

PLANNING COMMISSION STAFF REPORT

DATE:

January 8, 2014

SUBJECT:

JUDY DEERTRACK FOR AN APPEAL OF THE PLANNING DIRETOR'S DECISION TO APPROVE A LAND USE PERMIT FOR OUTDOOR

ENTERTAINMENT / MUSICIANS AS AN ACCESSORY USE TO A RESTAURANT LOCATED AT 1555 SOUTH PALM CANYON DRIVE,

ZONE PD-131 / I.L. (CASE LUP 13-067). (DN)

CASE:

13-067 LUP (APPEAL)

FROM:

Department of Planning Services

SUMMARY

The Planning Commission will consider an appeal of the Planning Director's decision to approve a Land Use Permit authorizing outdoor entertainment / musicians as an accessory to a restaurant located at 1555 South Palm Canyon Drive. The permit was issued to Miggy's Cantina LLC doing business as Hacienda Cantina. The appellant, Judy Deertrack, is a resident at 1333 S. Belardo Road, Apt. 510.

RECOMMENDATION:

Deny appeal and uphold the Planning Director's decision.

ISSUES:

None

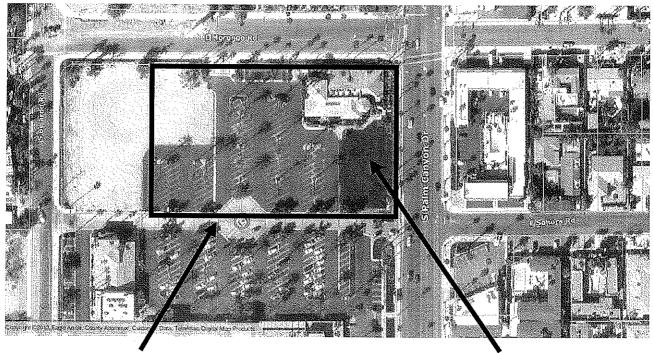
BACKGROUND:

Planning Areas		
Specific Plan	None	
Design Plan	None	
Airport Overlay	None	
Indian Land	Yes	
Resort Combining	Yes	Subject to Section 92.25.00 of Zoning Code

Related Rele	vant City Actions by Planning, Fire, Building, etc
10/21/2013	The Architectural Advisory Committee (AAC) reviewed a Minor Architectural Application (MAA) to develop the vacant pad area adjacent to the existing restaurant building with an outdoor pool, recreation, lounge and bar area at the existing Plaza Del Sol shopping center. The project was tabled with comments and requests, including: 1. Use of Washington Filifera Palms instead of Queen Palms; 2. Use 36-inch box Olive trees in parking lot for shading; 3. Setback wall along Palm Canyon with enhanced landscape; 4. Height of service (bar) structure too tall at ten feet height and should be reduced;
	 Provide additional information on Palm Canyon building / structure elevations, and details of wall finish and articulation;
11/25/2013	The AAC recommended approval of the MAA, subject to proposed staff conditions and have a subcommittee review how the new walls will interface with the original walls with regard to size, location, material, color and texture, and an additional condition for the four Queen Palms to be replaced with Washingtonia Palms. Chair Secoy-Jensen added an amendment stating that the landscape plans supersede the drainage plans due to inconsistencies.
11/27/2013	Staff approved the MAA (Case 3.1111) for exterior improvements and Land Use Permit (13-067) for accessory outdoor musicians / entertainment, subject to Conditions. (See attached approval letter.)

Neighborhoo	d Meeting
None	

General	Plan, Zoning and Land Us	es of Site & Surrounding Ar	eas
	Existing General Plan Designations		Existing Land Use
Subject Property	NCC (Neighborhood / Community Commercial)	PD-131 (Planned Development 131)	Restaurant in Commercial Shopping Center
North	NCC	C-1 (Retail Business), R-3 (Multiple-family Residential and Hotel) & PD-17	66-unit Hotel
South	TRC (Tourist Resort Commercial)	PD-52	Stein-Mart and other commercial tenants
East	TRC	C-1	38-unit Hotel
West	HDR (High Density Residential)	R-3	Vacant



PROPOSED DEVELOPMENT

PROPOSED ENTERTAINMENT

BACKGROUND

The subject site is currently a non-operational restaurant building within the Plaza Del Sol shopping center. The applicant submitted two applications – a Minor Architectural Application (MAA) and a Land Use Permit (LUP). The MAA was for all exterior improvements, including:

- Construction of an outdoor accessory recreation area including, pool, lounge chairs, private cabanas, palapa bar, bathrooms and (2) bocce ball courts;
- Building a six-foot high block wall around accessory recreation area;
- Installation of wrought-iron fence between pool area and restaurant building walkway;
- Expand the parking area to the vacant, undeveloped dirt area west of the building;
- Re-paint existing restaurant building with gray hues;
- Enhance landscaping around and within proposed recreation area.

The Land Use Permit was submitted to allow outdoor entertainment / musicians as an accessory to the restaurant.

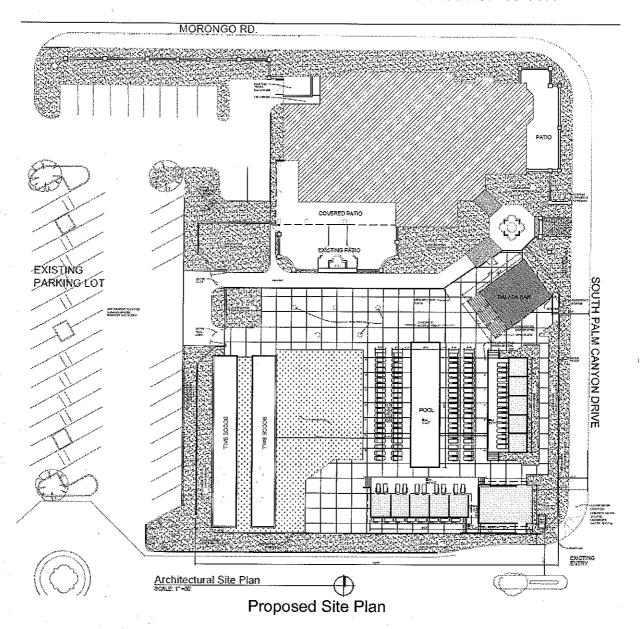
While the letter originally submitted by the appellant states the appeal is for both applications, only one appeal fee was submitted for the Land Use Permit. The appellant was informed on December 12th that this is the only matter under consideration by the Planning Commission. Staff was informed on December 18th to proceed with the LUP only.

