



CITY COUNCIL STAFF REPORT

DATE: February 5, 2014

APPEAL HEARING

SUBJECT: JUDY DEERTRACK APPEALING THE PLANNING COMMISSION DECISION TO UPHOLD THE PLANNING DIRECTOR'S DECISION TO CONDITIONALLY APPROVE A LAND USE PERMIT FOR OUTDOOR ENTERTAINMENT / MUSICIANS AS ACCESSORY TO A RESTAURANT LOCATED AT 1555 SOUTH PALM CANYON DRIVE, ZONE PD-131 / I.L. (CASE LUP 13-067).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

SUMMARY

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

RECOMMENDATION:

1. Open the hearing and receive testimony;
2. Adopt Resolution No. _____ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING AN APPEAL BY JUDY DEERTRACK AND UPHOLDING THE DECISION TO ISSUE LAND USE PERMIT CASE 13-067 FOR OUTDOOR ENTERTAINMENT / MUSICIANS AS ACCESSORY TO A RESTAURANT LOCATED AT 1555 SOUTH PALM CANYON DRIVE."

ITEM NO. 1B

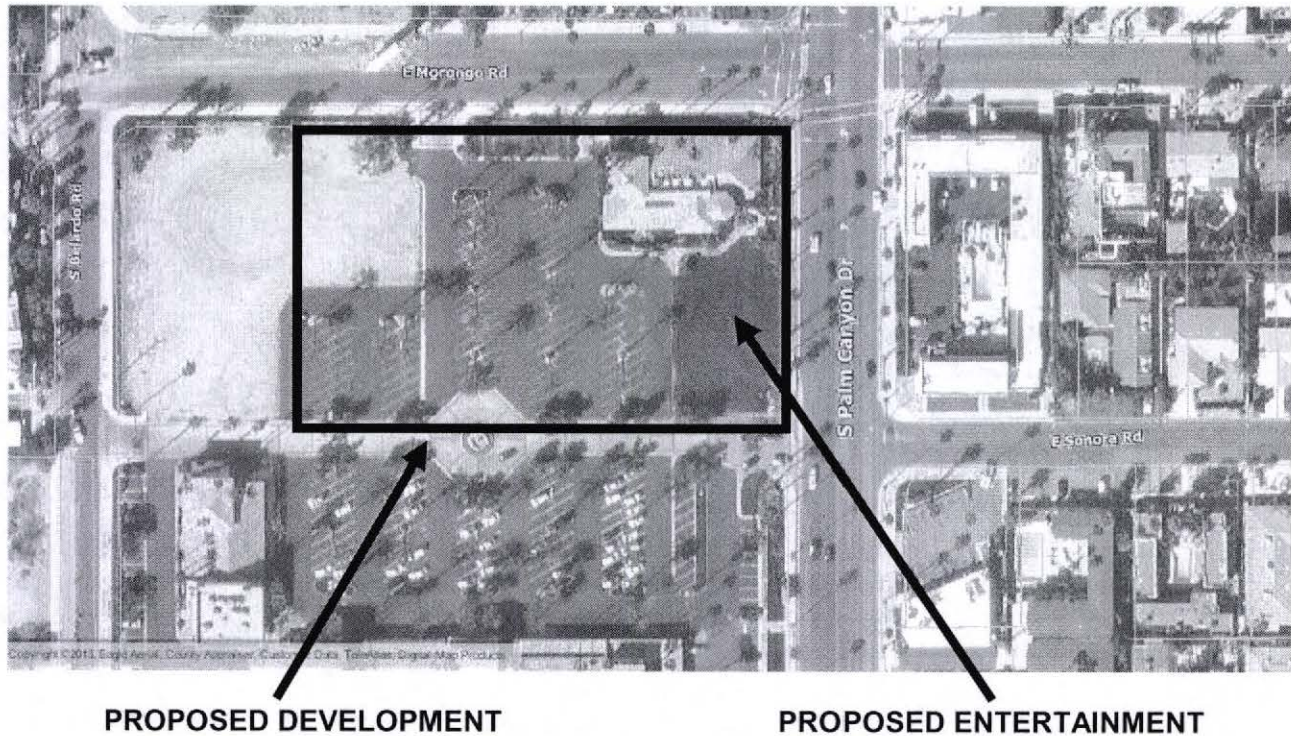
BACKGROUND:

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 Relevant 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, lounge and bar area at the existing Plaza Del Sol shopping center. The project was tabled with comments and requests, including: <ol style="list-style-type: none"> 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; 5. 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.)
11/27/2013	The City filed a Notice of Exemption with Riverside County Clerk. (See attached approval letter.)
1/08/2014	The Planning Commission reviewed the LUP appeal and unanimously rejected the appeal and upheld the decision of the Director of Planning Services to approve Land Use Permit Case LUP 13-067.

General Plan, Zoning and Land Uses of Site & Surrounding Areas			
	Existing General Plan Designations	Existing Zoning Designation	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

Neighborhood Meeting	
None	



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.

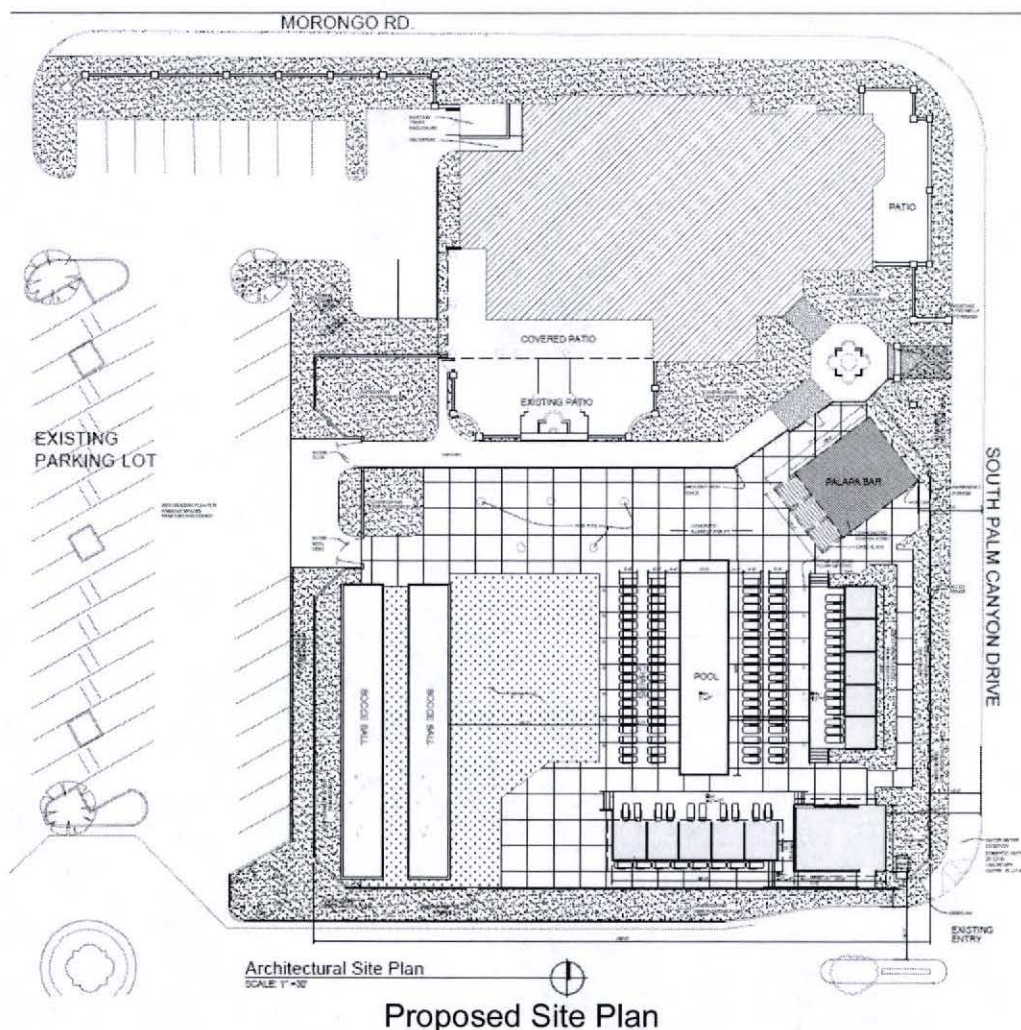
The MAA was sent to the AAC for consideration. The Committee recommended approval and a Notice of Exemption was filed with Riverside County Clerk on November 27, 2013.

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

Throughout the review process, the appellant has noted both the MAA and LUP applications are being appealed. This is shown as recent as the appellant's letter dated January 21, 2014. However, it should be noted that the LUP is the only item being appealed as confirmed in an email from the appellant on December 18, 2013 (see attached email).

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 is proposed to 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 submitted appeal includes numerous statements and reasons for overturning the decision to approve the LUP. Staff has reviewed each below and provided a response:

Please accept this letter as an appeal of the above matter to the City Council. I am respectfully asking the City to incorporate by reference into the staff packet on the appeal, any and all previous comment letters from me or from any other parties, or their representatives, that have been submitted to the City in regard to this matter.

Staff response (#1): All items have been included – see attachment list at end of this report.

This project appears to me as the choice of the city to place a large, high-capacity outdoor “event venue” with music and alcohol permits, right in the middle of a small residential shopping center surrounded by residential use, with all the expectations of quiet and privacy, and then to advise us that there is no obligation to follow the General Plan protections of a Neighborhood Convenience Center, and there is nothing remiss about excluding our input by never placing this matter on a public notice agenda, or by never allowing a public hearing until two appeals were filed. I am disappointed that none of us were contacted, particularly because the property owner is our landlord.

Staff response (#2): The restaurant is located at the northeast corner of the Plaza Del Sol shopping complex and adjacent to a Major Thoroughfare as designated by the General Plan Circulation Element. Commercial uses are permitted within the Neighborhood Community Commercial Land Use designation of the General Plan; the underlying C-1 zone explicitly identifies uses that are permitted as accessory to a primary use. 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. Land Use Permits do not require “public notice agenda” under the zoning or municipal codes.

This appeal is about noise and the right for affected residents to know and participate, and just that. It is about the important obligation of creating appropriate mixtures of commercial and residential uses, building projects to scale, and the obligation of the City to protect its residents from misplaced noise intrusion through the many avenues it has available for that purpose, whether that be:

1. Enforcing the thoughtful protections of its General Plan,
2. Giving impacted neighbors a chance to participate in the decision,
3. Creating fair and appropriate appeal procedures,
4. Creating a safe environment for public participation;
5. Empowering public review of noise, traffic, and parking studies,
6. Sharing written commentary by placing it on the public record,
7. Consolidating the piecemealed permits for an integrated review,
8. Appropriately interpreting “neighborhood compatibility” and how it relates to the California Environmental Quality Act,
9. Scrupulously protecting access to elected representatives when true public issues are present,
10. Protecting the commercial/neighborhood designation of this small Planned Development District during its modification and change over time.

All of the above factors are present as decisions previously made, and now new choices to be made by the City Council. My primary concern today is that no public notice ever went out on this project; people attending today were privately notified. No resident or owner within the area of impact was ever given public notice either before or through the entire appeal process; even the Planning Commission had this placed on the "meeting agenda" rather than a higher level "hearing agenda." As an appellant, I did not even get a chance to speak on the agenda item after paying \$300. I presented my appeal during general public comment, which was awkward and an inappropriate venue for placing the appeal grounds before the decision maker.

Staff response (#3): The Land Use Permit approval is conditioned so that the outdoor entertainment / music are subject to the Noise Ordinance, Municipal Code Chapter 11.74. Decibel limits are specified within the Permit to ensure minimal noise impacts off-site. See LUP condition Nos. 5 & 7.

Regarding noticing, land use permits do not require public hearing notices under the zoning or municipal codes. Notification of appeals to appellant(s) and applicant(s) are public documents available for public inspection. The separate MAA action was heard at two posted AAC meetings, and the appellant attended and spoke at the second meeting on the project.

The appeal period created under city ordinance for a land use permit actually expired because no record of review existed within its time frame; the Notice of Exemption on CEQA with its appeal deadlines was filed (still again) without any public notification of a matter under review. The Planning Commission concluded upon review, with the assent of the Planning Director, that there was no obligation to follow the General Plan protections for neighborhood serving uses; and the Planning Commission admitted that this project is in character, identical to others such as the Ace Hotel, Saguaro Hotel, Riviera, etc., which they admit have extensive records of residential complaints because of major noise and activity incompatibilities. But at the same time the Commission concluded no environmental impact assessment is required. All of these impediments and inhibitors to full public review and participation have a chilling effect when attempting to balance the equities between the general public and commercial development --where there is a crowded or tight fit, as there is here.

Palm Springs has admitted to a vigorous program of outreach to hotels, restaurants, and commercial areas to bring youth, music, and vitality to the city. This has even been described as the Millennium generation. It is unthinkable, however, to intrude into quiet residential neighborhoods without, in the least, inviting those neighbors to offer their input to elected representatives. These music venues and large public gatherings are not expected to be quiet or neighborhood oriented. The noise ordinance was the administrative solution to mitigation, but none of us participated in this choice. Noise ordinances only work when development is placed where it truly belongs; location is everything.

Staff response (#4): The LUP appeal period expired after the initial appeal was filed and five days after the record of decision was made. The project is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303(e), wherein the project consists of construction and location of limited numbers of new, small facilities or structures. All of records of applications and decisions are available for public review and inspection.

This project is likewise confused by segregating a series of permits that collectively comprise the "project." This review has been segregated into an architectural permit, a land use permit, and an alcohol permit. None of the permits run concurrently, and each has its own separate appeal. Therefore, a consolidated review or appeal is impossible, and the true impacts of the project are never before the decision maker or the public at any given time. This has created a fragmented environment, and of course the project never reaches a CEQA threshold of significance, which would generate a public hearing.

Staff response (#5): 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. Should it be determined that there are noncompliance issues with the LUP, the Permit may be revoked, resulting in the elimination of outdoor entertainment / music. Such revocation of exterior improvements is not possible under the zoning code. Therefore, the applications are reviewed and acted upon independently.

There are also problems with the record. Only a few days before this final appeal, Mr. Marantz, the owner of the Happy Traveler RV Park, shared with me a draft, four-page legal memorandum prepared by his attorney, Simon Housman. The memorandum is an in-depth analysis of the city's Noise Element, concluding the city's approval of the project would be in violation of its Noise Element, and that the "overly narrow analysis" of the project as a "minor remodeling" ignores its change from a restaurant to an "event venue."

That memo was addressed to the Mayor and City Council and dated December 9, 2013, received one month before the Planning Commission review and subsequent approval that occurred January 8, 2014, but it was never put on the record for Planning Commission review. I am assuming that the Planning Commission approved the project without benefit of this document, attached to this appeal. If this is the case, the input from Mr. Housman is sufficiently critical, that any decision is incomplete without its addition. I also was not informed of this important document, and would never have discovered it had I not approached Mr. Marantz subsequent to PC approval. Mr. Marantz gave me a check to cover the cost of the appeal to the City Council because of his concern on how this project will impact his business and clients. I will be contacting the City Planning Department to find out whether and when the document was received by Council, in what final form (this is a draft copy), and why it was not shared, if it was placed in the file, which would have been the obligation.

Staff response (#6): Staff never received the Housman letter attached to Ms. Deertrack's appeal in any form. Had it been received, it would have been part of the record and included with the appeal to the Planning Commission.

I am highly supportive of commercial development in this city. The prosperity of our future depends upon the generated revenue, and the vibrancy of our city depends upon the creativity we place into commercial areas. So much of what we are doing has improved the future of Palm Springs. In the instance of the defunct Creekside Inn, I am very excited at its re-opening, and feel that the applicant is an outstanding developer. However, I am asking the City to truly open this process to public inspection and participation so that a careful balance can be obtained between the project and its neighbors. If we don't do this now, this project may suffer over time, or create some of the unpleasantness experienced in other music venues within the City. We don't want that to be the result.

Staff response (#7): See staff response #2 and second paragraph of #3.

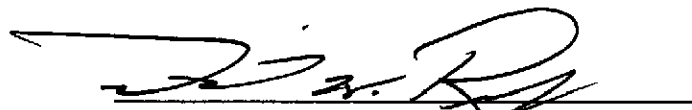
The remainder of the appeal letter is related to ordinance changes and broad considerations.

