



CITY COUNCIL STAFF REPORT

DATE: November 20, 2013

PUBLIC HEARING

SUBJECT: AMENDMENT TO THE PALM SPRINGS ZONING CODE REGARDING
CHURCHES IN VARIOUS ZONES (CASE 5.1306 ZTA)

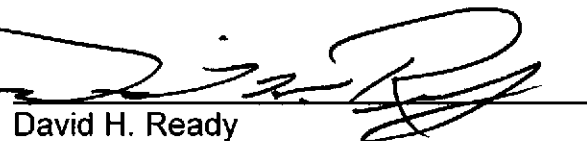
FROM: David H. Ready, City Manager

BY: Office of the City Clerk

RECOMMENDATION:

1. Continue the Public Hearing, with no public testimony at this time.
2. Direct staff and the Planning Commission to further review churches in the Central Business District.
3. Direct the City Clerk to re-notice pursuant to law.


James Thompson
Chief of Staff/City Clerk


David H. Ready
City Manager

/kdh

Attachment:

Public Hearing Notice

ITEM NO. 13

**CITY OF PALM SPRINGS
PUBLIC HEARING NOTIFICATION**



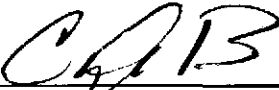
Date: November 20, 2013

Subject: Case 5.1306 ZTA for Church Uses and Initiation of Amendments

AFFIDAVIT OF PUBLICATION

I, Cynthia A. Berardi, Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun on November 9, 2013.

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




Cynthia A. Berardi, CMC
Deputy City Clerk

AFFIDAVIT OF POSTING

I, Cynthia A. Berardi, Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board, and in the Office of the City Clerk and on November 7, 2013.

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



Cynthia A. Berardi, CMC
Deputy City Clerk

AFFIDAVIT OF MAILING

I, Cynthia A. Berardi, Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on November 6, 2013, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California. (50 notices)

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



Cynthia A. Berardi, CMC
Deputy City Clerk

NOTICE OF PUBLIC HEARING
CITY COUNCIL
CITY OF PALM SPRINGS

CASE 5.1306 ZTA
APPLICATION BY THE CITY OF PALM SPRINGS
FOR A ZONE TEXT AMENDMENT FOR CHURCH USES AND
INITIATION OF AMENDMENTS

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting on November 20, 2013. The City Council meeting begins at 6:00 p.m. in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider Case 5.1306 ZTA, an application by the City of Palm Springs, to amend the Palm Springs Zoning Code (PSZC) to allow church uses in additional zoning districts as conditional and by-right uses, amend the definition and allow the planning staff to initiate amendments (PSZC Section 94.07.01).

ENVIRONMENTAL DETERMINATION: The City of Palm Springs, in its capacity as the Lead Agency, under the California Environmental Quality Act (CEQA) has determined that the proposed zoning code text amendment is Categorically Exempt under Section 15305 of the State CEQA Guidelines. The proposed amendments would provide for a minor alteration of the land use limitations in the City's land use regulations, but would not increase land use densities or intensities.

REVIEW OF INFORMATION: The staff report and other supporting documents regarding this matter are available for public review at City Hall between the hours of 8:00 a.m. and 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

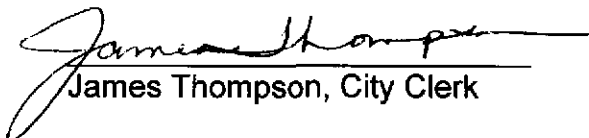
COMMENTS: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

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

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

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to M. Margo Wheeler, Director of Planning Services, at (760) 323-8245.