MINOR ARCHITECTURAL APPLICTION 3.1111 MAA

Not under consideration.

LAND USE PERMIT APPLICATION 13-067

Miggy's Cantina LLC filed an application to allow outdoor entertainment / musicians as an accessory use to the existing non-operational restaurant. The entertainment will be located within a newly expanded pool and accessory recreation space adjacent to the restaurant. Music / entertainment are limited between the hours of 8:00 AM and 6:00 PM daily, and must be in conformance with the noise ordinance, including limitations on maximum decibel levels. See all conditions outlined in attached LUP 13-067.



APPEAL

The appellant has stated three reasons for the appealing the Land Use Permit below. Staff has responded to each.

"1. My first concern is with the classification of this project as 'accessory use to a restaurant,' as though it is a minor modification that is a simple incidental use with no real change in character to the project area. Accessory uses are incidental to the principal permitted use in the zoning districts. But, the question here is whether the proposed accessory use is one customarily found in connection with the principal permitted use (a neighborhood restaurant in NCC), and secondly, whether it fits with the character of the overall Plaza Del Sol shopping center as a Neighborhood Community Center, servicing a local population as required by the general plan. This project is not neighborhood serving. Creekside Inn has always been a quiet residential restaurant, not a restaurant linked to a large commercial hotel or general commercial district. Therefore, classifying the accessory uses as "music" seems disingenuous, because it ignores the primary activity, which is gathering place for large groups, sitting at the pool, drinking at the bar, most likely loud music, and hundreds of people that gather on the weekends at spot locations in Palm Springs, such as you find at the Ace Hotel, Saguaro Hotel, and the Riviera. These uses are absolutely fun and appropriate to Palm Springs when they occur in the proper areas of the city and when they get proper review, but neither element is present here."

<u>Staff response</u>: the zoning code specifies a number of uses that are permitted as accessory to a primary use within the C-1 Zone, which is the underlying zoning designation for the property. Specifically, Section 92.12.01(C)(2)(j) of the zoning code allows *musicians / entertainment* (subject to the provisions of the noise ordinance) as an outdoor accessory to a permitted main use with the approval of a Land Use Permit.

"2. A second concern is that this should have been processed as a revision or modification to a Planned Development District PDD, and possibly even a combination PDD and Conditional Use Permit (CUP) rather than land use permit. If so, it would have had a hearing. Considering there are significant new uses, it should also be reviewed for Public Benefits requirements of the Planning Policy that requires a PDD to justify its range of uses. It seems problematic to use a Land Use Permit (LUP) and accessory use classification to process any significant change within a Planned Development District (PDD) linked to a pre-existing shopping center, especially when a huge component of parking for that project is going to be displaced. The new parking area is within a 'vacant' classified area, but it is my understanding that this 'parking area' was reserved for commercial office building that has already been permitted and might still be active. That permit is not referenced in the parking discussion. No pakring plan was submitted that I have ever seen. At the least, the re-design of the parking area should be reviewed by the Planning Commission or City Council - not under the restrictions of an appeal, but under the proper use of a revised PDD. During the Christmas Season, there wasn't a parking spot left in front of Steinmart on the weekend. Can you imagine eliminating about 50% of these spaces with no plan in sight for the displacement?"

<u>Staff response</u>: A parking analysis was completed under the Minor Architectural Application and the site has adequate parking for the new accessory recreation space. The zoning code does not require additional parking for outdoor entertainment / musicians.

"3. Thirdly, I am concerned by the failure to place a use permit on equal par with a minor architectural permit. The LUP did not get a hearing, the Minor Architectural Permit did. It seems odd that the land use project implications completely escape public review and the architectural features of the same project get a public hearing. This is not to demean architectural review, which is critical to creating the aesthetics we love and want to protect in the community. But – use should be on equal footing! The Palm Springs General Plan contains important neighborhood protections by classifying land use into three distinct commercial categories: those that serve and limit uses to surrounding neighborhoods (NCC); those that serve citywide needs; and those that serve regional needs. Here is the language on NCC, which applies for this PDD. The general plan requires compliance with this standard:

NEIGHBORHOOD RETAIL CENTERS

"Neighborhood retail centers provide shopping, dining, and gathering opportunities at a smaller scale than community commercial centers. They serve the residential areas immediately surrounding the center rather than Citywide or regional markers." [emphasis added] [Author's Note: This language is accompanied by a photograph of Plaza Del Sol, the PDD at issue, attached] General Plan Community Design Element 9-38.

"Neighborhood/Community Commercial (0.35 FAR). Areas designated as Neighborhood/Community Commercial provide an opportunity for convenience commercial uses that serve adjacent residential neighborhoods. The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and smaller-scale restaurants. Harmonious relationships between these commercial uses and adjacent residential uses shall be achieved through compatibility of site design, building scale, pathways and circulation design, and architectural treatment of structures." [emphasis added] General Plan Land Use Element 2-6.