CONCLUSION:

Staff and the Planning Commission have concluded that the Land Use Permit application (Case LUP 13-067) for outdoor entertainment / musicians is an accessory use authorized by Land Use Permit. Staff and the Planning Commission followed the proper review procedures pursuant to current law. Therefore, it is recommended that the City Council reject the appeal and uphold the decision of the Planning Commission to approve LUP 13-067, subject to the conditions contained therein.



M. Margo Wheeler, AICP
Director of Planning Services



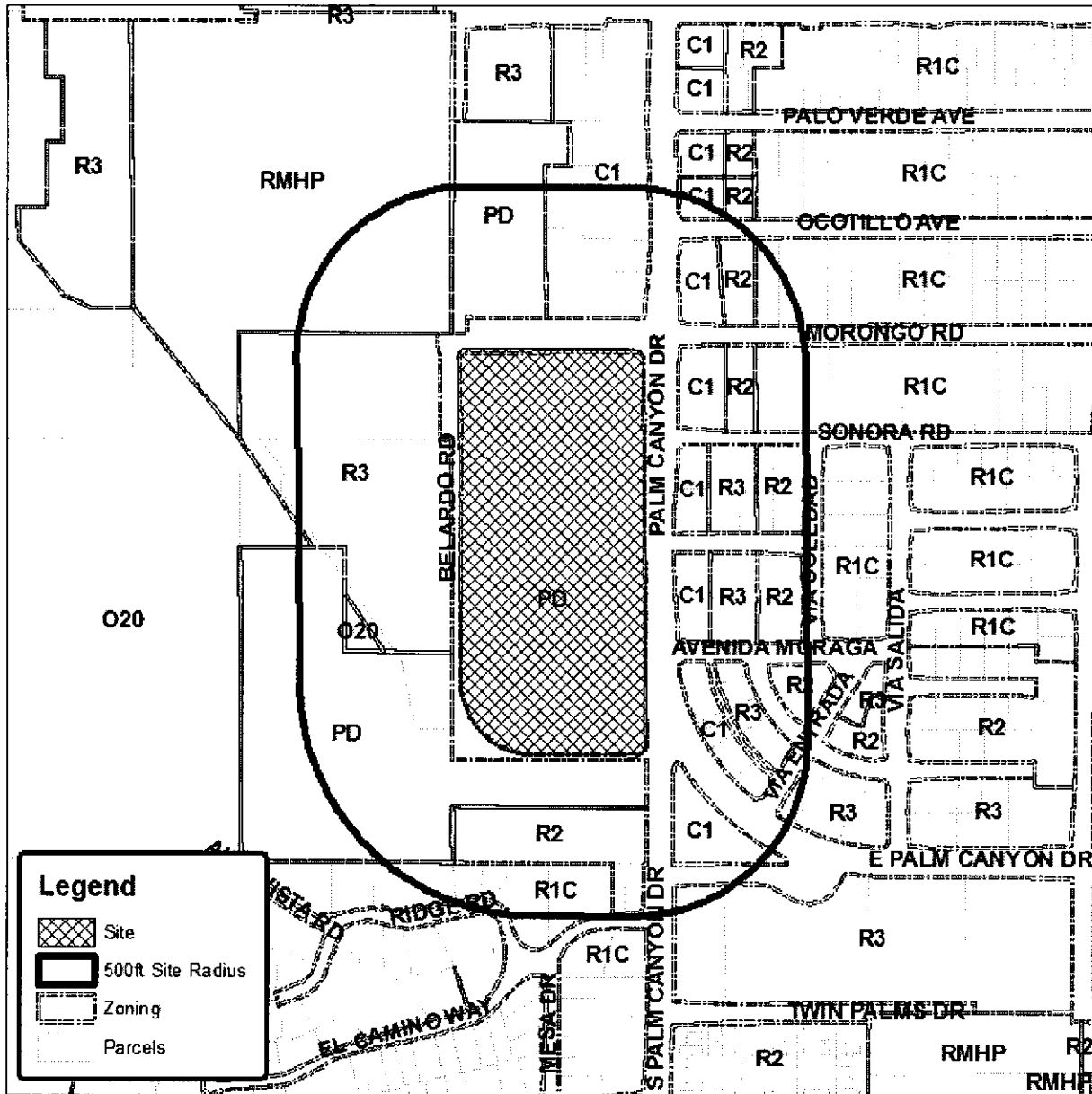
David H. Ready
City Manager

Attachments:

1. Vicinity Map
2. Draft Resolution
3. LUP 13-067
4. Planning Commission Minutes, dated January 8, 2014
5. Planning Commission Resolution 6377
6. Planning Commission Staff Report, dated January 8, 2014
7. Appellant letter, dated January 21, 2014
8. Appellant email, dated December 18, 2013
9. Rutan & Tucker LLP (Applicant) letter, dated January 3, 2014
10. Appellant letter, dated December 5, 2013
11. Staff letter to Appellant and Applicant, dated January 23, 2014
12. Staff letter to Appellant, dated January 9, 2014
13. Staff approval letter to Applicant, dated November 27, 2013
14. Reduced Plans



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: LUP 13-067

APPLICANT: Miggy's Cantina LLC

APPELLANT: Judy Deertrack

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.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING AN APPEAL BY JUDY DEERTRACK AND UPHOLDING THE DECISION TO ISSUE LAND USE PERMIT CASE 13-067 FOR OUTDOOR ENTERTAINMENT / MUSICIANS AS ACCESSORY TO A RESTAURANT LOCATED AT 1555 SOUTH PALM CANYON DRIVE.

WHEREAS, on September 24, 2013, Miggy's Cantina, LLC, ("Applicant") doing business as Hacienda Cantina submitted a Land Use Permit application (Case LUP 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 ("Appellant") filed an appeal of Case LUP 13-067; and

WHEREAS, on January 8, 2014, the Planning Commission carefully reviewed and considered all of the evidence presented on the project, including but not limited to the staff report, and all written and oral testimony presented and voted 4-0 (3 absent) to deny the appeal and uphold the decision of the Planning Director to approve Case No. LUP 13-067; and

WHEREAS, on January 21, 2014, the Appellant filed a subsequent appeal, pursuant to Chapter 2.05 of the Municipal Code, of the Planning Commission's decision to approve Case No. LUP 13-067; and

WHEREAS, on February 5, 2014, a public meeting on the appeal was held by the City Council in accordance with applicable law; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the appeal hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY
RESOLVE AS FOLLOWS:

SECTION 1. Pursuant to Municipal Code Section 2.05.030, and the appellant's stated grounds for the appeal includes the following:

This project appears to me as the choice of the city to place a large, high-capacity outdoor "event venue" with music and alcohol permits, right in the middle of a small residential shopping center surrounded by residential use, with all the expectations of quiet and privacy, and then to advise us that there is no obligation to follow the General Plan protections of a Neighborhood Convenience Center, and there is nothing remiss about excluding our input by never placing this matter on a public notice agenda, or by never allowing a public hearing until two appeals were filed. I am disappointed that none of us were contacted, particularly because the property owner is our landlord.

This appeal is about noise and the right for affected residents to know and participate, and just that. It is about the important obligation of creating appropriate mixtures of commercial and residential uses, building projects to scale, and the obligation of the City to protect its residents from misplaced noise intrusion through the many avenues it has available for that purpose, whether that be:

1. Enforcing the thoughtful protections of its General Plan,
2. Giving impacted neighbors a chance to participate in the decision,
3. Creating fair and appropriate appeal procedures,
4. Creating a safe environment for public participation;
5. Empowering public review of noise, traffic, and parking studies,
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All of the above factors are present as decisions previously made, and now new choices to be made by the City Council. My primary concern today is that no public notice ever went out on this project; people attending today were privately notified. No resident or owner within the area of impact was ever given public notice either before or through the entire appeal process; even the Planning Commission had this placed on the "meeting agenda" rather than a higher level "hearing agenda." As an appellant, I did not even get a chance to speak on the agenda item after paying \$300. I presented my appeal during general public comment, which was awkward and an inappropriate venue for placing the appeal grounds before the decision maker.

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There are also problems with the record. Only a few days before this final appeal, Mr. Marantz, the owner of the Happy Traveler RV Park, shared with me a draft, four-page legal memorandum prepared by his attorney, Simon Housman. The memorandum is an in-depth analysis of the city's Noise Element, concluding the city's approval of the project would be in violation of its Noise Element, and that the "overly narrow analysis" of the project as a "minor remodeling" ignores its change from a restaurant to an "event venue."

That memo was addressed to the Mayor and City Council and dated December 9, 2013, received one month before the Planning Commission review and subsequent approval that occurred January 8, 2014, but it was never put on the record for Planning Commission review. I am assuming that the Planning Commission approved the project without benefit of this document, attached to this appeal. If this is the case, the input from Mr. Housman is sufficiently critical, that any decision is incomplete without its addition. I also was not informed of this important document, and would never have discovered it had I not approached Mr. Marantz subsequent to PC approval. Mr. Marantz gave me a check to cover the cost of the appeal to the City Council because of his concern on how this project will impact his business and clients. I will be contacting the City Planning Department to find out whether and when the document was received by Council, in what final form (this is a draft copy), and why it was not shared, if it was placed in the file, which would have been the obligation.

I am highly supportive of commercial development in this city. The prosperity of our future depends upon the generated revenue, and the vibrancy of our city depends upon the creativity we place into commercial areas. So much of what we are doing has improved the future of Palm Springs. In the instance of the defunct Creekside Inn, I am very excited at its re-opening, and feel that the applicant is an outstanding developer. However, I am asking the City to truly open this process to public inspection and participation so that a careful balance can be obtained between the project and its neighbors. If we don't do this now, this project may suffer over time, or create some of the unpleasantness experienced in other music venues within the City. We don't want that to be the result.

SECTION 2. In response to the above, the City Council finds as follows:

The restaurant is located at the northeast corner of the Plaza Del Sol shopping complex and adjacent to a Major Thoroughfare as designated by the General Plan Circulation Element. Commercial uses are permitted within the Neighborhood Community Commercial Land Use designation of the General Plan; the underlying C-1 zone explicitly identifies uses that are permitted as accessory to a primary use.

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. Land Use Permits do not require a hearing under the zoning or municipal codes.

The Land Use Permit approval is conditioned so that the outdoor entertainment / music are subject to the Noise Ordinance, Municipal Code Chapter 11.74. Decibel limits are specified within the Permit to ensure minimal noise impacts off-site. See LUP condition Nos. 5 & 7.

Regarding noticing, land use permits do not require public hearing notices under the zoning or municipal codes. Notification of appeals to appellant(s) and applicant(s) are public documents available for public inspection. The separate MAA action was heard at two posted AAC meetings, and the appellant attended and spoke at the second meeting on the project.

The LUP appeal period expired after the initial appeal was filed and five days after the record of decision was made. The project is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303(e), wherein the project consists of construction and location of limited numbers of new, small facilities or structures. All of records of applications and decisions have been made available for public review and inspection.

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. Should it be determined that there are noncompliance issues with the LUP, the Permit may be revoked, resulting in the elimination of outdoor entertainment / music. Such revocation of exterior improvements is not possible under the zoning code. Therefore, the applications are reviewed and acted upon independently.

All correspondence that has been received, have been made part of the record and included with the appeal to the Planning Commission. It was presented to the City Council as an attachment to the Staff Report and reviewed.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the City Council hereby denies the appeal and upholds the Planning Commission's decision to approve Case LUP 13-067.

ADOPTED this 5th day of February, 2014.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. ____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California



CITY OF PALM SPRINGS

Department of Planning Services

LAND USE PERMIT # 13-067

Applicant: Miggy's Cantina, LLC	Mailing Address: 700 E. Tahquitz Canyon Way Palm Springs, CA 92262	Phone: (949) 922-8210 Fax: E-Mail: rhm@nexusd.com
Business Name: Hacienda Cantina		Site Address: 1555 South Palm Canyon Drive
Zone/GP: C-1 / NCC 92.12.01(C)(2)(j)	APN: 513-300-038	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:

1. A Processing fee of \$696.00
2. A floor plan and/or site plan displaying the layout of the proposal.
3. 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.

Applicant's Signature 	Permit Center Signature 	Date 11-27-11	Account # 001-32204
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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:

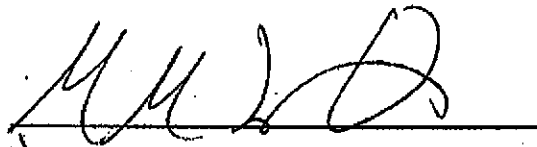
- a) Live entertainment shall be limited to the pool deck within the hours of 8:00 AM to 6:00 PM.
 - b) Any and all instruments shall have limited amplification.
 - c) All amplification equipment shall be placed so that sound is projected toward other commercial properties and roadways away from nearby 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:



Date: 11-27-13

Applicants
Signature:



Date: 11-27-13

CITY OF PALM SPRINGS
PLANNING COMMISSION MINUTES
January 08, 2014
Council Chamber, City Hall
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

CALL TO ORDER:

Chair Donenfeld called the meeting to order at 1:32 pm.

ROLL CALL:

PRESENT: Commissioner Calerdine, Commissioner Klatchko, Commissioner Roberts and Chair Donenfeld

ABSENT: Commissioner Lowe, Commissioner Weremiuk and Vice-Chair Hudson

ALSO PRESENT: Planning Director Wheeler, Principal Planner Robertson and Admin. Coordinator Hintz

REPORT OF POSTING OF AGENDA:

The agenda was available for public access at the City Hall exterior bulletin board (west side of Council Chamber) and the Planning Services counter by 4:00 pm on Thursday, January 2, 2014.

ACCEPTANCE OF THE AGENDA:

The agenda was accepted, as presented.

PUBLIC COMMENTS:

Chair Donenfeld opened the public comments portion of the meeting:

TOM O'DONNEL, said this project is a minor modification of an existing use and the old restaurant site is in need of revitalization.

GERARD NOONA, executive vice-president, Chamber of Commerce, spoke about the benefits to the community from the revitalization of the vacant restaurant site.

JOY MEREDITH, spoke about this area being vacant for a long time and it will attract a younger crowd to the city and provide jobs for the community.

MANUAL MONTOYA, spoke on behalf of People for Proper Planning, said they are opposed to the project because there was no neighborhood notification given and inadequate analysis on the impact to the surrounding neighborhood.

AFTAB DADA, general manager, Hilton Hotel, spoke about the city creating incentive programs for large new and existing hotels in the community; noting that this is a very unique project.

JAIME KOWAL, commented on the exciting things happening in the city and noting that this project will bring positive changes.

JORDAN FIFE, works at Viceroy Hotel, said that a new younger demographic group is coming to the city; and the city needs attractions that will appeal to tourists and residents.

MICHAEL KASSINGER, resident since 1978, commercial realtor, the city's pro-development has enabled the growth to the community; restaurants will need to provide other amenities, as this project, in order to survive.

MAUREEN FLANNERY, resident and attorney, spoke in support of the new and exciting concept of poolside entertainment in a stand-alone restaurant.

MICHAEL BENTAL, South Palm Springs resident, commented that the restaurant will provide new energy for an established neighborhood and create year-round jobs.

KATHY BATES, has worked in hospitality business for over 25 years, spoke in support of project; noting that the younger demographic group needs attractions that will appeal to them.

ADAM GILBERT, said this is the exact project the city needs to attract people and the site is in dire need of renovation.

REGGIE CAMERON, resident and marketing consultant, commented about the noise ordinance that is in effect and spoke in support of the project.

KIMBERLY FUNKEY, restaurant owner, feels this area can use a project like this and does not see problems with parking issues.

AMANDA CHERREY, the city has the opportunity to restore an empty building into a vibrant energetic dining experience.

MARK BALDWIN, resident, commented that this building has been vacant for two years and this project will add the revitalization the city needs.

BRANDON CANNING, spoke in reference to Item 3C, Case 3.3697, provided details on the proposed project and is available for questions from the Commission.

KATHERINE JENSON, legal consul for the applicant, Rutan & Tucker, LLP, commented that this is clearly an accessory use and will not serve as a commercial swimming pool and it fits well within the city's code.

MARK MARSHALL, spoke in support of the project; noting there is a void in the south part of town and this is a vital project for the city.

KEVIN REACH, said that it is a necessity for the city to have a Hacienda Cantina to appeal to celebrities and attract more people.

GEORGE MARANTZ, spoke in support of the Hacienda Cantina; however, he expressed concern with the distance of this project to the adjacent Happy Trailer Park which is less than 80 feet from the site.

DAN CLEARY, retired police officer, expressed concern with the noise that would affect the trailer park residents and does not think the police department can control the noise and is concerned with the traffic.

