security exchange (CUP)
- Theaters, movie and legitimate stage (CUP)
- Farmers market (CUP)
- Festivals and exhibits (CUP)
- Recreational facilities, commercial (CUP)

M-1 – Service / Manufacturing Zone

- Art schools (by right)
- Athletic or health clubs (by right)
- Beauty parlors and colleges (by right)
- Business schools (by right)
- ~~Churches~~Churches and/or religious assemblies of instruction or worship (by right) ✓
- Convention center (by right)
- Dancing studios (by right)
- Libraries (by right)
- Lodges, meeting halls (by right)
- Modeling schools (by right)
- Museums (by right)
- Private clubs (by right)
- Security exchange (by right)
- Theaters, movie and legitimate stage (by right)
- Farmers market (by right)
- Festivals and exhibits (by right)
- Recreational facilities, commercial (by right)

M-2 – Manufacturing Zone

- Art schools (by right)
- Athletic or health clubs (by right)
- Beauty parlors and colleges (by right)
- Business schools (by right)
- ~~Churches~~Churches and/or religious assemblies of instruction or worship (by right) ✓

- Convention center (by right)
- Dancing studios (by right)
- Libraries (by right)
- Lodges, meeting halls (by right)
- Modeling schools (by right)
- Museums (by right)
- Private clubs (by right)
- Security exchange (by right)
- Theaters, movie and legitimate stage (by right)
- Farmers market (by right)
- Festivals and exhibits (by right)
- Recreational facilities, commercial (by right)

A – Airport Zone

- Museums (by right)

O – Open Lands Zone

- Places of assembly (CUP)
- Private commercial recreation and open space uses (CUP)
- Public schools, including accessory uses (CUP)

ESA-SP – Environmentally Sensitive Area Specific Plan Zone

- Nature centers, museums and other facilities that interpret and support the natural environment (specific plan)
- Athletic, sport and recreation clubs (specific plan)
- Country clubs, golf courses driving ranges, tennis and swimming facilities (specific plan)

CU – Civic Uses Zone

- Museums, libraries, and cultural uses (by right)

Any Zone

- Equestrian establishments (academies, schools and amusements) (CUP)
- Establishments or enterprises involving large assemblages of people or automobiles (all CUP):
 - o Amusement parks,
 - o Circuses,
 - o Fair grounds,
 - o Open-air theaters, excluding drive-in movie theaters,
 - o Outdoor recreational centers privately operated,
 - o Race tracks,
 - o Stadia,
 - o Swap meets;
- Private educational institutions on major thoroughfares as defined on the general plan of the city (CUP)

Religious Leaders resource note: Pro bono legal counsel provided by Gregory Weiler, partner with Palmieri, Tyler, Wiener, Wilhelm & Waldron, L.L.P., and expert in land use regulations.

For identification purposes only:
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2603 Main Street, Suite 1300
Irvine, California 92614-4281

Case 5.1306 LTA - Churches

PC 10.23.13

(2)

Our Lady of Guadalupe
204 S Calle El Segundo
Palm Springs, CA 92262

Church of Religious Science
2100 E Racquet Club Rd
Palm Springs, CA 92262

Greater New Bethel Chr-God
303 W Tramview Rd
Palm Springs, CA 92262

Palm Springs Presbyterian
815 S Camino Real
Palm Springs, CA 92264

Pentecostals of the Desert
757 S Williams Rd
Palm Springs, CA 92264

Nueva Vida Iglesia Bautista
614 Desert Way
Palm Springs, CA 92264

Innerfaith Ministries Worldwide
2300 E Barista Rd
Palm Springs, CA 92262

The Spirit of God
1655 E Palm Canyon Dr, #606
Palm Springs, CA 92264

Releford Ocie M
214 N Safari St
Palm Springs, CA 92264

Wayside Harvestors Incorporated
260 W Camino Alturas
Palm Springs, CA 92264

Center for Spiritual Living Palm
Springs
2100 E Racquet Club Rd
Palm Springs, CA 92262

Insight Com of the Desert
2100 E. Racquet Club
Palm Springs, CA 92262

Dharmachakra Buddhist Center
1445 N. Sunrise Way, #104
Palm Springs, CA 92262

(13)

First Baptist Church
588 Rosa Parks Rd
Palm Springs, CA 92262

Our Lady-Solitude Church
151 W Alejo Rd
Palm Springs, CA 92262

Church of St Paul-In Desert
125 W El Alameda
Palm Springs, CA 92262

Family of Love Church
1901 Montalvo Way
Palm Springs, CA 92262

St Theresa Catholic Church
2800 E Ramon Road
Palm Springs, CA 92264

United Methodist Church
1555 E Alejo Rd
Palm Springs, CA 92262

First Southern Baptist Church
1111 E Vista Chino
Palm Springs, CA 92262

Our Savior's Lutheran Church
1020 E Ramon Rd
Palm Springs, CA 92264

Hope Community Sda Church
1243 N Gene Autry Trl, #111
Palm Springs, CA 92262

Seventh-Day Adventist Church
620 S Sunrise Way
Palm Springs, CA 92264

Catholic Church St Thersea
2900 E Ramon Rd
Palm Springs, CA 92264

The Church of Jesus Christ of
Latter-Day Saints
1400 N Avenida Caballeros
Palm Springs, CA 92262

Jehovah's Witnesses
2100 E Vista Chino
Palm Springs, CA 92262

Desert Cities Community Church
333 N Palm Canyon Dr
Palm Springs, CA 92262

Living Water Church of the Desert
5000 E Calle San Raphael, #C5
Palm Springs, CA 92264

St Michael & Gabriel Romanian
590 S Vella Rd
Palm Springs, CA 92264

The Father's House
1281 N Gene Autry Trail, Ste D
Palm Springs, CA 92262

The Church of Jesus Christ of
Latter-Day Saints
1450 N Avenida Caballeros
Palm Springs, CA 92262

Bloom in the Desert Ministries
3601 E Mesquite Ave
Palm Springs, CA 92264

Palm Springs Baptist Church
1696 S E Cielo Rd
Palm Springs, CA 92264

Ajalon Baptist Church
433 W Tramview Rd
Palm Springs, CA 92262

Lily of the Valley Worship Center
332 W Alejo Rd
Palm Springs, CA 92262

Desert Chapel
630 S Sunrise Way
Palm Springs, CA 92264

Christian Science Reading Room
235 S Palm Canyon Dr
Palm Springs, CA 92262

Hosanna City Church
5005 E Calle San Raphael Rd
Palm Springs, CA 92264

Peace & Praise Fellowship
1283 E Del Mar Way
Palm Springs, CA 92262

Bloom in the Desert Ministries
400 S El Cielo Rd, Ste G
Palm Springs, CA 92262

First Church of Christ Science
605 S Riverside Dr
Palm Springs, CA 92264

Desert Oasis Chapel
4741 E Palm Canyon Dr
Palm Springs, CA 92264

Rebirth Temple of Faith
1243 N Gene Autry Trl, Ste 115
Palm Springs, CA 92262