Neighborhood Serving Commercial

3.26.2 A Neighborhood Convenience Center is intended to provide a service radius of one-half to one mile, with a supermarket as a major tenant, on a 10-30 acre site. Structures shall be a maximum of 30 feet in height." [Author's Note: Although the anchor is not a grocery store, the neighborhood service radius should be the same or similar to NCC] General Plan Bridge Z - App E-3

"The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and <u>small-scale restaurants</u>." [emphasis added]

General Plan LUE at 2-6

<u>Staff response</u>: The Minor Architectural and Land Use Permit applications are reviewed and acted upon exclusively in the zoning code. For instance, one application may be approved and the other may be denied; though they were both approved in this case. There is nothing in the zoning code that requires LUPs be considered at a "hearing" as stated by the appellant.

CONCLUSION

Staff has concluded that the Land Use Permit application (Case 13-067) for outdoor entertainment / musicians is an accessory use authorized by Land Use Permit. Staff recommends the Planning Commission uphold the Planning Director's LUP approval and deny the appeal.

David A. Newell Associate Planner

M. Margo Wheeler, AICP Director of Planning Services

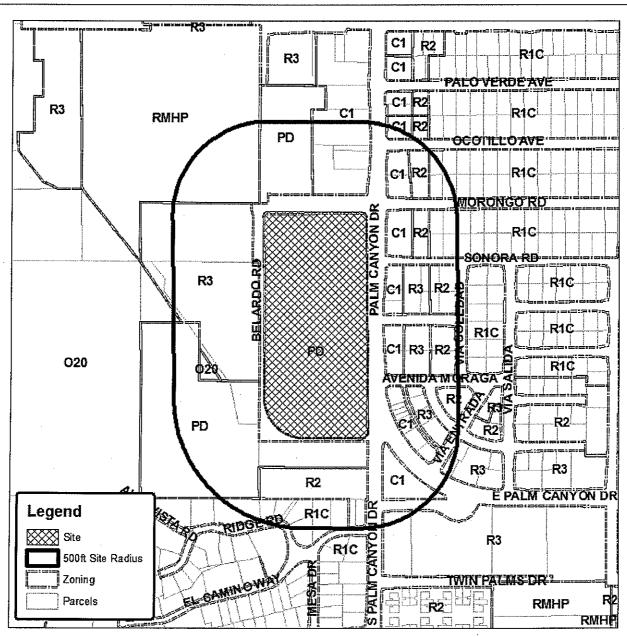
Attachments:

- 1. Vicinity Map
- 2. Draft Resolution
- 3. LUP 13-067
- 4. Appellant letter dated December 5, 2013
- 5. Approval letter dated November 27, 2013
- Reduced Plans



Department of Planning Services Vicinity Map





CITY OF PALM SPRINGS

CASE NO:

LUP 13-067

APPLICANT: Miggy's Cantina LLC

DESCRIPTION:

An appeal of the Planning Director's decision to approve by Land Use Permit outdoor entertainment / musicians as an accessory to a restaurant located at 1555 South Palm Canyon Drive, Zone PD-131 / C-1, Section 22.

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA UPHOLDING THE DENYING AN APPEAL BY JUDY DEERTRACK AND UPHOLDING THE DECISION OF THE DIRECTOR OF PLANNING SERVICES TO APPROVE LUP 13-067; ALLOWING ACCESSORY OUTDOOR ENTERTAINMENT / MUSICIANS AT AN EXISTING RESTAURANT LOCATED AT 1555 SOUTH PALM CANYON DRIVE.

WHEREAS, on September 24, 2013, Miggy's Cantina, LLC, doing business as Hacienda Cantina submitted a Land Use Permit application (Case 13-067) requesting approval to allow outdoor entertainment and musicians as an accessory to an existing restaurant space at 1555 South Palm Canyon Drive, zone C-1 / PD 131; and

WHEREAS, Sections 92.12.01(C)(2)(j) of the Palm Springs Zoning Code allows musicians / entertainment as an accessory to primary uses within the C-1 zone with the approval of a Land Use Permit, and Section 94.02.01(D)(3) grants the Planning Director authority to conduct an investigation and render a decision on all Land Use Permits; and

WHEREAS, on November 27, 2013, the Planning Director issued the approval of Land Use Permit 13-067; and

WHEREAS, on December 5, 2013, Judy Deertrack filed an appeal of Case LUP 13-067; and

WHEREAS, on January 8, 2014, the Planning Commission conducted a public review of the appeal request, including all of the evidence presented in connection with the matter, including, but not limited to, the staff report prepared on the matter, and all written and oral testimony presented; and

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

<u>Section 1:</u> That the decision by the Director of Planning Services to approve the Land Use Permit request to allow musicians / entertainment as an accessory to a restaurant use within the C-1 zone is one properly authorized by Section 92.12.01(C)(2)(j) of the Palm Springs Zoning Code.

<u>Section 2:</u> That the conditions imposed by Land Use Permit 13-067 are necessary to insure the proposed use is compatible with adjacent properties and the community.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby rejects the appeal and upholds the decision of the Director of Planning Services to approve Case LUP 13-067 as conditioned.

Planning	Commission	Resolution
Case LUI	P 13-067 Had	cienda Cantina

January 8, 2014 Page 2 of 2

ADOPTED this 8th day of January 2014.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

M. Margo Wheeler, AICP Director of Planning Services



CITY OF PALM SPRINGS

Department of Planning Services

LAND USE PERMIT # 13-067

Applicant: Miggy's Cantina, LLC	<i>Mailing Addres</i> 700 E. Tahqui Palm Springs	tz Canyon Way	Phone: (949) 922-8210 Fax: E-Mail: rhm@nexusd.com
Business Name: Hacien	da Cantina	Site Address: 15	55 South Palm Canyon Drive
Zone/GP: C-1 / NCC 92.12.01(C)(2)(j	1	-300-038	Section, Township, Range: 22/4/4

PROCEDURE: An application for a Land Use Permit shall be submitted to the Department of Planning Services, and shall be accompanied by the following:

- A Processing fee of \$696.00
- 2. A floor plan and/or site plan displaying the layout of the proposal.
- Such other information as the Director of Planning Services may require, including, but not limited
 to adjacent uses, photographs, building elevations, landscape plans, design studies, furniture
 information, etc.