JOHN WESSMAN, commented that he owns the shopping center and adjacent apartments in the rear and is planning to build homes across the street. This property is surrounded by commercial and the noise ordinance has strict restrictions. He spoke in favor of the project.

JUDY DEERTRACK, appellant, (Item 3B - Hacienda Cantina) said that the proposed project is a large assembly with full-scale entertainment that is within 30 yards from where she resides. She said the city has created the land use designation as neighborhood commercial and expressed concern that the surrounding neighbors were not notified and given the chance to participate in the city meetings.

There being no further appearances public comments was closed.

1. CONSENT CALENDAR:

1A. APPROVAL OF MINUTES: DECEMBER 11, 2013

ACTION: Approve the Planning Commission Minutes of December 11, 2013, (a correction on page 8) as amended.

Motion: Commissioner Roberts, seconded by Commissioner Klatchko and unanimously carried 4-0-3 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Klatchko, Commissioner Roberts and Chair Donenfeld

ABSENT: Commissioner Lowe, Commissioner Weremiuk, Vice Chair Hudson

2. PUBLIC HEARING:

2A. AT&T MOBILITY ON BEHALF OF SHARON DEAN FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY CONSISTING OF A FORTY-EIGHT FOOT TALL MONOPOLE DISGUISED AS A PALM TREE AND A VARIANCE TO EXCEED THE MAXIMUM ANTENNA HEIGHT PERMITTED FROM 15' TO 48' LOCATED AT 4185 EAST PALM CANYON, ZONE C-2, SECTION 30 (CASE 5.1295 CUP / 6.528 VAR). (DN)

Principal Planner Robertson presented the proposed project as outlined in the staff report.

Chair Donenfeld opened the public hearing:

ROB SEARCY, Prescott Communications, spoke about the height that is needed to provide for radio frequency. He described the location and the design of the monopalm. He noted that the AAC recommended five palms trees and requested a reduction be considered and require only two trees because of the high costs. Mr. Searcy provided details about the concerns associated with co-locations at the existing cell tower.

KELLY DUNN, owner, Safari Mobile Home Park, spoke in opposition to the wireless antennas; and reiterated the antenna height limit is 15 feet. He indicated he would litigate if approved.

There being no further appearances the public hearing was closed.

Principal Planner Robertson reported that staff is confident they can work with the applicant on finding a creative solution to arrange the trees so they will not encroach on the critical habitat area.

Commissioner Calderine commented about the relatively new established endangered species that was found in this area and that established protocol for a new species could take a long time.

Commissioner Klatchko asked about clarification of the 15 foot requirement for the antenna height. Staff responded that this section of the Zoning Code may need to be updated; and clarified that the 15 feet is above an existing structure also.

Commissioner Klatchko asked if there are alternative towers in the neighborhoods to fill this gap.

ROB SEARCY responded that they looked at the area where they have the gap and searched for options within the vicinity. He commented that they need a defined area; and if the antenna is too close to another cell site it would over-saturate the signals and create interference within the network.

Commissioner Calderine commented on the necessity of the antennas and will support staff's recommendation.

ACTION: To approve, subject to Conditions of Approval, as amended with an additional condition:

- The applicant shall submit a bi-annual maintenance report with photographs to the City.

Motion: Commissioner Calderine, seconded by Chair Donenfeld and unanimously carried 4-0-3 on a roll call vote.

AYES: Commissioner Calderine, Commissioner Klatchko, Commissioner Roberts and Chair Donenfeld

ABSENT: Commissioner Lowe, Commissioner Weremiuk and Vice Chair Hudson

A recess was taken at 3:00 p.m.

The meeting resumed at 3:09 pm.

3. NEW BUSINESS:

3A. GARY AND JULIE CHANEY FOR ARCHITECTURAL APPROVAL TO REMODEL AND EXPAND AN EXISTING SINGLE-FAMILY RESIDENCE, INCLUDING THE ADDITION OF APPROXIMATELY 1,402-SQUARE FEET OF LIVING AREA AND

A NEW TWO-CAR GARAGE ON A HILLSIDE LOT LOCATED AT 2343 BISNAGA AVENUE, ZONE R-1-B (CASE 3.2420 MAJ). (DN)

Principal Planner Robertson presented the proposed project as outlined in the staff report. He reported a correction on page 3, the expansion is proposed near both the front and rear yards and on page 4, the maximum proposed building height is 13 feet.

Commissioner Calerdine questioned if the concerns from the public correspondence will be addressed. Staff responded that the applicant, staff and the neighbor will meet to mitigate the measures.

ACTION: To approve, subject to Conditions.

Motion: Commissioner Roberts, seconded by Commissioner Calerdine and unanimously carried 4-0-3 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Klatchko, Commissioner Roberts and Chair Donenfeld

ABSENT: Commissioner Lowe, Commissioner Weremiuk, Vice Chair Hudson

3B. JUDY DEERTRACK FOR AN APPEAL OF THE PLANNING DIRECTOR'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)

Commissioner Klatchko asked if staff is comfortable all the notice requirements by law have been met.

Director Wheeler responded that Minor Architectural Application (MAA) and Land Use Permits (LUP) require administrative review and neither requires a public hearing. She noted that the City's Noise Ordinance is not being waived. This location is within a commercial shopping center on a major arterial highway and the ambient noise level at this location is quite high.

Commissioner Calerdine commented that he thinks this is a good use of the site since this restaurant has had many problems and something new may be necessary to work. He noted that Ms. Deertrack raises two general procedural questions and addressed these issues. He stated that this city is a charter city and the General Plan and Zoning Code need not be consistent.

Commissioner Roberts concurred with many of the speakers today and the city is becoming a new demographic. This use is innovative and exciting. He thinks the real

issue is the impact to the neighborhood from this use and feels the noise ordinance may not be sufficient with this type of use.

Chair Donenfeld suggested monitoring this type of use closely with a report coming back to the Commission.

The Commission and staff discussed crafting a condition to monitor the noise level.

Commissioner Klatchko reminded the members of the public that a noise ordinance is in effect and neighbors should be vigilant and if there is non-compliance citations may be issued.

ACTION: To uphold the decision of the Planning Director and deny said appeal, as amended:

- Track noise complaints from the police department and code enforcement and provide annual reports beginning a date certain one year after opening.

Motion: Commissioner Calerdine, seconded by Chair Donenfeld and unanimously carried 4-0-3 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Klatchko, Commissioner Roberts and Chair Donenfeld

ABSENT: Commissioner Lowe, Commissioner Weremiuk, Vice Chair Hudson

3C. JEAN GOLD FOR A NEW 4,675-SQUARE FOOT HOUSE ON A HILLSIDE LOT TO INCLUDE AN ADMINISTRATIVE MINOR MODIFICATION REQUESTING AN INCREASE IN BUILDING HEIGHT LOCATED AT 131 RIDGE MOUNTAIN DRIVE, ZONE R-2 (CASE 3.3697 MAJ / 7.1409 AMM). (GM)

Principal Planner Robertson presented the proposed project as outlined in the staff report.

BRENDAN CANNING, project architect, described the proposed house, terrain and type of materials that will be used.

Commissioner Roberts said he does not have a concern with the height because it works very well with the terrain and it will not create a problem to the surrounding neighbors.

ACTION: To approve, subject to Conditions.

RESOLUTION NO. 6377

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA 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:

Section 1: 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.

Section 2: 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.

Section 3: That an additional condition be added as follows: City staff shall track noise complaints as received from the Police Department and Code Enforcement and provide annual report beginning from opening of the business.

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.

ADOPTED this 8th day of January 2014.

AYES: 4, Commissioner Calderine, Commissioner Klatchko, Commissioner Roberts and Chair Donenfeld

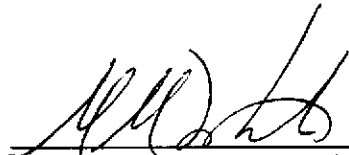
NOES: None

ABSENT: 3, Commissioner Lowe, Commissioner Weremiuk and Vice-Chair Hudson

ABSTAIN: None

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA



M. Margo Wheeler, AICP
Director of Planning Services



PLANNING COMMISSION STAFF REPORT

DATE: January 8, 2014

SUBJECT: JUDY DEERTRACK FOR AN APPEAL OF THE PLANNING DIRECTOR'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

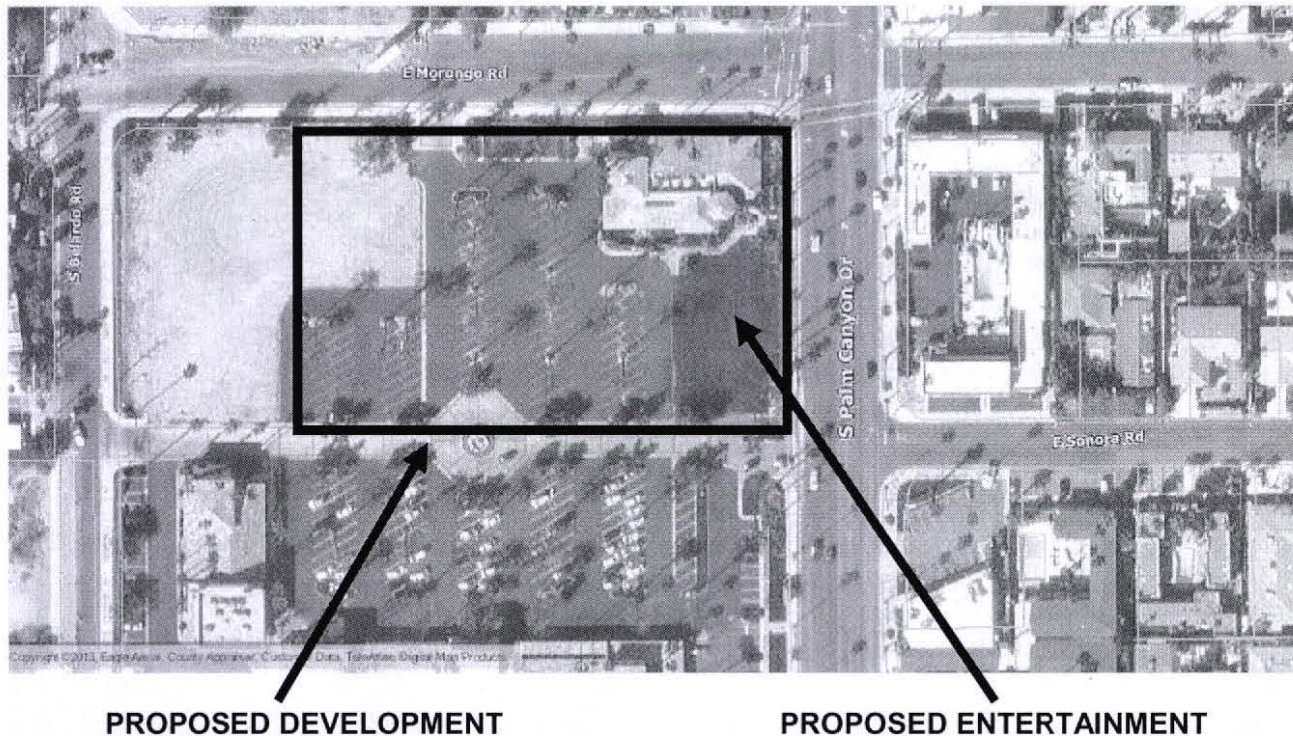
BACKGROUND:

<i>Planning Areas</i>		
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 Relevant 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: <ol style="list-style-type: none"> 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; 5. 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.)

Neighborhood Meeting	
None	

General Plan, Zoning and Land Uses of Site & Surrounding Areas			
	Existing General Plan Designations	Existing Zoning Designation	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



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.

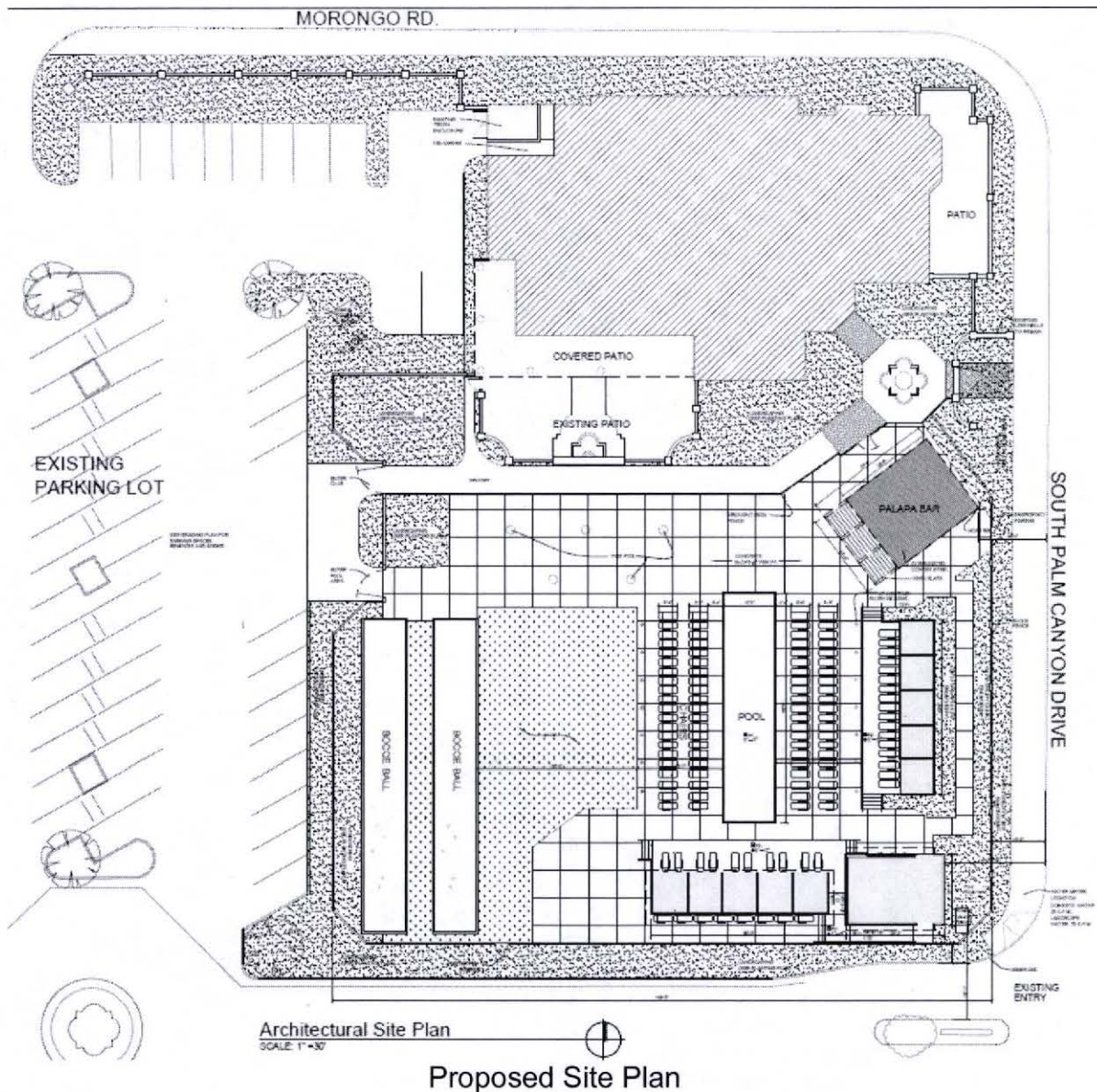
While the letter originally submitted by the appellant states the appeal is for both applications, only one appeal fee was submitted for the Land Use Permit. The appellant was informed on December 12th that this is the only matter under consideration by the Planning Commission. Staff was informed on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

MINOR ARCHITECTURAL APPLICATION 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.”

Staff response: 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 parking 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?”

Staff response: 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 small-scale restaurants." [emphasis added]
General Plan LUE at 2-6

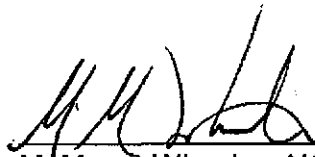
Staff response: The Minor Architectural and Land Use Permit applications are reviewed and acted upon exclusively in the zoning code. For instance, one application may be approved and the other may be denied; though they were both approved in this case. There is nothing in the zoning code that requires 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. Margó 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
6. Reduced Plans

Judy Deertrack

RECEIVED
CITY OF PALM SPRINGS

1333 South Belardo Road, Apt 510

Palm Springs, CA 92264

2014 JAN 21 PM 2:27

Tuesday, January 21, 2014

JAMES THURTELL
CITY CLERK

Re: CITY COUNCIL 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 City Council:

Please accept this letter as an appeal of the above matter to the City Council. I am respectfully asking the City to incorporate by reference into the staff packet on the appeal, any and all previous comment letters from me or from any other parties, or their representatives, that have been submitted to the City in regard to this matter.