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


James Thompson, City Clerk

Rev. Dr. Henry Lee Bates [a.k.a. Hank Bates]
Desert Cities Community Church
333 North Palm Canyon Drive, 117
Palm Springs, CA 92262
phone: 760.778.5677 (Rev. Bates 760.333.6980)

RECEIVED
CITY OF PALM SPRINGS

2013 NOV 13 PM 5: 27

JAMES H. HODGINS
CITY CLERK

November 13, 2013

To: Mayor Pougnet and the Palm Springs City Council Members

Re: CASE 5.1306 ZTA - ZONE TEXT AMENDMENT FOR CHURCH USES

Approximately nine (9) years ago I went through the Planning Committee and had a hearing before the City Council to continue operation of Desert Cities Community Church on the west-side of The Amado Center at 333 North Palm Canyon Drive. I received City Council approval to continue and Mayor Oden directed the City Attorney to provide me with the property use permit. I never received anything from the City Attorney during the past nine years and the church will be celebrating its 10th Anniversary in May of 2014.

During this past 9+ years the church has provided the Community at-large with the following:

- 1) We host a 12-step meeting weekly at the church.
- 2) We provided ESL classes at no charge to foreign born students.
- 3) We hosted classes by a teacher with a PhD for small acting classes.
- 4) We hosted play readings to small audiences.
- 5) We have performed weddings and wedding vow renewal ceremonies.
- 6) We have performed funeral and memorial services.
- 7) We present, "live" from Palm Springs, a 30-minute radio program which is broadcast 7 days a week, reaching radio audiences in Los Angeles, Maryland, South Jersey, parts of Virginia and Washington D.C., Red Lion, Pennsylvania and simulcast "live" via the Internet and Shortwave Radio broadcasts to 120 countries.
- 8) We also have a Sunday morning Service at the church at 10:30 a.m.

The only impact that we have made to the Palm Springs downtown district is a positive one. Now, as someone who is also involved in commercial properties in downtown/uptown, I can assure you that I don't believe that a church or spiritual organization's facility would be appropriate in all locations; i.e. this church has worked out fine at The Amado Center but would be a bad fit for The Corridor. Neither do I personally think churches or other spiritual organizations would be appropriate for Palm Canyon frontage spaces in the downtown/uptown districts.

Having stated all of this, however, I must add that I do not expect my personal opinion to influence the decision by the Mayor and the Council as well as the City Attorney. I believe that adherence to The Religious Land Use and Institutionalized Persons Act is in the best interest of the City of Palm Springs. I have copied the following for your review:

The Religious Land Use and Institutionalized Persons Act (RLUIPA) was passed by Congress in 2000 to protect Churches and religious organization from zoning ordinances that target churches for different treatment, or that place a "substantial burden" on a person or organization's ability to worship. The Supreme Court upheld the constitutionality of RLUIPA in the 2005 case of *Cutter v. Wilkinson*, 544 U.S. 709 (2005).

RLUIPA forbids disparate treatment of religious organizations, and requires that a "religious assembly or institution" be treated on "equal terms with a nonreligious assembly or institution." 42 U.S.C. § 2000cc(b)(1)

(2006). This means that if assemblies of persons are allowed in a particular zone, but churches that would constitute a similar assembly are excluded, the regulation probably violates RLUIPA.

For example, in *Petra Presbyterian Church v. Village of Northbrook*, 489 F.3d 846 (7th Cir. 2007), the United States Court of Appeals for the Seventh Circuit held that a municipality could not allow non-religious membership organizations and community centers to locate within an industrial zone while simultaneously excluding churches. The court noted that a violation of RLUIPA's equal terms provision must be remedied by either permitting religious organizations in the zone or forbidding analogous non-religious uses in the zone. *Id.* at 849. <>

In effect, places like the Hard Rock Hotel who open their facility to the public for pool parties, etc. with the approval of the City of Palm Springs, create an "assembly" that is too similar to that which is created by a church or spiritual organization. Meetings at hotels; i.e. the Hilton and the Hyatt also may fall into this "assembly" definition that is used to protect churches from different treatment.

I am confident that each of you will arrive at the right decision in this matter for all concerned.

Best regards,



Rev. Dr. Henry Lee Bates

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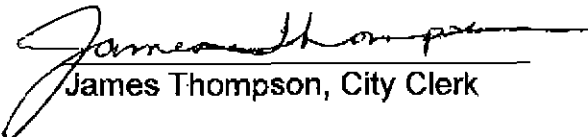
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