STATEMENT OF ACTIVITY: Applicant shall submit a statement of the use, expected size, volume, hours, and length of operations; information relating to sanitation, noise, air pollution, vehicle parking, traffic circulation, and any other information of the proposed project:

Land Use Permit for musicians and entertainment (subject to provisions of noise ordinance) outside on pool deck; entertainment to include live DJ's and bands with hours of operation for outside pool area to be from 8:00 AM to 6:00 PM seven days a week.

CONDITIONS: See Land Use Permit for conditions including the requirement of an encroachment agreement to be obtained from the City Engineering Department.

TRANSFER: Transfer of Land Use Permit to another applicant is subject to review and approval by the Director of Planning Services.

REVOCATION: The Director of Planning Services may revoke any Land Use Permit that does not meet or comply with conditions and requirements of this permit.

A 4	·		
Applicant's Signature	Permit Center Signature	Date	Account #
	/ XLem	M-27-A	001-32204
31			



City of Palm Springs

Department of Planning Services 3200 E. Tahquitz Canyon Way Palm Springs, CA 92262 (760) 323-8245 - direct (760) 322-8360 - facsimile

LAND USE PERMIT #13-067 CONDITIONS OF APPROVAL

DATE:

November 27, 2013

REQUEST:

Land Use Permit for musicians and entertainment (subject to provisions of noise ordinance) outside on pool deck; entertainment to include live DJ's and bands with hours of operation for outside pool area to be from 8:00 AM to 6:00 PM seven days a week.

APPLICANT:

Miggy's Cantina LLC

LOCATION:

1555 South Palm Canyon Drive

ZONING/

GENERAL PLAN: C-1 / NCC - Section 92.12.01(C)(2)(j) - outdoor musicians and entertainment

(subject to provisions of noise ordinance) located on the same property as

permitted use allowed with a Land Use Permit.

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

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

- 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.
- 2. 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 this Land Use Permit application. 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 or 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.

- 3. No architectural approval is granted herein. Any exterior changes of the establishment shall require separate applications and permits.
- 4. Any exterior signing, including menu boards and temporary signs shall be approved by the Planning Department. Menu boards and portable open signs shall not be permitted within the City right-of-way without a permit and violations will result in issuance of citations and revocation of all permits and agreements.
- 5. This Land Use Permit authorizes the use of live DJ's and bands providing entertainment outdoor on pool deck.

Live Entertainment is approved as follows:

- a) Live entertainment shall be limited to the pool deck within the hours of 8:00 AM to 6:00 PM.
- b) Any and all instruments shall have limited amplification.
- c) All amplification equipment shall be placed so that sound is projected toward other commercial properties and roadways away from nearby residential communities.
- d) Noise levels shall be maintained to a level where customers can conduct normal conversation.
- e) All activities shall comply with the provisions of the City's Noise Ordinance.
- 6. Hours of operation for outdoor pool area to be from 8:00 AM to 6:00 PM seven days a week.
- 7. This permit does not waive the City's noise ordinance. The business is required to adhere to the following noise levels at all times according to Muni. Code Chap. 11.74.

Ordinance Time of Day	Ordinance dBA Limits
7:00 AM to 6:00 PM	60
6:00 PM to 10:00 PM	55
10:00 PM to 7:00 AM	50

- 8. All conditions of approval associated with Minor Architectural Application (MAA) Case # 3.111 shall apply including site layout, hardscape, and landscaping.
- 9. This Land Use Permit recognizes the presence of 401 off-street parking spaces at Plaza del Sol Shopping Center meeting the requirements of Section 93.06.00(D)(19) of the Palm Springs Zoning Code (PSZC) for mixed-use developments over 20,000-square feet.

- 10. The food service use shall conform to all County of Riverside Department of Health requirements.
- 11.A business license and any other permits are required.
- 12. Applicant shall comply with all California Alcohol Beverage Control regulations.
- 13. This Land Use Permit shall be displayed on-site at all times and made available to City officials upon request.
- 14. Failure to comply with Municipal Codes, Ordinances, and the conditions of this land use permit may result in revocation of this permit.

Director of Planning Services Signature:

Applicants Signature: Date:

Date: 11-27 +3

Judy Deertrack 1333 South Belardo Road, Apt 510 Palm Springs, CA 92264

Thursday, December 5, 2013

To the Planning Director and To the Planning Commission Palm Springs, California

Re: APPEAL (PD Decision 11.27.13)
Case No. LUP 13-067 & 3.1111 MAA;
Hacienda Cantina and Beach Club
1555 S. Palm Canyon Drive
Request to construct and operate accessory
outdoor uses accessory to existing restaurant

To the Honorable Planning Director and Planning Commission:

Please accept this as an appeal and request for hearing on the approval of Case No. LUP 13-067 & 3.1111 MAA, otherwise known as the Hacienda Cantina and Beach Club, which was reviewed and approved by the Planning Director on November 27, 2013. Please note in light of your recent proposed ordinance to combine permit determinations that there is also an outstanding Minor Architectural Permit, recently approved, that is related to this permit.

I am a resident living on the adjoining property across Belardo Road on the westerly side of the project area at Tahquitz Mesa Villas. My first knowledge of the pending permit was by word of mouth immediately before the hearing with the Architectural Advisory Committee (AAC) on December 25th, the same day of the project approval by the Planning Director, Ms. Margo Wheeler. Although I entered a comment complaining about the absence of a land use permit determination in my letter and comments, no one from the department mentioned there was a separate land use permit, and I found out about the LUE on today's date by pure happenstance, and almost lost the right of appeal. This is a problem with segregating permits and not referencing concurrent permits in a project description. The reference to concurrent projects in a project description and on public hearing notices is a required practice of the County of Riverside Planning Department, and I highly recommend this practice to the City. The failure to give proper notification of the entire action through a project description (especially on a hearing notice — AAC in this instance) may also be a Brown Act violation, which could invalidate the approvals.