This project appears to me as the choice of the city to place a large, high-capacity outdoor "event venue" with music and alcohol permits, right in the middle of a small residential shopping center surrounded by residential use, with all the expectations of quiet and privacy, and then to advise us that there is no obligation to follow the General Plan protections of a Neighborhood Convenience Center, and there is nothing remiss about excluding our input by never placing this matter on a public notice agenda, or by never allowing a public hearing until two appeals were filed. I am disappointed that none of us were contacted, particularly because the property owner is our landlord.

I reside at Tahquitz Mesa Villas, a multi-family development of approximately 200 tenants, mostly 55+ age, which sits immediately to the west of the planned Hacienda Cantina. The Cantina Project is bordered on the northwest by Parkview Mobile Estates with 198 lots (55+ age tenants), and to the north by Happy Traveler RV Park, (200 visitors daily) which, by the owner's admission in a letter to the city, caters to repeat visitors who come specifically for the quiet of the Palm Springs. The owner, Mr. George Marantz, actually paid the cost of this appeal because of his expressed distress at the potential impacts to his RV guests.

There is also a hotel south of the project. To the southwest of the Cantina project, Mr. John Wessman has applied for a permit to build about 40 single-family residential homes. The Hacienda Cantina is ringed by residences, RV rentals, and hotels, creating a strong obligation for the city to maintain a livable and pleasant environment—and certainly to take every measure to ensure that all voices are heard and considered on the project design, its size and nature, and the repercussions of alcohol in an outdoor party environment with live music. I have met with the applicants who seem to be very gracious and professional. They have assured me that they will take every measure to control noise, but the permit runs in perpetuity, and no agreement is assured over time.

This appeal is about noise and the right for affected residents to know and participate, and just that. It is about the important obligation of creating appropriate mixtures of commercial and residential uses, building projects to scale, and the obligation of the City to protect its residents from misplaced noise intrusion through the many avenues it has available for that purpose, whether that be:

1. Enforcing the thoughtful protections of its General Plan,
2. Giving impacted neighbors a chance to participate in the decision,
3. Creating fair and appropriate appeal procedures,
4. Creating a safe environment for public participation;
5. Empowering public review of noise, traffic, and parking studies,
6. Sharing written commentary by placing it on the public record,
7. Consolidating the piecemealed permits for an integrated review,
8. Appropriately interpreting "neighborhood compatibility" and how it relates to the California Environmental Quality Act,
9. Scrupulously protecting access to elected representatives when true public issues are present,
10. Protecting the commercial/neighborhood designation of this small Planned Development District during its modification and change over time.

All of the above factors are present as decisions previously made, and now new choices to be made by the City Council. My primary concern today is that no public notice ever went out on this project; people attending today were privately notified. No resident or owner within the area of impact was ever given public notice either before or through the entire appeal process; even the Planning Commission had this placed on the "meeting agenda" rather than a higher level "hearing agenda." As an appellant, I did not even get a chance to speak on the agenda item after paying \$300. I presented my appeal during general public comment, which was awkward and an inappropriate venue for placing the appeal grounds before the decision maker.

The appeal period created under city ordinance for a land use permit actually expired because no record of review existed within its time frame; the Notice of Exemption on CEQA with its appeal deadlines was filed (still again) without any public notification of a matter under review. The Planning Commission concluded upon review, with the assent of the Planning Director, that there was no obligation to follow the General Plan protections for neighborhood serving uses; and the Planning Commission admitted that this project is in character, identical to others such as the Ace Hotel, Saguaro Hotel, Riviera, etc., which they admit have extensive records of residential complaints because of major noise and activity incompatibilities. But at the same time the Commission concluded no environmental impact assessment is required. All of these impediments and inhibitors to full public review and participation have a chilling effect when attempting to balance the equities between the general public and commercial development -where there is a crowded or tight fit, as there is here.

Palm Springs has admitted to a vigorous program of outreach to hotels, restaurants, and commercial areas to bring youth, music, and vitality to the city. This has even been described as the Millennium generation. It is unthinkable, however, to intrude into quiet residential neighborhoods without, in the least, inviting those neighbors to offer their input to elected representatives. These music venues and large public gatherings are not expected to be quiet or neighborhood oriented. The noise ordinance was the administrative solution to mitigation, but none of us participated in this choice. Noise ordinances only work when development is placed where it truly belongs; location is everything.

This project is likewise confused by segregating a series of permits that collectively comprise the "project." This review has been segregated into an architectural permit, a land use permit, and an alcohol permit. None of the permits run concurrently, and each has its own separate appeal. Therefore, a consolidated review or appeal is impossible, and the true impacts of the project are never before the decision maker or the public at any given time. This has created a fragmented environment, and of course the project never reaches a CEQA threshold of significance, which would generate a public hearing.

There are also problems with the record. Only a few days before this final appeal, Mr. Marantz, the owner of the Happy Traveler RV Park, shared with me a draft, four-page legal memorandum prepared by his attorney, Simon Housman. The memorandum is an in-depth analysis of the city's Noise Element, concluding the city's approval of the project would be in violation of its Noise Element, and that the "overly narrow analysis" of the project as a "minor remodeling" ignores its change from a restaurant to an "event venue."

That memo was addressed to the Mayor and City Council and dated December 9, 2013, received one month before the Planning Commission review and subsequent approval that occurred January 8, 2014, but it was never put on the record for Planning Commission review. I am assuming that the Planning Commission approved the project without benefit of this document, attached to this appeal. If this is the case, the input from Mr. Housman is sufficiently critical, that any decision is incomplete without its addition. I also was not informed of this important document, and would never have discovered it had I not approached Mr. Marantz subsequent to PC approval. Mr. Marantz gave me a check to cover the cost of the appeal to the City Council because of his concern on how this project will impact his business and clients. I will be contacting the City Planning Department to find out whether and when the document was received by Council, in what final form (this is a draft copy), and why it was not shared, if it was placed in the file, which would have been the obligation.

I am highly supportive of commercial development in this city. The prosperity of our future depends upon the generated revenue, and the vibrancy of our city depends upon the creativity we place into commercial areas. So much of what we are doing has improved the future of Palm Springs. In the instance of the defunct Creekside Inn, I am very excited at its re-opening, and feel that the applicant is an outstanding developer. However, I am asking the City to truly open this process to public inspection and participation so that a careful balance can be obtained between the project and its neighbors. If we don't do this now, this project may suffer over time, or create some of the unpleasantness experienced in other music venues within the City. We don't want that to be the result.


I have a lot of confidence in this city and its representatives, even in the midst of a very stressful appeal process. I would ask the following of the City:

1. A very close review of the public's right to notification and participation.
2. A closer inspection of how CEQA can actually aid commercial development by
 - a. Resolving disputes at an early stage;
 - b. Recognizing the threshold between major and minor thresholds of significance;
 - c. Informing the public of important studies that define the nature and range of impacts;
 - d. Allowing the public to see how the city defines and mitigates development impacts;
 - e. Allowing the public to understand its right to comment upon design and improvements;
 - f. Providing the rationale for public hearings;
3. A closer inspection of its use of the Land Use Permit, and how the ordinance does not distinguish major projects from minor projects; how it does not adequately distinguish major revisions from minor revisions; how it does not create proper criteria for what is public versus what is an internal, administrative review of development or land changes.
4. The need to incorporate proper findings into the land use permit so that an already overly private process can be reviewed for its sufficiency, so that we may know how the decision was reached.
5. A definite need to inspect the appeal procedures for the Land Use Permit. It is fairly obvious that an appeal right is worthless if there is no manner of knowing a project is under review. Also, five days to appeal after a private, in-house decision is deeply problematic.
6. A closer inspection of the balance between commercial and neighborhood needs and what criteria compatibility is based upon - and how the general plan addresses those issues. Saying that

general plan interpretations are loose guidelines conflicts with clear language in the plan that state zoning decisions are meant to be consistent with the general plan, not a loose interpretation.

I remain deeply complimentary to the courtesy and generosity of staff in supplying information and in their willingness to meet and discuss issues. I thank the City Council for its hard work of remaining in the very tough spot of balancing economic vitality with privacy and quality of life, and working so hard to find both in every project it reviews. Thank you to all concerned.

With regard,


Judy Deetrick

ATTACHMENT: Draft Letter from Simon Housman, dated December 9, 2013
General Plan Appendix E, 3.26.2 (Neighborhood Convenience Center, or NCC)

SIMON A. HOUSMAN
ATTORNEY AT LAW

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Rancho Mirage CA 92270
(760) 328-7995 Fax 760-328-4985
simonhousmanlaw@earthlink.net

Admitted to the Bar
California
New York
New Jersey

December 9, 2013

The Honorable Mayor and Members of the City Council
City of Palm Springs
3200 East Palm Canyon Way
Palm Springs, CA 92270

DRAFT

Re: The Proposed Hacienda Cantina & Beach Club Event Venue

Dear Mr. Mayor and Councilpersons:

I am writing to you on behalf of the owner of the Happy Traveler RV Park located at 211 West Mesquite Avenue Palm Springs. Happy Traveler hosts 130 Family RV sites and frequently over 200 hundred visitors on any season day. Most of these visitors have been visiting Palm Springs and repeatedly staying at the Happy Traveler for many years. They come to enjoy the quiet, beautiful environment of Palm Springs at the very foot of the the soaring Mt. San Jacinto.

We are concerned about noise related issues of procedure and substance being applied to review of this project. The Happy Traveler is only 60 feet from the proposed Hacienda Cantina & Beach Club event venue. The proposal appears to change a restaurant with a small patio into a "Cantina & Beach Club" hosting musicians and other events throughout the day and into the night, including weekends and holidays.

This proposed project which makes a major change in the use of the property has been treated by the City as a minor remodeling. This overly narrow analysis ignores the change from a restaurant to an event venue. It circumvents the public hearing process appropriate to vet such a potentially noisy project in violation of the 2007 Palm Springs General Plan Noise Element.

"...[M]inimizing the exposure of Palm Springs residents to excessive noise is essential to maintaining a quiet, safe, and productive environment and a high quality of life. The purpose of this noise element is to outline a set of noise control policies, programs, and implementation measures that provide guidance for solving noise-related issues and problems. By identifying noise sources within the City and its sphere of influence, future noise impacts associated with the continued growth of a thriving city such as Palm Springs can be minimized and avoided." 2007 Palm Springs General Plan: Article 8, Noise Element.

DRAFT

Happy Traveler provides Habitable dwelling areas for several hundred people.

“Habitable: a dwelling area that is occupied, or that is intended or designed to be occupied, by one family with facilities for living, sleeping, cooking, and eating. (Source: California Health and Safety Code, Section 19970)” General Plan Noise Element at Pg 8-8.

As noted in Fig. 8-2, of the General Plan Noise Element, at a Transient Lodging property, such as Happy Traveler, 60db is only “Conditionally Acceptable”.

A “conditionally acceptable” designation implies new construction or development should be undertaken only after a detailed analysis of the noise reduction requirements for each land use is made and needed noise insulation features are incorporated in the design. General Plan Noise Element, Pg 8-8 (emphasis added).

Approving The Hacienda Cantina & Beach Club as an event venue introduces significant noise hazards to the surrounding properties. The Noise element of the General Plan identifies “Rock Band” at 110 db, second only to a DC-10 Aircraft noise at 125 db. (Figure 8-1)

The City of Palm Springs has the authority to set land use noise standards and place restrictions on private activities that generate excessive or intrusive noise. The applicable standards for these activities are specified in the Palm Springs Municipal Code. The Municipal Code limits sound levels for stationary sources of noise radiated for extended periods from any premises in excess of 60 decibels at the property line. 2007 Palm Springs General Plan Page 8-5

The General Plan includes several policies which appear to be ignored in the over simplistic “minor architectural” processing of this project.

NS1.2 Encourage the application of site planning and architectural design techniques that reduce noise impacts on proposed and existing projects.

NS1.3 Utilize maximum anticipated, or “worst case,” noise conditions as the basis for land use decisions and design controls as a means of preventing future incompatibilities.

NS1.4 Evaluate the compatibility of proposed land uses with the existing noise environment when preparing, revising, or reviewing development proposals.

NS1.7 Allow new developments in areas exposed to noise levels greater than 60 dB CNEL only if appropriate mitigation measures are included such that applicable noise standards are met.

DRAFT

DRAFT

In the present instance, the Hacienda Cantina & Beach Club project will be created in an area between the 60db and 65 db contours on the Central Future Noise contour map. There is no indication that the City has taken any of the steps identified in the General Plan Policies to:

- Properly reduce noise impacts on existing structures,
- Utilize the "worst case" to prevent future incompatibilities,
- Evaluate compatibility using existing noise, and
- Appropriately mitigate the noise added to the area.

Shortcutting the procedure prevents a thorough evaluation considering the surrounding land uses. As contemplated by the policies in the General Plan, the City should provide for adequate public hearings for neighborhood participation.

NS1.10 Minimize noise spillover from commercial uses into adjacent residential neighborhoods.

NS1.5 Require that noise analyses for future developments be prepared by a qualified acoustical consultant. Studies must indicate how proposed developments are in compliance with the City noise ordinance. Studies will be reviewed by the appropriate decisionmaking body prior to the issuance of permits.

If the project is approved, with the proper mitigation the operation will be conditioned on compliance with the Palm Spring Noise Ordinance.

(1) The noise standards for the various categories of land use identified in Section 11.74.031 shall, unless otherwise specifically indicated, apply to all such property within a designated zone.

(2) No person shall operate or cause to be operated any source of sound at any location which causes the noise level, when measured on any other property, to exceed the limits set forth in Sections 11.74.031 and 11.74.032. Palm Springs Noise Ord. Section 11.74.034 (Ord. 1167 § 1, 1982) (Emphasis added)

Section 11.74.031 of the Palm Spring Noise Ordinance sets the standards for permissible noise levels which can be exported by the proposed commercial project to its neighbors as follows: 10p.m. - 7a.m.= 50 db., 7a.m. - 6 p.m.= 60db. and 6p.m. 6 - 10 p.m.= 55db.

Since the customary operation of a cantina in Palm Springs extends beyond 6 p.m. and beyond 10 p.m. when 60db and 55 db are permissible, it is foreseeable that this project will run afoul of the noise ordinance. Those noise levels should not be exported to Happy Traveler which provides habitation for its hundreds of guests.

DRAFT

DRAFT

In conclusion, our client requests the review of the project include a careful acoustic study evaluating the "worst case". The design, if approved, contain the noise within the project.

One method of addressing these probable noise violations would be to include in the Conditions of Approval, an affirmative duty on the Hacienda Cantina & Beach Club to adequately mitigate any noise violations by appropriate further remodeling and landscaping including but not limited to hedge rows and other accoustic measures. Concrete sound walls would need to be so high as to destroy the ambiance of the neighborhood unless setback a sufficient distance from the streets and landscaped..

Your courtesy and cooperation are greatly appreciated.

Thank you,

SIMON A. HOUSMAN

SAH:jlc

DRAFT

TAHQUITZ CANYON WAY CORRIDOR

3.23.8 Encourage that new structures be designed to create a “village-like” environment, by the siting and massing of buildings around common pedestrian areas and open spaces which are linked to Tahquitz Canyon Way and other circulation links to the focus area of downtown, inclusion of pedestrian-oriented uses at the ground level, and use of vertical setbacks of buildings in excess of 2 stories or 30 feet above grade.

COMMUNITY SHOPPING CENTER

3.25.2 A Community Shopping Center is intended to service 20,000–250,000 persons on a 15–60 acre site. Commercial structures shall be a maximum of 30 feet in height and hotel/residential structures shall be a maximum of 30–60 feet in height.

3.25.3 Allow the construction of architectural projections to a maximum height of 15 feet above that otherwise permitted where these contribute to and are integral with an extremely high level of architectural design performance, under the following conditions:

- a. the portion of structure exceeding the height limit shall be non-occupiable;
- b. extensions shall be limited to 10–15% of the total roof area;
- c. extensions shall not result in adverse shadows on adjacent properties; and
- d. extensions shall be sympathetic to the preservation of the views of the natural mountain backdrop.