The City ordinance also provides a very short appeal period from the approval (five days). By the time the project appears bundled into a consent agenda (which is less than transparent for significant change in uses), the appeal period is over. These procedures appear to be unnecessary restrictions of rights to public notification and rights to public participation in very important matters, especially where the public is directly affected by noise, activity, traffic, and parking. Even more important is the loss of public opportunity to participate in the decisionmaking that should accompany the modification and infill / development of commercial projects over time, *especially* where the commercial centers adjoin residential housing. Modified commercial projects can completely change in nature and scope from the original

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permit, and the affected neighbors are not even part of this process under the city's current ordinance.

PUBLIC NOTICE: My first request to the City is to review this project to determine whether it should be heard by the Planning Commission and / or City Council because the scope and nature of changes in use at this restaurant location are significant, and need general plan review on the limitations of use inherent in expanding a Neighborhood Commercial Center (NCC). By implication, if the PC/CC hears this issue, it is placed on a public agenda, and becomes subject to public knowledge and review as well.

USE PERMIT: I have three major concerns with the land use permit (LUP):

- 1. My first concern is with the classification of this project as "accessory use to a restaurant," as though it is a minor modification that is a simple incidental use with no real change in character to the project area. Accessory uses are incidental to the principal permitted use in zoning districts. But, the question here is whether the proposed accessory use is one customarily found in connection with the principal permitted use (a neighborhood restaurant in NCC), and secondly, whether it fits with the character of the overall Plaza Del Sol shopping center as a Neighborhood Community Center, servicing a local population as required by the general plan. This project is not neighborhood serving. Creekside Inn has always been a quiet residential restaurant, not a restaurant linked to a large commercial hotel or general commercial district. Therefore, classifying the accessory use as "music" seems disingenuous, because it ignores the primary activity, which is a gathering place for large groups, sitting at the pool, drinking at the bar, most likely loud music, and hundreds of people that gather on the weekends at spot locations in Palm Springs, such as you find at the Ace Hotel, Saguaro Hotel, and the Riviera. These uses are absolutely fun and appropriate to Palm Springs when they occur in the proper areas of the city and when they get proper review, but neither element is present here.
- 2. A second concern is that this should have been processed as a revision or modification to a Planned Development District PDD, and possibly even a combination PDD and Conditional Use Permit (CUP) rather than land use permit. If so, it would have had a hearing. Considering there are significant new uses, it should also be reviewed for Public Benefits requirements of the Planning Policy that requires a PDD to justify its range of It seems problematic to use a Land Use Permit (LUP) and accessory use classification to process any significant change within a Planned Development District (PDD) linked to a pre-existing shopping center, especially when a huge component of the parking for that project is going to be displaced. The new parking area is within a "vacant" classified area, but it is my understanding that this "parking area" was reserved for a commercial office building that has already been permitted and might still be active. That permit is not referenced in the parking discussion. No parking plan was submitted that I have ever seen. At the least, the re-design of the parking area should be reviewed by Planning Commission or City Council - not under the restrictions of an appeal, but under the proper use of a revised PDD. During the Christmas Season, there wasn't a parking spot left in front of Steinmart on the weekend. Can you imagine eliminating about 50% of these spaces with no plan in sight for the displacement?
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seems odd that the land use project implications completely escape public review and the architectural features of the same project get a public hearing. This is not to demean architectural review, which is critical to creating the aesthetics we love and want to protect in the community. But – use should be on equal footing! The Palm Springs General Plan contains important neighborhood protections by classifying land use into three distinct commercial categories: those that serve and limit uses to surrounding neighborhoods (NCC); those that serve citywide needs; and those that serve regional needs. Here is the language on NCC, which applies for this PDD. The general plan requires compliance with this standard:

NEIGHBORHOOD RETAIL CENTERS

"Neighborhood retail centers provide shopping, dining, and gathering opportunities at a smaller scale than community commercial centers. They serve the residential areas immediately surrounding the center rather than Citywide or regional markers." [emphasis added] [Author's Note: This language is accompanied by a photograph of Plaza Del Sol, the PDD at issue, attached] General Plan Community Design Element 9-38.

"Neighborhood/Community Commercial (0.35 FAR). Areas designated as Neighborhood/Community Commercial provide an opportunity for convenience commercial uses that serve adjacent residential neighborhoods. The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and smaller-scale restaurants. Harmonious relationships between these commercial uses and adjacent residential uses shall be achieved through compatibility of site design, building scale, pathways and circulation design, and architectural treatment of structures." [emphasis added] General Plan Land Use Element 2-6.

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3.26.2 A Neighborhood Convenience Center is intended to provide a service radius of one-half to one mile, with a supermarket as a major tenant, on a 10-30 acre site. Structures shall be a maximum of 30 feet in height." [Author's Note: Although the anchor is not a grocery store, the neighborhood service radius should be the same or similar to NCC] General Plan Bridge Z - App E-3

"The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and <u>small-scale restaurants</u>." [emphasis added]

General Plan LUE at 2-6

CEQA: Applicant proposes a commercial swimming pool, large event recreation grass area, two bocce ball courts, 90 cabanas, lounge chairs, an outside bar area, and general entertainment, and the elimination of an unspecified number of parking places to a new area (equally unspecified), apparently at a later time (unspecified). This project is not being built on vacant land; it is the elimination of a parking area that is part of the shared parking at the Steinmart shopping center.

The city's exemption is cited from the following section of CEQA:

"PRC 15303. New Construction or Conversion of Small Structures

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure."

Although this project anticipates the construction and location of limited numbers of new, small facilities or structures, such as the outdoor bar, the pool, cabanas, and outdoor restroom, this can hardly be classified as simple, minor, architectural changes. The real thrust of the new expansion is in the uses themselves – the head count of people expected to attend, the number of employees expected to serve them, the parking requirements, and activity generated on local traffic flow patterns; and ultimately the compatibility with this project to Plaza Del Sol, a neighborhood-serving commercial shopping plaza.