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.

PROFESSIONAL

3.27.4 Structures shall be a maximum of 24 feet in height. A minimum of 40% of any property or project shall be reserved for open space or recreation areas. Permit additional height to a maximum of 60 feet when public amenities above minimum requirements are provided,

Margo Wheeler

From: judydeertrack@gmail.com on behalf of Judy Deertrack <judy@judydeertrack.com>
Sent: Wednesday, December 18, 2013 10:58 PM
To: Margo Wheeler
Subject: Re: Hacienda Cantina - Case Nos. LUP 13-067 and 3.1111 MAA

Margo:

Thank you for your response. I am proceeding on the land use portion. I met with Michael and John a few days ago (Mr. Wessman's reps), and yes, I would appreciate meeting before the hearing, I understand it is set for January 8th??

Also, Michael, John, and I agreed it would be helpful for me to meet with David Ready and talk about some of my larger concerns. David and I have had a chance to meet before, and I had intended to follow up with a second meeting anyway, and this might provide an opportunity. Michael was going to call David and suggest the meeting.

With regard,

Judy Deertrack
760 325 4290

On Tue, Dec 17, 2013 at 8:53 AM, Margo Wheeler <Margo.Wheeler@palmsprings-ca.gov> wrote:

Dear Judy,

In the absence of a second appeal fee/application please clarify which application appeal you wish to pursue.

The fee reso. is available on line on the City clerk's page.

There is no ordinance such as you reference in paragraph two.

It is a de novo review.

Speaker time is up to the Chair, you will be the listed appellant.

If you wish to meet prior to the appeal hearing with questions that you have regarding the facts of the case itself, we shall certainly make time available.

Margo Wheeler

From: judydeertrack@gmail.com [mailto:judydeertrack@gmail.com] **On Behalf Of** Judy Deertrack
Sent: Thursday, December 12, 2013 2:18 PM
To: David Newell; david.ready@palmsprings.ca.gov
Cc: Margo Wheeler
Subject: Re: Hacienda Cantina - Case Nos. LUP 13-067 and 3.1111 MAA

Dear David (Newell):

Thank you for clarifying this appeal process and the required fees, because Glenn only processed the land use permit, and I did not know it was not an appeal by "project" rather than by "permit." Is there a reason the appeal is not coordinated into one action? May I ask whether the appeal fee is collected under an Ordinance? May I have a copy or at least the ordinance number? I would like to read the provisions.....

it is my understanding that the City recently passed an ordinance that consolidates all permits into a single hearing. That being the case, I want to protest a split fee per permit. There should be an appeal of the total project approval, not piece meal, not each permit issued under the project handled as a separate appeal with a separate cost.

It increases the burden on the appellant, and this is particularly sensitive because a vast majority of land use permits in the city appear to be going through with administrative review; without public notice and participation, without planning commission or city council review, or on any kind of agenda. The first agenda posting is the consent agenda, and that is after the appeal period has lapsed. Given all of this, the city should support the right of public participation, and make it low cost and effective. The other solution is to set a much stricter criteria on the difference between administrative review and PC review; particularly based upon the scope of the project, and the user population; whether neighborhood commercial, citywide commercial, or regional commercial impacts. The city should not make it burdensome or expensive to appeal.

The other major issue with the appeal process is an internal inconsistency which is quite serious, and I have mentioned this above. The appeal period to a land use permit is five days. The administrative project approval has 30 days to appear on a consent agenda, which would be the FIRST public notification of the project. This clearly does not make sense. How can one have an appeal right when no public notice of the action has ever occurred?

May I have your consideration of whether you are willing to consolidate the cost of appeal because the Planning Commission will hear this as a consolidated project approval? May I also know three remaining points:

- (1) Is this de novo review?
- (2) What is my speaker time? I am used to 15 minutes on an appeal, equal to the applicant's right of presentation so there is no bias;
- (3) May I meet with the department, either David, Margo, or both, to determine whether any of our areas of conflict can be reduced or eliminated prior to the hearing, to determine the scope of issues under the appeal?

Thank you.

Judy Deertrack

760 325 4290

On Thu, Dec 12, 2013 at 10:40 AM, David Newell <David.Newell@palmsprings-ca.gov> wrote:

Ms. Deertrack,

As we discussed, the appeal letter submitted references both Case Nos. LUP 13-067 and 3.1111 MAA; however, only one fee of \$305.00 was collected for the processing of an appeal for Case No. LUP 13-067. In order to appeal Case No. 3.1111 MAA, a fee of \$305.00 must be submitted prior to the conclusion of the appeal period on December 16, 2013.

If you have questions on this, feel free to contact me.

Thank you,

David A. Newell

Associate Planner

City of Palm Springs

3200 East Tahquitz Canyon Way

Palm Springs, California 92262

Office: (760) 323-8245 | Fax: (760) 322-8360

E-mail: david.newell@palmspringsca.gov

January 3, 2014

RECEIVED

JAN 06 2014

PLANNING SERVICES
DEPARTMENT

Honorable Doug Donenfeld, Chairperson and
Members of the Palm Springs Planning
Commission
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Re: Miggy's Cantina, LLC – Deertrack Appeal of Director's Decision re
Land Use Permit for Outdoor Entertainment

Dear Chairperson Donenfeld and Members of the Palm Springs Planning Commission:

This letter is submitted on behalf of Rich Meaney and Miggy's Cantina, LLC (collectively, the "Applicant") relating to the above-referenced appeal. Rutan & Tucker, LLP serves as land use/CEQA counsel for the Applicant on this project.

The majority of Ms. Deertrack's comments relate to the City's procedural processes relating to the Land Use Permit. City Staff has addressed those concerns in the staff report. We wish to reiterate that the proposed improvements and activities clearly fit within the definition of outdoor accessory uses as defined in Palm Springs Municipal Code section 92.12.01.C.2.h. and j. [Festivals, exhibits, special events, musicians/entertainment (subject to provisions of the noise ordinance).] The proposed improvements and uses are clearly ancillary to the restaurant and are specifically designed to allow the restaurant to remain viable during the summer season. The conditions of approval place stringent restrictions on all live entertainment. Such entertainment must cease by 6:00 p.m. Any instrument amplification is limited, and must be projected away from the residential properties. Noise must be low enough to allow patrons to carry on normal conversations. All activities must strictly comply with the City's noise ordinance, which restricts noise levels to 50 to 60 dBA, depending on the time of day. The outdoor pool area itself must close by 6:00 p.m. In addition, a subcommittee of the Architectural Advisory Committee is required to review the plans for the walls and hedges to ensure that they further reduce noise levels.

Ms. Deertrack has also questioned the City's reliance on the Class 3 CEQA exemption contained in CEQA Guideline 15303. Her letter quotes only part of that Guideline and also exaggerates the scope of the improvements. Subsection (e) of the Guideline specifically states that it is intended to cover "accessory (appurtenant) structures including ... patios, swimming pools and fences." Ms. Deertrack describes the improvements as "a commercial swimming

Honorable Doug Donenfeld, Chairperson
and Members of the Palm Springs Planning
Commission
January 3, 2014
Page 2

pool" with "90 cabanas." The applicant is not proposing to establish a commercial swimming establishment. Instead, a modest-sized pool (15 feet by 70 feet) is being offered to the Cantina patrons to allow them to cool off in the summer heat. This is certainly not a "commercial pool." Likewise, only 10 (not 90) cabanas are proposed to allow patrons to escape from the afternoon sun.

Ms. Deertrack has suggested that the project is eliminating parking. While certain parking spaces are eliminated under this proposal, others have been added. Specifically, while 26 parking spaces were removed, 39 spaces were added, for a net increase of 13 spaces. In addition, the site is actually over-parked due to the lack of development on some of the existing building pads within the center.

Moreover, as explained in the staff report, a parking analysis was completed for the Minor Architectural Application and the site has adequate parking for the new accessory uses.

In short, substantial evidence supports the staff's determination that the proposed accessory uses are exempt from CEQA.

Despite the lack of merit to the appeal, Mr. Meaney has personally met with Ms. Deertrack and attempted to address her concerns. He has exchanged numerous e-mails with Ms. Deertrack, and had proposed a meeting with City Staff. He did not hear back from her. I also contacted her by e-mail offering to set up a conference call or meeting and got no response.

For the reasons stated herein and in the staff report, the Applicant respectfully requests that Ms. Deertrack's appeal be denied.

Very truly yours,

RUTAN & TUCKER, LLP


M. Katherine Jenson

MKJ:lw

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

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 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 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?
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 small-scale restaurants.” [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 re-emphasize 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 Deetrack

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. Doing so will improve pedestrian safety as well as create a more visually appealing streetscape.

Actions

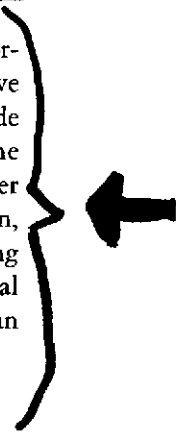
CD17.1 Update zoning standards to require specific design features from the above policies with special emphasis on pedestrian-friendly amenities, such as gathering places, shade structures, and outdoor seating.



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.



Tourist Resort Commercial

Small Hotel Resort Commercial (15 hotel rooms per net acre; 10 dwelling units per acre). This designation applies to areas with smaller-scale, boutique type hotels that are typically found in the Warm Sands and Tennis Club neighborhoods. It is intended that the tourist resort character of these neighborhoods be preserved; as a result, new residential uses or conversion of small hotels to residential uses are permitted as long as they comply with the conversion requirements outlined within the City's Zoning Code. Stand-alone retail and commercial uses are not permitted in this land use designation. Ancillary commercial uses such as a gift shop associated with a small hotel use are allowed.

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.

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



City of Palm Springs

Office of the City Clerk

3200 E. Tahquitz Canyon Way • Palm Springs, CA 92262

Tel: (760) 323-8204 • Fax: (760) 322-8332 • TDD: (760) 864-9527 • Web: www.palmspringsca.gov

January 23, 2014

APPELLANT

Judy Evans Deertrack
1333 S. Belardo Road, Unit 510
Palm Springs, CA 92264

APPLICANT

Rich Meaney
Nexus Companies Palm Springs
700 E. Tahquitz Canyon Way, Suite A
Palm Springs, CA 92262

RE: Appeal to the Palm Springs City Council
Hacienda Cantina and Beach Club
Case No. LUP 13-067/3.111 MMA

The City of Palm Springs, is in receipt of a timely filed appeal pursuant to Chapter 2.05 of the Palm Springs Municipal Code.

Notice is hereby given, the appeal hearing before the Palm Springs City Council, will take place at its meeting of Wednesday, February 5, 2014. The City Council meeting begins at 6:00 p.m., in the Council Chamber, Palm Springs City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

Response to this notice may be made verbally at the appeal 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, City of Palm Springs, 3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262.

Respectfully,
CITY OF PALM SPRINGS

A handwritten signature in black ink that reads "James Thompson".

JAMES THOMPSON
City Clerk

Attachment:

Filed Appeal

Post Office Box 2743 • Palm Springs, California 92263-2743

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I am over the age of 18 and not a party to the within action; I am employed by the City of Palm Springs, a public entity, in the County of Riverside located at 3200 East Tahquitz Canyon Way, Palm Springs, California 92262.

On January 23, 2014, I served the foregoing document(s) described as:

In Re Appeal of

Judy Evans Deertrack and Rich Meaney

RE: Appeal to the Palm Springs City Council

Hacienda Cantina and Beach Club (Case No. LUP 13-067/3.111 MMA)

by placing the true copies thereof enclosed in sealed envelopes addressed to the following individuals:

Judy Evans Deertrack
1333 S. Belardo Road, Unit 510
Palm Springs, CA 92264

Rich Meaney
Nexus Companies Palm Springs
700 E. Tahquitz Canyon Way, Suite A
Palm Springs, CA 92262

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

(BY MAIL) I placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of Palm Springs City Hall, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of the City for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.

(BY ELECTRONIC SERVICE) by causing the foregoing document(s) to be electronically filed using the Court's Electronic Filing System which constitutes service of the filed document(s) on the individual(s) listed on the attached mailing list.

(BY OVERNIGHT DELIVERY) I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of the CITY OF PALM SPRINGS, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by _____ to receive said documents, with delivery fees provided for. I am readily familiar with the practices of the CITY OF PALM SPRINGS for collection and processing of documents for overnight delivery, and said envelope(s) will be deposited for receipt by _____ on said date in the ordinary course of business.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on January 23, 2014, at Palm Springs, California.



TERRI MILTON, Executive Administrative Assistant
Office of Chief of Staff/City Clerk
City of Palm Springs, California



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

January 9, 2014

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

Re: Case LUP 13-067 - Appeal of Directors Decision
Location: 1555 South Palm Canyon Drive

Dear Ms. Deertrack:

On January 8, 2014, the Planning Commission of the City of Palm Springs reviewed your appeal request on the approval decision of the Planning Director to issue the above-referenced Land Use Permit (LUP) authorizing accessory outdoor entertainment / musicians at the restaurant space located at 1555 South Palm Canyon Drive. At this meeting, the Commission voted 4-0 to reject the appeal and uphold the Planning Director's decision.

Pursuant to Chapter 2.05 of the Municipal Code, any decision of the Planning Commission may be appealed to the City Council within 10 calendar days from the date of this notice of action (by 6:00 PM on Tuesday, January 21, 2014). This can be achieved by filing with the City Clerk a written notice of appeal which sets forth the appellant's full name and mailing address, the specific action appealed from, the grounds for the appeal and the relief sought. A fee of \$546.00 is required for processing at the time of appeal filing.

Please contact the Planning Department at (760) 323-8245, should you have any further questions regarding this action.

Sincerely,

Margo Wheeler, AICP
Planning Director

cc: Rich Meaney, Miggy's Cantina



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,

November 27, 2013

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

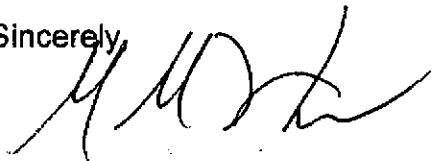
2. Four (existing) Queen Palms shall be replaced with Mexican Fan Palms.
3. Planters with shade trees shall be incorporated into new and existing parking areas west of the proposed development to the satisfaction of the Planning Director.

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

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk
County of: Riverside

From: (Public Agency): City of Palm Springs
3200 East Tahquiltz Canyon Way
Palm Springs, CA 92262

(Address)

Project Title: Hacienda Cantina

Project Applicant: Nexus Palm Springs

Project Location - Specific:
1555 South Belardo Road

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, walls, 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

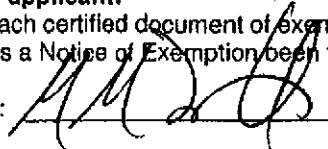
Name of Person or Agency Carrying Out Project: _____

- Exempt Status: (check one):
- 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: Class III Exemption - Section 15303(e)
 - Statutory Exemptions. State code number: _____

Reasons why project is exempt:
Pursuant to Section 15303 of the CEQA Guidelines, Class 3 exemptions consist of construction and location of limited numbers of new, small facilities or structures. Specifically, subsection (e) of 15303 allows for "accessory (appurtenant) 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 document of exemption finding.
 2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature:  Date: 11/27/2013 Title: Planning Services Director

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21089 and 21110, Public Resources Code. Date Received for filing at OPR: _____
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

HACIENDA CANTINA & BEACH CLUB



PROPERTY INFORMATION

APN: 111 390 030
 ADDRESS: 1555 PALM CANYON DRIVE
 LOT: 10
 BLOCK: 300
 TRACT NUMBER: TRA 011-041
 LOT SIZE: 82,676 SQ FT (2.4 ACRES)
 SALES ENCUMBRANCE: NONE

THE EAST PORTION OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE SECTION 22, TOWNSHIP 4 NORTH, RANGE 4 EAST, SAN BEBAPANOSO BASIN, AND NEARBY A CORNER OF THE RECTANGLE CORNER OF SAID SECTION 22, THENCE ALONG THE EAST LINE OF SAID SECTION 22, NORTH 89°41'00" EAST 201.00 FEET TO THE SOUTHWEST CORNER OF THE NORTH 1/2 OF THE QUARTER 1/4 OF THE SOUTHWEST 1/4 OF THE SECTION 22, THENCE ALONG THE EAST LINE OF SAID SECTION 22, NORTH 89°41'00" EAST 201.00 FEET TO THE NORTHEAST CORNER OF THE NORTH 1/2 OF THE QUARTER 1/4 OF THE SECTION 22, THENCE ALONG THE NORTH LINE OF SAID SECTION 22, TO THE POINT OF BEGINNING, BEING THE NORTHWEST CORNER OF SAID SECTION 22, THENCE ALONG THE NORTH LINE OF SAID SECTION 22, TO THE POINT OF BEGINNING, BEING THE NORTHWEST CORNER OF SAID SECTION 22, THENCE ALONG THE NORTH LINE OF SAID SECTION 22, TO THE POINT OF BEGINNING, BEING THE NORTHWEST CORNER OF SAID SECTION 22, THENCE ALONG THE NORTH LINE OF SAID SECTION 22, TO THE POINT OF BEGINNING, BEING THE NORTHWEST CORNER OF SAID SECTION 22.

PROPERTIES ARE NOT IN A TRIMMED PLAN

TITLE

TITLE PAGE
 SET OF PLANS
 EXISTING MATERIALS
 UTILITIES
 UTILITIES (NEW) (EXISTING)
 FINISHES (NOT SET)
 CIVIL SITE DEVELOPMENT
 CIVIL PLANS (SET)
 PLASTIC PLAN
 EXISTING BUILDING/FLOOR PLAN
 BATHROOM FLOOR PLAN
 FLOOR AND FLOOR PLAN & EXTERIOR ELEVATIONS
 RAISED CARPORT FLOOR PLAN & EXTERIOR ELEVATIONS
 EXISTING BUILDING EXTERIOR ELEVATIONS
 EXISTING BULLDOZER EXTERIOR ELEVATIONS
 BATHROOM EXTERIOR ELEVATIONS
 SITE SPECIAL EXTERIOR ELEVATIONS - STRUCTURE

SHEET

CV
 1.1
 1.2
 1.3
 1.4
 1.5
 1.6
 1.7
 1.8
 1.9
 2.0
 2.1
 2.2
 2.3
 2.4
 2.5

HACIENDA CANTINA & BEACH CLUB

OWNER: MICHIGAN HOLDINGS, LLC
 1555 PALM CANYON DRIVE
 PALM SPRING, CA 92264
 CONTACT PERSON: BOB DEARDORF
 TEL: 951-261-5500

ARCHITECT: ALBERTO CHIQUERI ARCHITECTURE
 1555 PALM CANYON DRIVE, SUITE 100
 PALM SPRING, CA 92264
 CONTACT PERSON: KATHY HENRY
 PHONE: 951-261-5500
 EMAIL: KATY@CHIQUERIARCHITECTURE.COM

UTILITY ENGINEER: ARMANDO DIAZ
 1555 PALM CANYON DRIVE, SUITE 100
 PALM SPRING, CA 92264
 CONTACT PERSON: ALIEN DIAZ

LANDSCAPE DESIGNER: TED ARONSON, INC.
 1555 PALM CANYON DRIVE, SUITE 100
 PALM SPRING, CA 92264
 CONTACT PERSON: THOMAS HOGST
 TEL: 951-261-5500

SP
 SANTIAGO PEREZ

PRIS PARDO DESIGN
 1555 PALM CANYON DRIVE, SUITE 100
 PALM SPRING, CA 92264
 CONTACT PERSON: BOB DEARDORF
 TEL: 951-261-5500
 EMAIL: BOB@PRISPARDODESIGN.COM

Hacienda Cantina & Beach Club

1555 South Palm Canyon Dr Palm Springs, CA 92264

TITLE PAGE

JOB # 047

CV
 Sheet



EXISTING VIEW NW ALONG S PALM CANYON DRIVE



EXISTING VIEW NW CORNER OF S PALM CANYON DRIVE & MORONGO ROAD



EXISTING VIEW SW CORNER OF S PALM CANYON DRIVE & MORONGO ROAD



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



EXISTING VIEW SE FROM MORONGO ROAD



EXISTING VIEW SE AT REAR ENTRY ON MORONGO ROAD



HUIS PARGO DESIGN

1995 7th Ave
Suite B
Beverly Hills, CA 90212
P 310.351.4525

www.huispargo.com

Professional Seal
Professional Seal
Professional Seal
Professional Seal



Hacienda
Cantina &
Beach
Club

1995 7th Ave
Beverly Hills, CA
90212

No.	Date	Sheet

SITE PHOTOS

Job # 047

1.0
Sheet



CORRUGATED METAL

MATERIAL	COLOR	FINISH
COR-TEN CORRUGATED METAL ROOF (WHITE)	BRIGHT WHITE	MATTE
CONCRETE BLOCK DIAMOND FACE	DUNN EDWARDS DE6340 'CANADIAN LAKE'	MATTE
CONCRETE BLOCK SCORED FACE	NATURAL CONCRETE	SMOOTH / STANDARD
EXISTING STUCCO	DUNN EDWARDS DE6340 'CANADIAN LAKE'	MATTE
EXISTING TRIM	DUNN EDWARDS DE6341 'VULCAN'	MATTE
CABLE RAIL	CLEAR COATING	STEEL
BURN'T CEDAR SIDING	NATURAL BLACK	SMOOTH / BRUSHED
DECOMPOSED GRANITE	NATURAL GREY / TAN	COMPACTED



BURN'T CEDAR SIDING



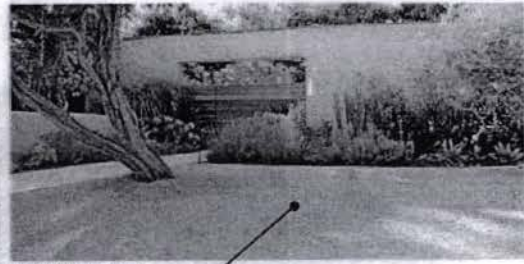
CONCRETE BLOCK (DIAMOND FACE)



STUCCO - 'CANADIAN LAKE'



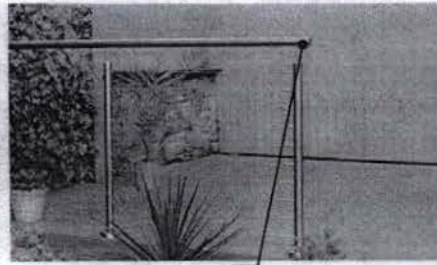
TRIM - 'VULCAN'



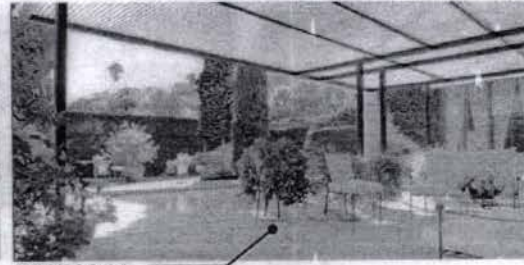
DECOMPOSED GRANITE



CONCRETE BLOCK (SCORED FACE)



CABLE RAILING W/ GALVANIZED METAL PIPE



OUTDOOR CABANAS



S&B INTERIORS
1555 27th Ave
Suite 10
Palm Springs, CA 92264
p 760.321.1533

www.sandbinteriors.com



Hacienda Cantina & Beach Club

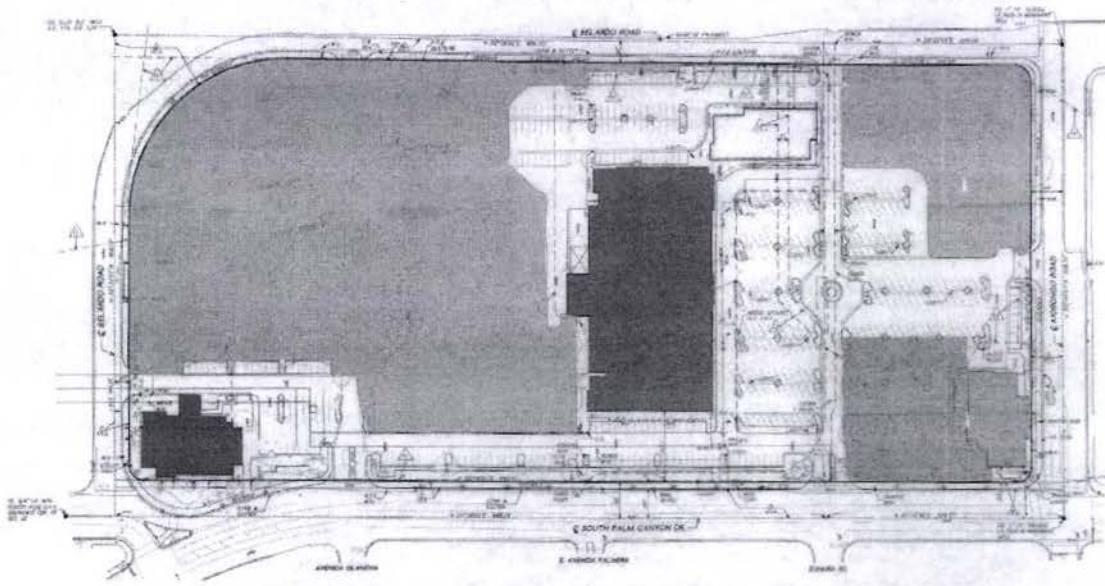
1555 South Palm Canyon Dr
Palm Springs, CA 92264

REV	DATE	BY

EXTERIOR MATERIALS

JOB # 047

1.1
Sheet



PROPOSED DEVELOPMENT SITE PLAN - SCALE = 1/32



NOTE:
 PLANS RELY ON ADJACENT LOT AREA CALCULATIONS, PERMITS, CALCULATIONS AND EXISTING
 ADJACENT PROPERTY INFORMATION.

- EXISTING BUILDING ON ADJACENT LOT
2 STORY - 27'-0"
- EXISTING BUILDING ON PROJECT LOT
2 STORY UNITS - 27'-0"
- PROPOSED AREA OF DEVELOPMENT
- UNDEVELOPED PORTION
OF ADJACENT LOT



HILL PARDO DESIGN
 ARCHITECTURAL FIRM, INC.

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Hacienda
 Cantina &
 Beach
 Club

1585 South
 Palm Canyon Dr.
 Palm Springs, CA
 92264

TITLE SHEET

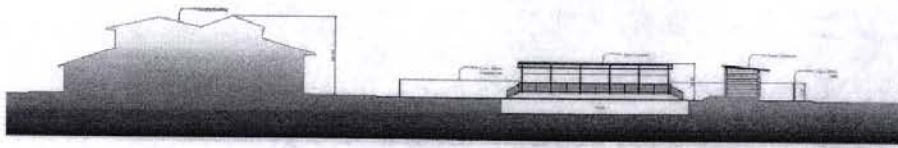


SITE PLAN

JOB # 047

1.2

Sheet



HACIENDA CANTINA & BEACH CLUB - Site section
SCALE: 1/8" = 1'-0"



HILLS FARGO DESIGN
ARCHITECTS

1022 10th Ave.
Suite 5
Durham, NC 27702
919.286.0100

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Hacienda
Cantina &
Beach
Club

1335 South
Palm Canyon Dr
Palm Springs, CA
92264



SITE SECTION

Job #: 047

1.3
Sheet



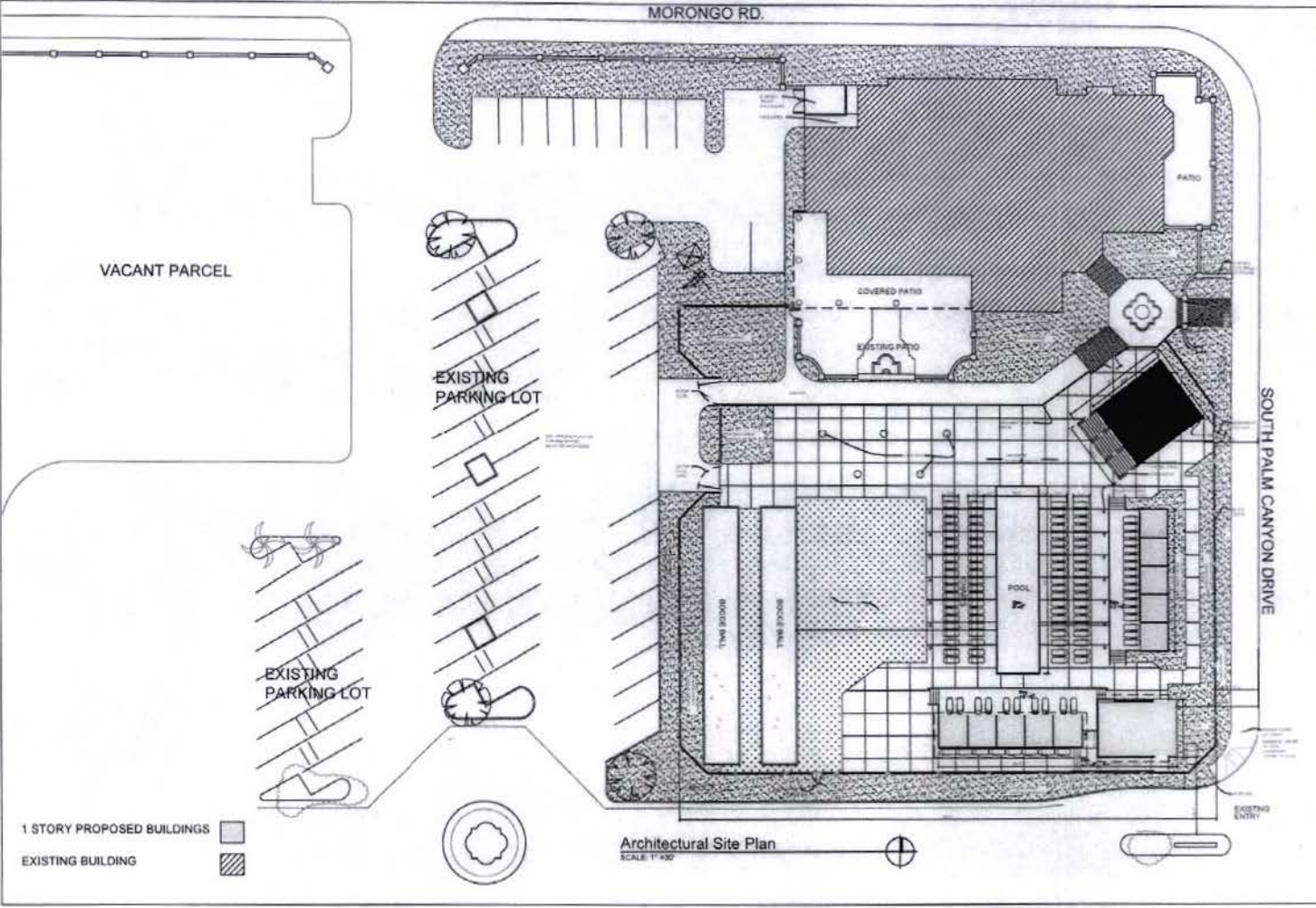
CARO PARGO DESIGN
 1555 South Palm Canyon Dr.
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 Palm Springs, CA 92264
 Phone: 760.325.1100
 Fax: 760.325.1101
 www.caropargodesign.com

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 Beach
 Club
 1555 South Palm
 Canyon Dr. Palm
 Springs, CA
 92264

Scale: 1" = 30'-0"
 1/8" = 1'-0"
 1/4" = 3'-0"

Enlarged
 Site Plan
 Job # 1021

1.4
 Sheet



IN THE CITY OF PALM SPRINGS, CALIFORNIA

ALTA

PLAZA DEL SOL

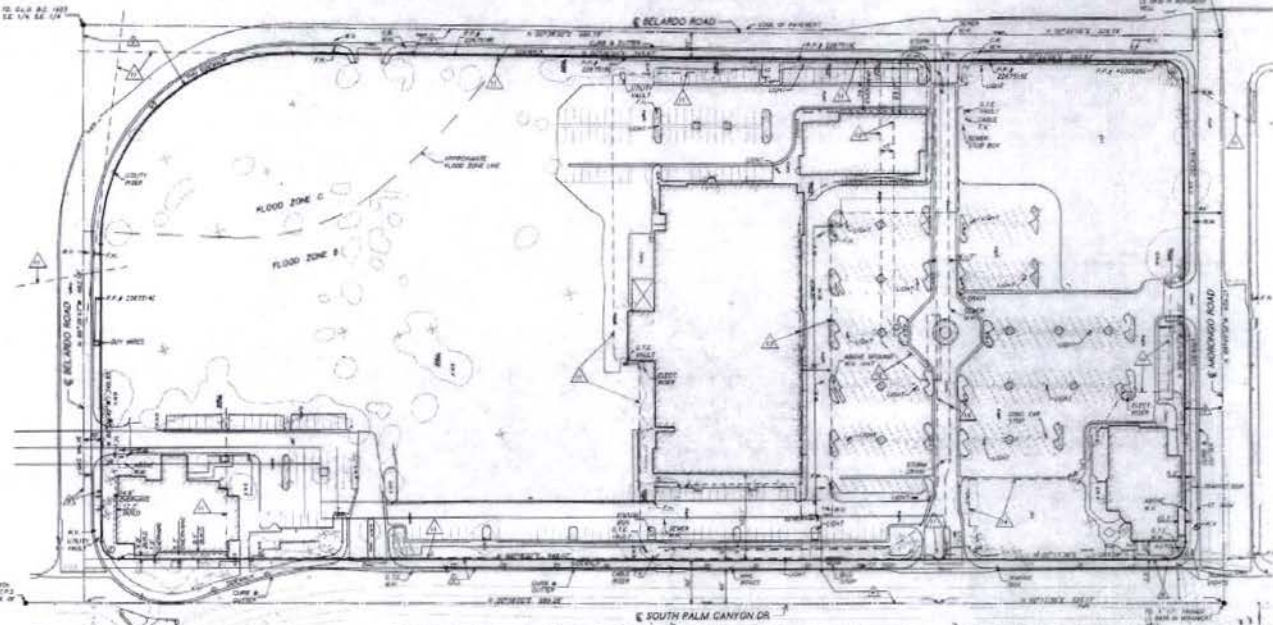
BEING A PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER
OF SECTION 15, T.4S., R.4E., S.22. & M

SANBORN A/E, Inc.