I would appreciate your kind consideration of these thoughts and concerns. I want to reemphasize how totally I support projects of this nature when they occur in an appropriate area or get appropriate neighborhood and Commission/Council review. I would like to see the city err on the side of public rights and participation. Ultimately, I very much appreciate your hard work, and realize our City prospers from these differences in perspective. The City has always been courteous and gracious in its responses to suggested change. I very much appreciate this, and always want to return the same courtesies, out of pride for what City Hall has achieved in this community.

With regard,

Judy Deertrack

ATTACHMENTS:

General Plan Community Design Element (CDE) 9-38

General Plan Land Use Element (LUE) 2-6



CD17.9 Provide landscaped buffers between the curb and sidewalk along major perimeter roadways surrounding retail centers. Doings so will improve pedestrian safety as well as create a more visually appealing streetscape.

Actions

CD17.1 Update zoning standards to require specific design features from the above policies with special emphasis on pedestrian-friendly amenities, such as gathering places, shade structures, and outdoor seating.



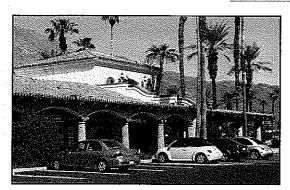
Distinctive and attractive entry monumentation should be placed at the entrance of neighborhood retail centers.

NEIGHBORHOOD RETAIL CENTERS

Neighborhood retail centers provide shopping, dining, and gathering opportunities at a smaller scale than community commercial centers. They serve the residential areas immediately surrounding the center rather than Citywide or regional markets. However, these areas should include many of the same high-quality design elements as the larger centers, although at a smaller scale. These features include, but are not limited to, street-facing orientation, buffered parking, comfortable pedestrian amenities, mini-plazas and gathering places, distinctive signage, theme landscaping, and consistent architectural detailing. Additionally, a focus should be made on creating strong pedestrian and bicycle connections with the surrounding neighborhood.

GOAL CD18:

Create attractive neighborhood retail centers that provide generous pedestrian amenities, distinctive architecture, and convenient access.



Interesting architectural detailing, large display windows, and awnings arcades add to pedestrian interest and comfort and should be incorporated into the design of neighborhood retail centers when feasible.

Policies

CD18.1 Create visual interest and focal points at the corners of retail centers. Measures include special architectural features (such as towers), distinctive roof design, accent landscaping, monument signage, and sculpture elements.

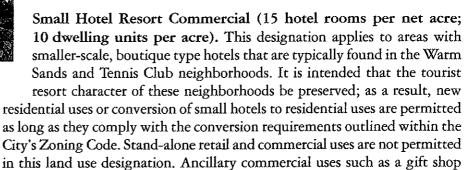
CD18.2 Locate parking in a neighborhood retail center in parking plazas where practical. Massive, oversized parking lots should be avoided. (See the Parking section of this chapter for a description of parking plazas.)



COMMERCIAL

Tourist Resort Commercial (0.35 FAR for stand-alone commercial uses; 43 hotel rooms per net acre; 86 rooms per net acre on Indian Land). 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. Commercial recreation and entertainment facilities, such as convention centers, museums, indoor and outdoor theatres, and water parks are included in this designation, but should be designed to be compatible with neighboring development. Tourist Resort Commercial facilities are most appropriate in the Palm Canyon Drive and Tahquitz Canyon Drive corridors. It is intended that the primary use in any Tourist Resort Commercial area shall be hotel/tourist-related uses; if residential uses are proposed within the Tourist Commercial Designation (timeshares, condominiums, etc.) they shall be a secondary use ancillary to the proposed hotel uses and shall not exceed a maximum of 30 dwelling units per acre. Permanent residential uses and commercial activities are allowed subject to approval of a planned development district.

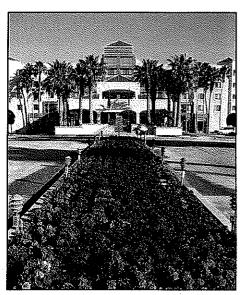


Neighborhood/Community Commercial (0.35 FAR). Areas designated as Neighborhood/Community Commercial provide an opportunity for convenience commercial uses that serve adjacent residential neighborhoods. The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and smaller-scale restaurants. Harmonious relationships between these commercial uses and adjacent residential uses

associated with a small hotel use are allowed.

Regional Commercial (0.50 FAR). Regional Commercial areas are intended to provide for large-scale commercial uses that serve an area larger than the City boundaries. Allowable uses include department stores, theatres, and restaurants. Uses such as automobile dealerships that have a regional draw are

shall be achieved through compatibility of site design, building scale, pathways and circulation design, and architectural treatment of structures.



Tourist Resort Commercial

Palm Springs 2007 General Plan



City of Palm Springs

Department of Planning Services

3200 E. Tahquitz Canyon Way • Palm Springs, California 92262 Tel: (760) 323-8245 • Fax: (760) 322-8360 • Web: www.palmspringsca.gov

November 27, 2013

Rich Meaney Nexus Palm Springs 700 East Tahquitz Canyon Way, Suite A Palm Springs, CA 92262

RE: Case No. LUP 13-067 & 3.1111 MAA; 1555 S. Palm Canyon Drive Request to construct and operate accessory outdoor uses accessory to existing restaurant

Mr. Meaney,

Thank you for submitting the Minor Architectural (MAA) and Land Use Permit (LUP) applications for the property located at the above address. Specifically, you have requested approval to develop the vacant land adjacent to the existing restaurant building with accessory uses, including an outdoor pool, recreation, lounge and bar area. The developed area will be used as accessory space to the existing restaurant. Modifications to the existing parking area are also proposed.

Staff has reviewed the applications in accordance with Planned Development 131 and the underlying C-1 zone, Section 92.12.01 of the Palm Springs Zoning Code (PSZC). Staff has determined that the outdoor pool, bar and recreation space is accessory to the restaurant and outdoor entertainment / musicians may be permitted with the approval of a Land Use Permit, pursuant to Sections 92.12.01(A)(1) and 92.12.01(C)(2)(h) of the PSZC, respectively.

In accordance with Section 94.02.01(D) of the PSZC, staff has reviewed and approved the LUP application (LUP 13-067), subject to conditions of approval (see attached). This decision may be appealed to the Planning Commission within (5) days, pursuant to 94.02.01(D)(4) of the PSZC. The appeal must be filed in writing no later than December 5, 2013, and include the applicable filing fee.

In accordance with Section 94.04.00 of the PSZC, staff has reviewed and conditionally approved the Minor Architectural Application (Case 3.1111 MAA) after consulting with the Architectural Advisory Committee (AAC) on October 21, 2013 and November 25, 2013. Conditions of approval include:

1. Final wall plans shall be submitted for review and approval by the Planning Department prior to the issuance of building permit and must include size,

Meaney Letter Page 2

location, material, color and texture. Details on existing walls and proposed walls shall be included in the final wall plans.

2. Four (existing) Queen Palms shall be replaced with Mexican Fan Palms.

3. Planters with shade trees shall be incorporated into new and existing parking areas west of the proposed development to the satisfaction of the Planning Director.

This decision may be appealed to the Planning Commission within (10) working days, pursuant to 94.04.00(E)(2)(b) of the PSZC. The appeal must be filed in writing no later than December 16, 2013, and include the applicable filing fee.

Staff has determined that the above actions are categorically exempt from the preparation of further environmental documents, pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines. A Notice of Exemption (NOE) will be filed with the County Clerk.

If you have any questions about this letter, please contact me or Associate Planner David Newell at (760) 323-8245.

Sincerely

Margo Wheeler, AICP

Director of Planning Services

cc: Plaza Del Sol, LLC

enclosure:

- Notice of Exemption

- Land Use Permit

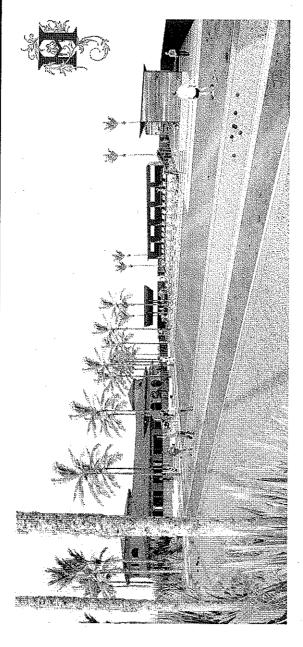
Notice of Exemption

Appendix E

Sacramento, CA 95812-3044 County Clerk County of: Riverside (Address) Project News Palm Springs Project Applicant: Nexus Palm Springs Project Location - Specific: 1555 South Belardo Road Project Location - City: Palm Springs Project Location - City: Palm Springs Project Location - County: Riverside Description of Nature, Purpose and Beneficiaries of Project: To develop vacant land adjacent to an existing restaurant building with accessory structures and uses, including an outdoor pool, recreation, lounge, bar area, walfs, fencing, etc. The developed area will be used as accessory space to the existing restaurant. Modifications to the existing parking area are also proposed. Name of Public Agency Approving Project: City of Palm Springs Name of Person or Agency Carrying Out Project: Exempt Status: (check one): Exempt Status: (check one): Ministerial (Sec. 21080(b)(1); 15268); Declared Emergency (Sec. 21080(b)(3); 15269(a)); Emergency Project (Sec. 21080(b)(4); 15269(b)(c)); Categorical Exemption. State type and section number: Placency Exemptions. State type and section number: Placency Exemptions. State type and section number: Class III Exemption - Section 15303(e) Statutory Exemptions. State type and section number: Placency Exemptions of new walfs, pool, landscape and accessory structures. Specifically, subsection (e) of 15303 allows for "accessory (appurenant) structures including garages, carports, patios, swimming pools, and fences." This project consists of new walls, pool, landscape and accessory structures which comply w/ zone development standards. Lead Agency Contact Person: Margo Wheeler, AICP Area Code/Telephone/Extension: 760/323-8245 If filed by applicant: 1. Attach certified dogument of exemption finding. 2. Has a Notice of Exemption Septimon finding. 2. Has a Notice of Exemption Septimon finding. 2. Has a Notice of Exemption Septimon Septimon Septimon Septimon Services Director Date: 11/127/2013 Title: Planning Services Director	To:	Office of Planning and Research P.O. Box 3044, Room 113	From: (Public Agency): City of Palm Springs 3200 East Tahquitz Canyon Way
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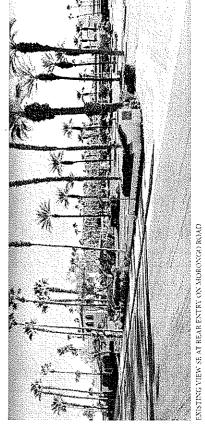


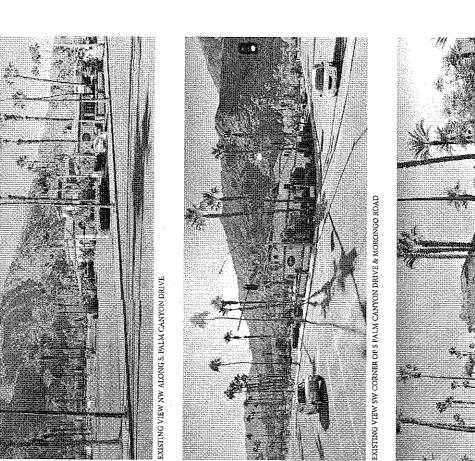
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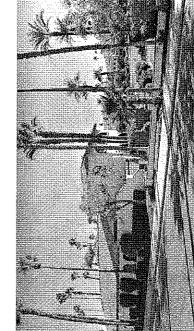