OCTOBER 2001



SANBORN A/E, INC.
2001 N. SANBORN PLACE
SANTA ANA, CALIFORNIA 92705
949-440-1111
FAX 949-440-1112
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DATA

NO.	DESCRIPTION	DATE	BY	CHECKED
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03	REVISED	08/01/01	JL	JL
04	REVISED	08/01/01	JL	JL
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REVISIONS

NO.	DESCRIPTION	DATE

PROJECT TITLE:
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PLAZA DEL SOL**

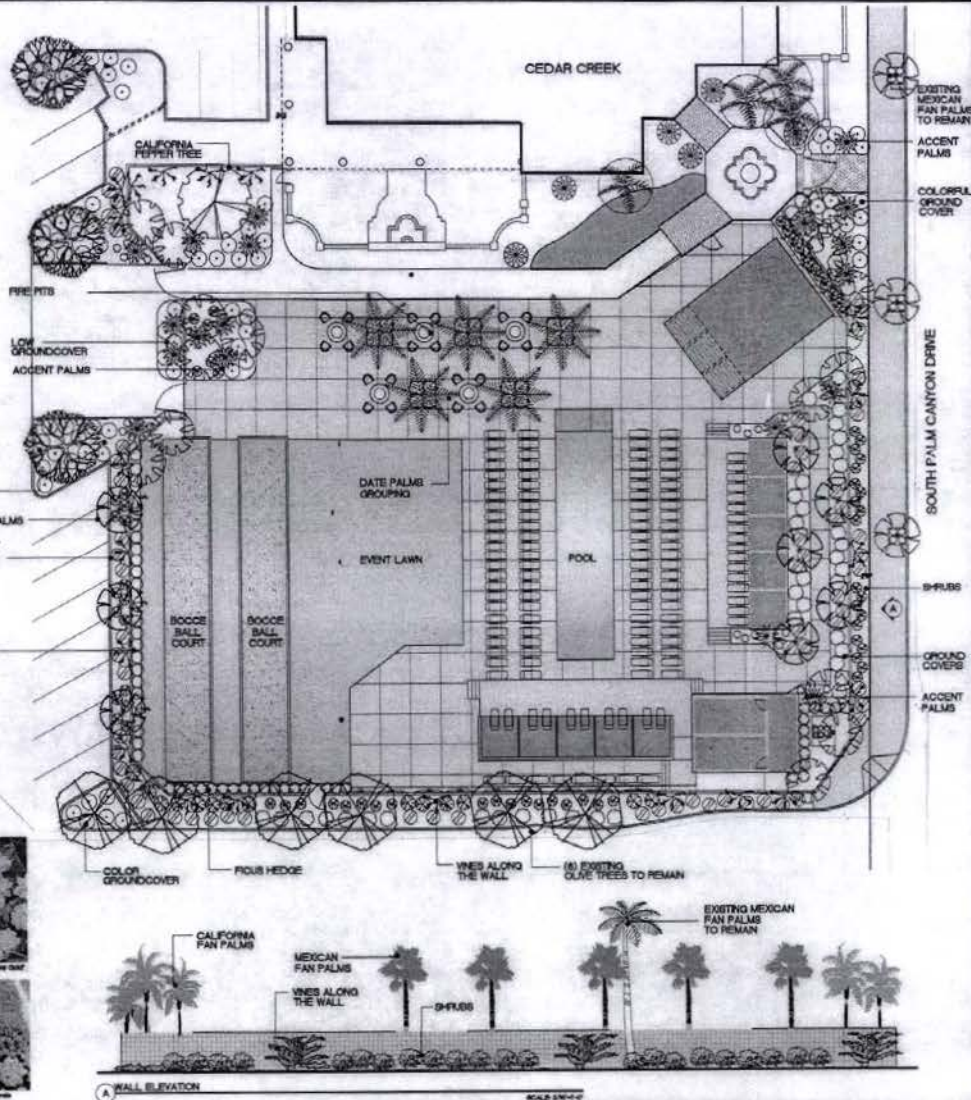
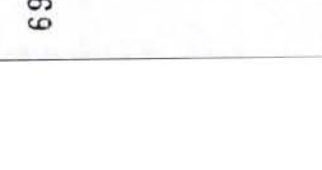
PALM SPRINGS, CA
SHEET TITLE:
ALTA

PLAT DATE

NO.	SCALE	DATE

2 OF 2

Quantity	Symbol	Scientific Name	Common Name	Planting Size
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1	○	California pepper tree	California pepper tree	20'-30"
1	○	Mexican fan palm	Mexican fan palm	24'-30"
1	○	Chambapala lucida	Chambapala lucida	2'-3"
1	○	Passiflora ligularis	Passiflora ligularis	2'-3"
1	○	Washingtonia robusta	Mexican fan palm	24'-30"
1	○	Chambapala lucida	Chambapala lucida	2'-3"
1	○	Passiflora ligularis	Passiflora ligularis	2'-3"
1	○	Washingtonia robusta	Mexican fan palm	24'-30"





T. K. D. ASSOCIATES, INC.
 1405 S. MICHIGAN AVENUE, SUITE 100
 LOS ANGELES, CALIFORNIA 90055
 TEL: (213) 695-0000 FAX: (213) 695-0001

HACIENDA CANTINA AND BEACH CLUB
 PALM SPRINGS, CALIFORNIA

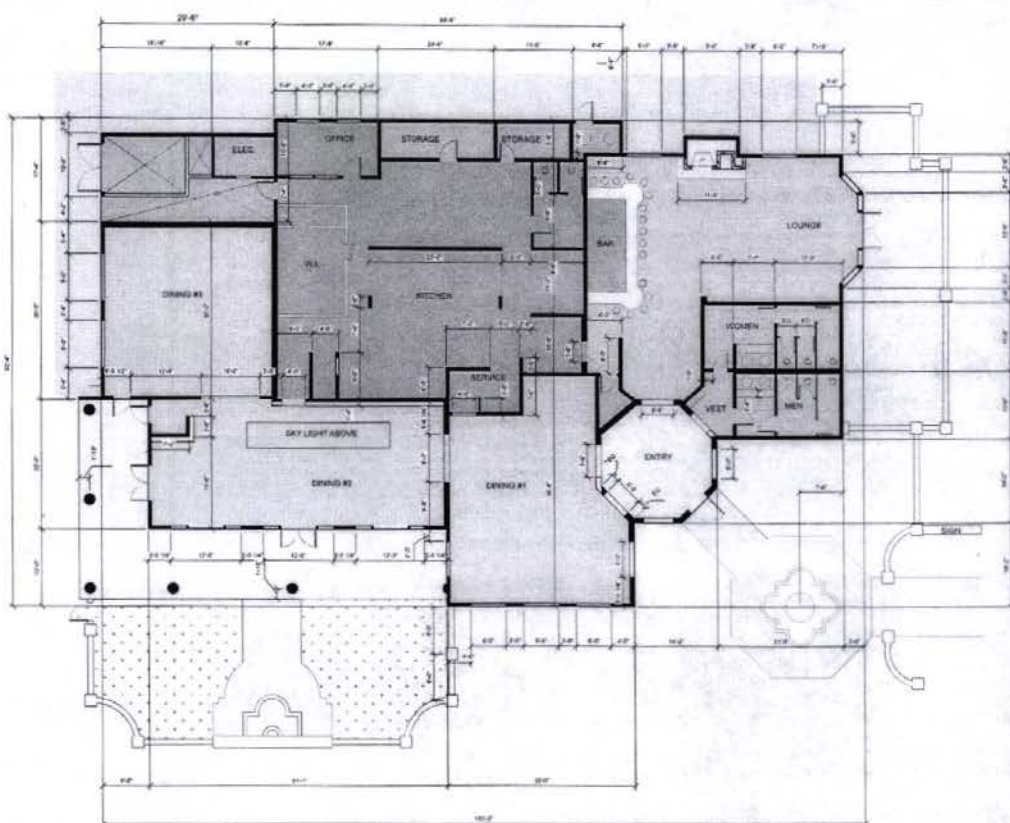


PLANTING PLAN

DATE: 11-27-84		
DRAWN: RSD		
NO.	DATE	BY

JOB NO.	
DATE	
PROJECT NO.	
DRAWING NO.	
DESIGNED BY	
CHECKED BY	
DATE	

L-1



HACIENDA CANTINA & BEACH CLUB - first floor plan
 SCALE 1/8" = 1'-0"

NOTE:
 ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. DIMENSIONS FOR
 EXISTING BUILDING ELEMENTS ARE TO CENTER UNLESS OTHERWISE NOTED.

HUIS PARDO DESIGN
 1525 7th Ave.
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 Seattle, WA 98101
 206.201.8239
 hpdesign@hispardodesign.com

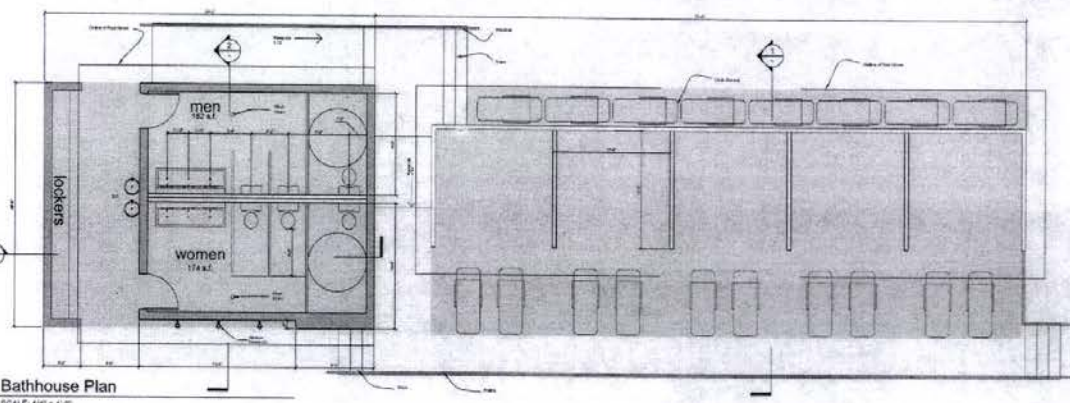
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 92264

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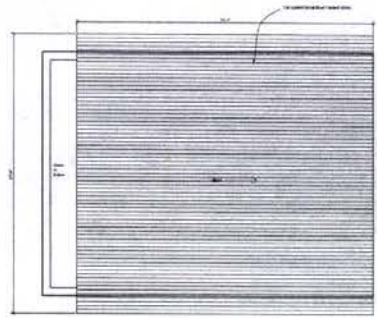
EXISTING
 BUILDING
 FLOOR PLAN
 JOB # 047

2.0
 Sheet

SPLIT TOILET
 HALL PLUG
 ENTRY DOOR
 HALLWAY
 BATHSTALLION



Bathhouse Plan
SCALE: 1/4" = 1'-0"



Bathhouse Roof Plan
SCALE: 1/4" = 1'-0"



HWS FARGO DESIGN
 1920 19th Ave.
 Suite G
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www.hwsfargo.com

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Hacienda Cantina & Beach Club

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 Palm Springs, CA
 92264

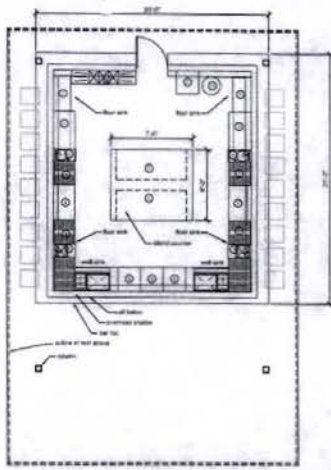
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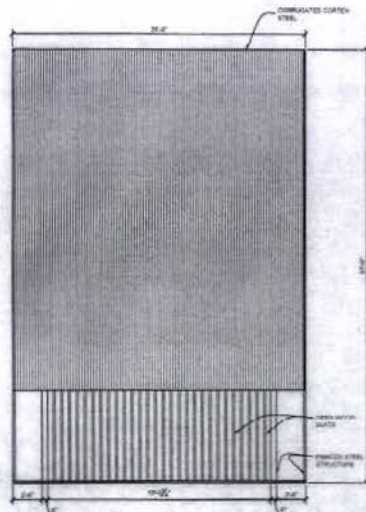
BATHHOUSE FLOOR PLAN

Job #: 047

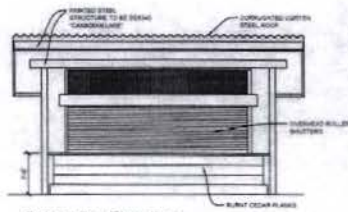
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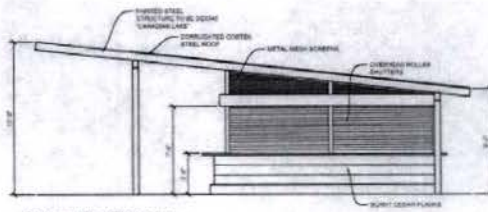
Palapa Bar Floor Plan
SCALE: 1/4" = 1'-0"



Palapa Bar Roof Plan
SCALE: 1/4" = 1'-0"



Palapa Bar Elevation
SCALE: 1/4" = 1'-0"



Palapa Bar Elevation
SCALE: 1/4" = 1'-0"



CURTIS PARBO DESIGN
1025 17th Ave. S.
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Palm Springs, CA 92264
760.325.1000



Hacienda
Cantina &
Beach
Club

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Canyon Dr. Palm
Springs, CA
92264

NO.	DATE	BY
1	07/14/11	CP
2	08/11/11	CP

Palapa Bar
Floor Plans &
Exterior
Elevations
Job # 021

2.2
Sheet



ERIC PANDS ARCHITECT
1525 South
Palm Canyon Dr
Palm Springs, CA
92264

Architectural, Civil, and
Mechanical Engineering
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State of California
Architectural Board of California

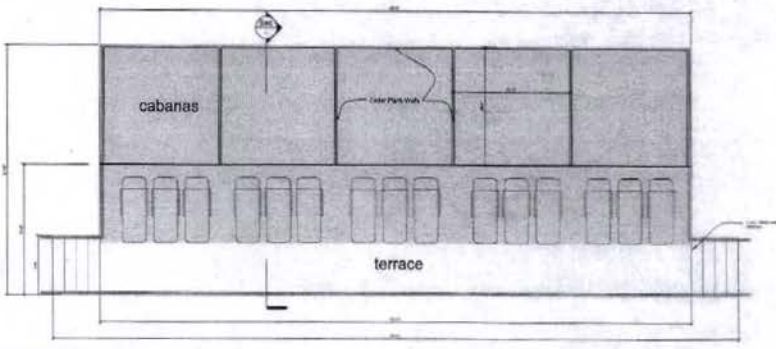
Hacienda
Cantina &
Beach
Club

1525 South
Palm Canyon Dr
Palm Springs, CA
92264

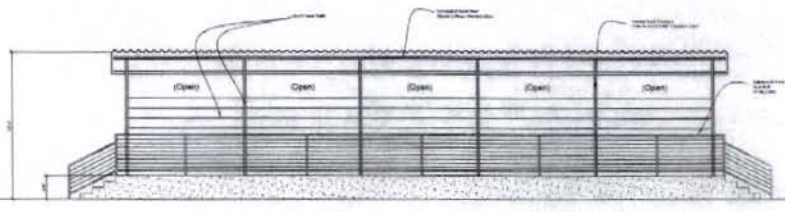
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Revised: _____