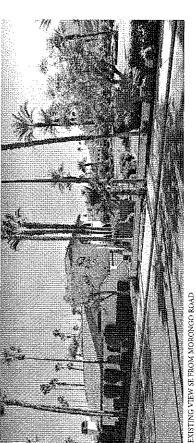


EXISTING VIEW S CORNER OF S PALM CANYON DRIVE ALONG MORONGO ROAD





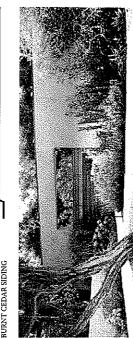






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COMPACTED

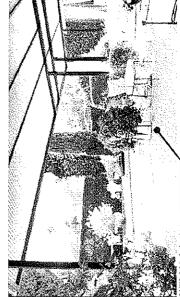
NATURAL GREY / TAN

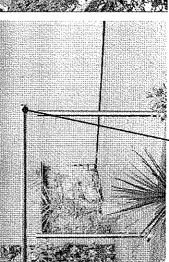
SMOOTH / BRUSHED

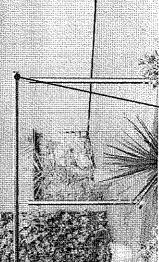
STEEL



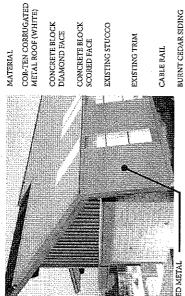
TRIM - 'VULCAN'







CABLE RAILING W: GALVANIZED METAL PIPE



SMOOTH / STANDARD

NATURAL CONCRETE

DUNN EDWARDS DE6340 'CANADIAN LAKE'

MATTE FINISH

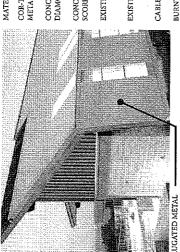
BRIGHT WHITE COLOR

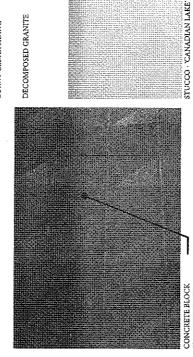
MATTE

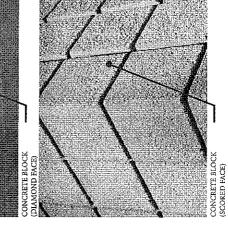
DUNN EDWARDS DE6340 'CANADIAN LAKE'

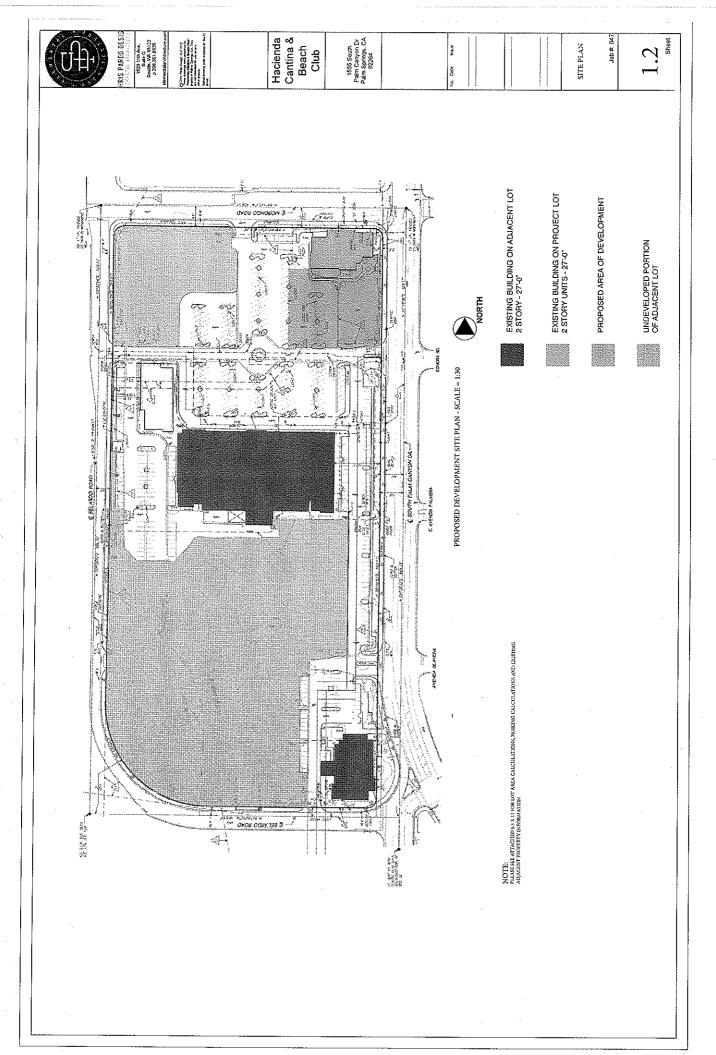
MATTE

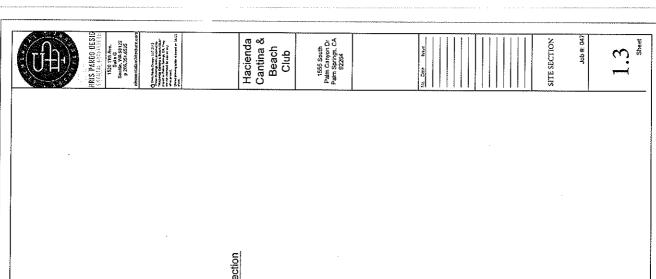
DUNN EDWARDS DE6341 'VULCAN' CLEAR COATING NATURAL BLACK











HACIENDA CANTINA & BEACH CLUB - Site section