RAISED
CABANA FLOOR
PLAN & ELEVATIONS
JOB # 047

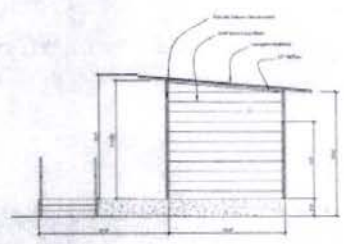
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Raised Cabana Plan
SCALE: 1/4" = 1'-0"



Elevation - Looking East
SCALE: 1/4" = 1'-0"



Cabana Section 1
SCALE: 1/4" = 1'-0"



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925.328.1024
www.chrispardo.com

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92254

Hacienda
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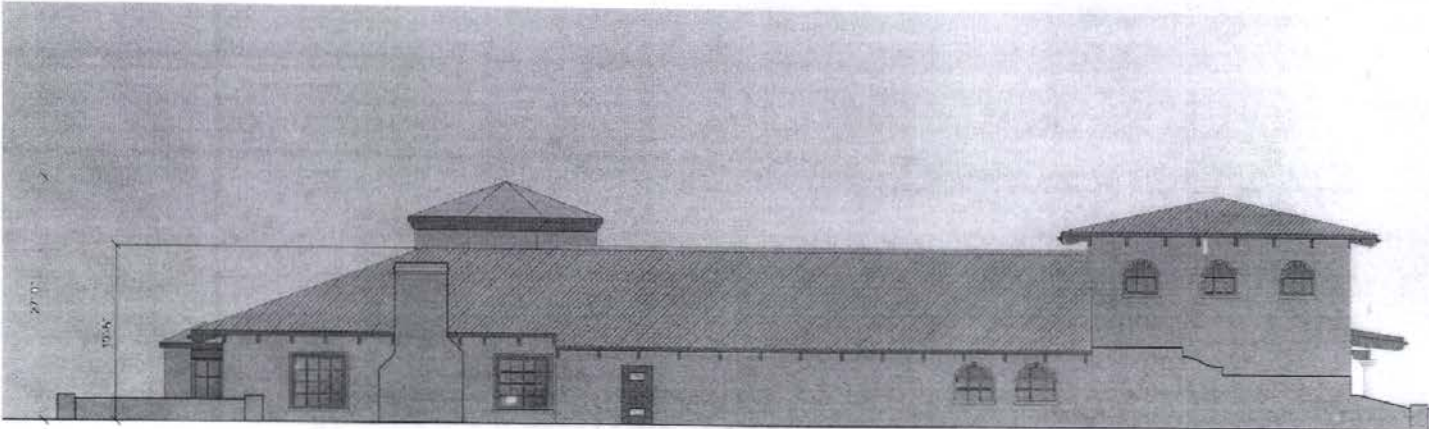
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Canyon Dr. Palm
Springs, CA
92254

Rev. Date Issue
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2 14 12 13 Add'l

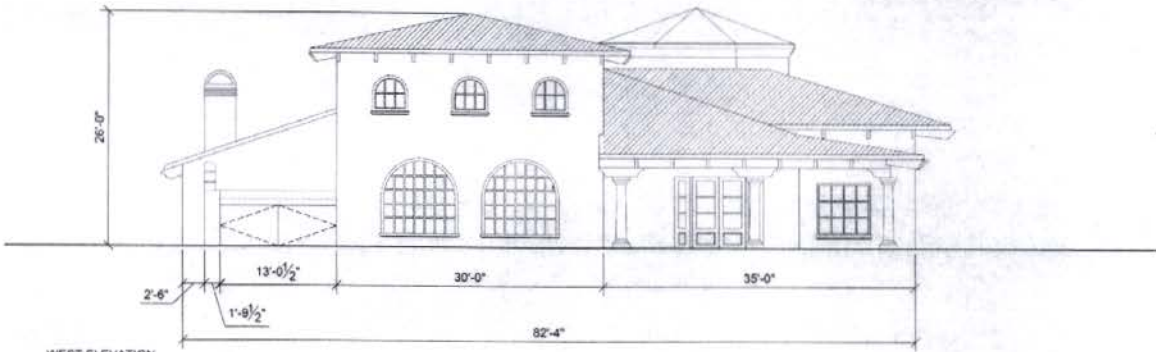
Existing
Building
Elevations

JOB # 1021

3.0
Sheet



NORTH ELEVATION
SCALE 1/8" = 1'-0"



WEST ELEVATION
SCALE 1/8" = 1'-0"



CHAD PARRIS DESIGN

1502 17th Ave
Bldg 10
San Jose, CA 95128
408.263.1988

1505 South Palm Canyon Dr. Palm Springs, CA 92264

Hacienda Cantina & Beach Club

1505 South Palm Canyon Dr. Palm Springs, CA 92264

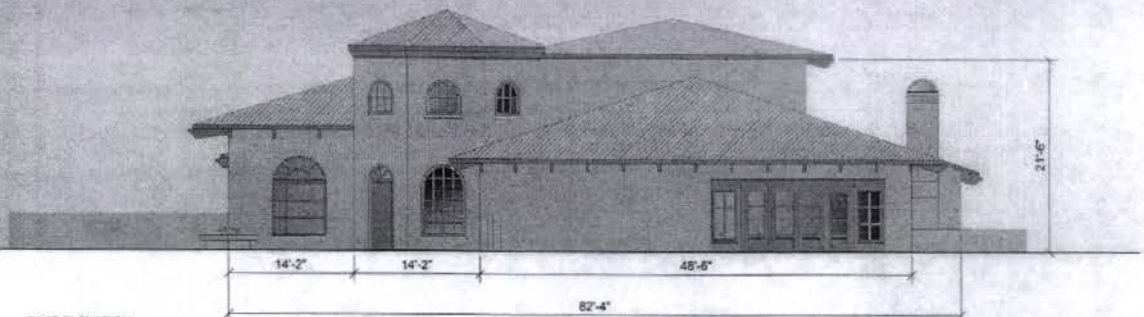
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Existing Building Elevations

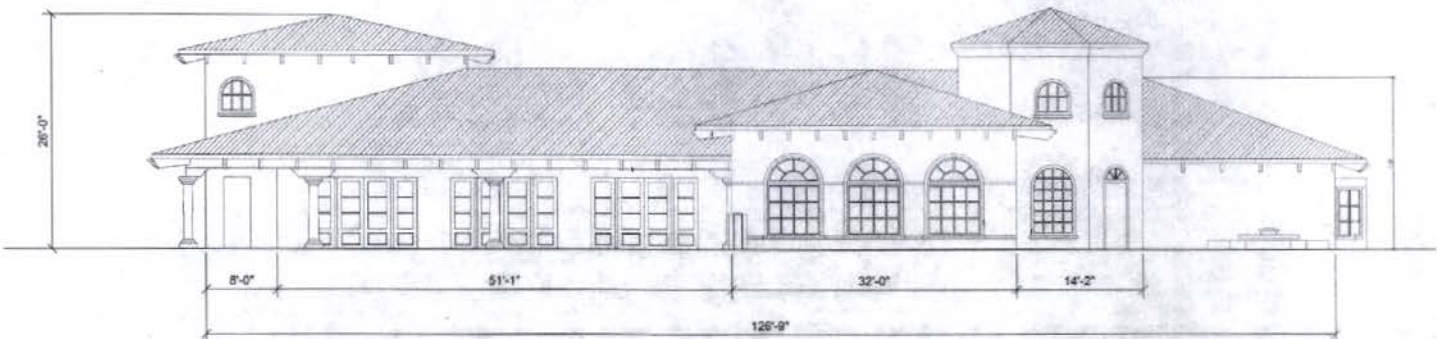
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3.1

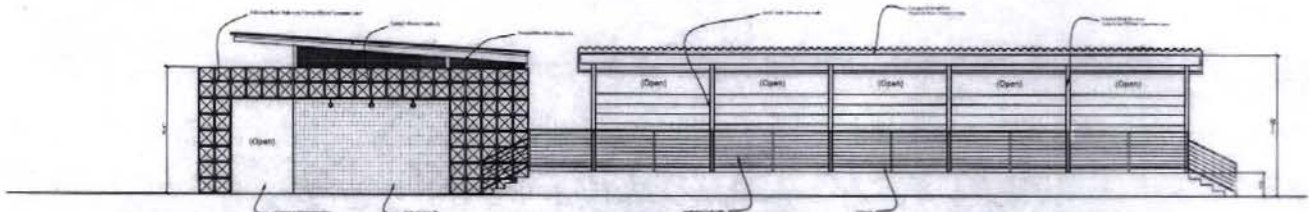
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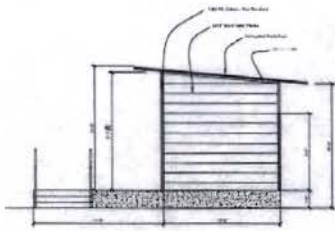
EAST ELEVATION
SCALE 3/16" = 1'-0"



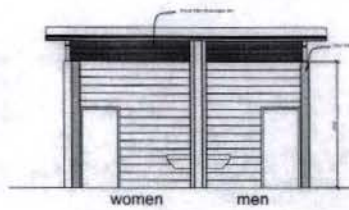
SOUTH ELEVATION
SCALE 3/16" = 1'-0"



Elevation - Looking South
SCALE 1/4" = 1'-0"

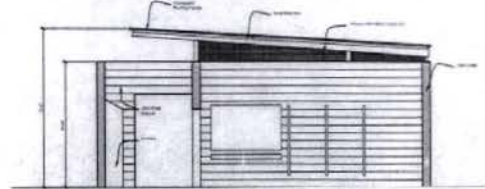


Bathroom Section 1



Bathroom Section 2

women men



Bathroom Section 3



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Scottsdale, AZ 85252
480.227.4938

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Hacienda Cantina & Beach Club
Architectural Elevation & Section
Job # 047

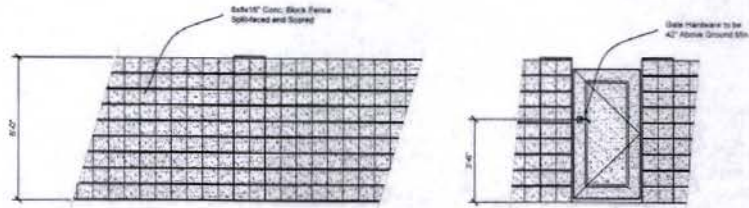
Hacienda
Cantina &
Beach
Club

1832 South
Palm Canyon Dr
Palm Springs, CA
92284

Job Date: 10/11

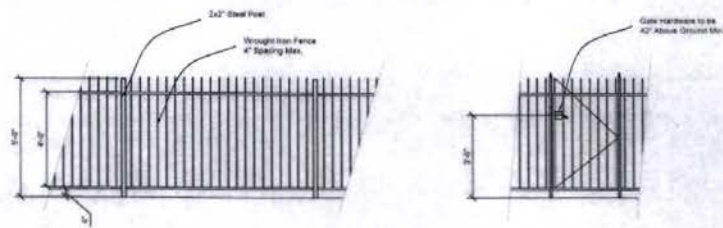
BATHHOUSE EX-
TERIOR
ELEVATIONS /
SECTION
JOB # 047

3.2
Sheet



Fence and Gate - Type I

SCALE: 1/2" = 1'-0"



Fence and Gate - Type II

SCALE: 1/2" = 1'-0"

NOTE:
All fencing must be a minimum of 3' high. All openings in fence shall be less than 4". Horizontal members must be at least 48" apart. Gate hardware to be located 42" - 48" above the ground.



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LOOKING SOUTHWEST FROM S. PALM CANYON



LOOKING NORTHWEST FROM S. PALM CANYON



CHRIS PARDO DESIGN

1025 17th Ave
 Suite 10
 Pacific, WA 98122
 P 206.228.1424

Chris Pardo Design, LLC, 1025 17th Ave, Suite 10, Pacific, WA 98122
 Chris Pardo Design, LLC, 1025 17th Ave, Suite 10, Pacific, WA 98122
 Chris Pardo Design, LLC, 1025 17th Ave, Suite 10, Pacific, WA 98122



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 Springs, CA
 92284

Rev. Date: Issue
 1. 07.15.11 Author
 2. 08.12.11 Author



Building
 Perspectives

Job #: 021

3.4
 Sheet

January 29, 2014

Honorable Mayor and Members of the Palm
Springs City Council
c/o James Thompson, City Clerk
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Re: *Response to January 21, 2014 Appeal Letter Submitted by Judy Deertrack
(Planning Commission Decision 1/8/14)*
Case No. LUP 13-067 & Purportedly 3.1111 MAA
Hacienda Cantina and Beach Club, 1555 S. Palm Canyon Drive

Dear Honorable Mayor and City Councilmembers:

This letter is submitted on behalf of Rich Meaney and Miggy's Cantina, LLC (collectively, the "Applicant") relating to the above-referenced appeal. Rutan & Tucker, LLP serves as land use/CEQA counsel for the Applicant on this project. This letter serves as the Applicant's answer to the appeal, and is submitted pursuant to Palm Springs Municipal Code ("PSMC") Section 2.05.060.

I. SCOPE OF APPEAL

Before addressing Ms. Deertrack's ("Appellant") appeal, it is important to note what is *not* part of the appeal. While Appellant's letter of appeal references the Applicant's Minor Architectural Application Case 3.111 ("MAA"), and much of the letter appears to be directed at the minor remodel of the restaurant to enhance the patio area, the MAA is not, and cannot be, part of this appeal. As stated by the Planning Director in the Planning Commission Staff Report, the Appellant chose not to appeal the MAA because she did not wish to pay the appeal fee for a second appeal. Pursuant to Palm Springs Zoning Code ("PSZC") Section 94.04.00.E.2.A, the decision on the MAA became final on December 16, 2013, 10 working days after the date it was issued (November 27, 2013). The fact that the MAA is final and is not part of the appeal was confirmed by City Attorney Douglas Holland on January 24, 2014. The Applicant objects to the appeal to the extent it seeks to review the propriety of the development activities authorized by the MAA or the CEQA determination relating thereto. Substantial work has already begun under the MAA, and the Applicant's rights under that approval are fully vested.

What is at issue in this appeal is the Planning Commission's approval of Land Use Permit 13-067 ("LUP"), which authorizes "musicians and entertainment (subject to provisions of the noise ordinance) outside on pool deck...."

Honorable Mayor and Members of the
Palm Springs City Council
January 29, 2014
Page 2

The Appellant's notice of appeal suggests that she is appealing the Planning Director's November 27, 2013 decision on the LUP. However, pursuant to PSZC Section 94/02.01.D.4, the Planning Commission's review of the matter was *de novo*. Therefore, it is the Planning Commission's decision on the LUP which is before the City Council.

II. CORRECTED DESCRIPTION OF CENTER AND SURROUNDING LAND USES

The appeal letter incorrectly characterizes the Plaza del Sol Shopping Center ("Center"), the subject restaurant and the surrounding land uses.

A. Plaza del Sol Shopping Center

The Center is 17 acres with over 70,000 square feet of commercial development, including retail, restaurants and office. There is 24,500 square feet of additionally entitled office and retail, which will be constructed in one and two story buildings. Indeed, one of the large remaining building pads (Pad B) is located directly in between the multifamily apartment complex where the Appellant resides and the Hacienda Cantina restaurant. Thus, once the Center is built out as entitled, an additional commercial structure will create a further separation between the uses authorized by the LUP and the apartment complex.

The Center's consistency with the General Plan was determined when Planned Development District No. 131 ("PDD") was adopted in 1981, through Resolution No. 14025. (Attachment 1.) The uses permitted by the PDD included a market, banks, office, retail and restaurants. The PDD authorizes up to 188,890 square feet of commercial development, including 69,660 square feet of office, 101,575 square feet of retail and market, and 17,655 square feet of restaurant. (Attachment 2.)

The Appellant's classification of the Center as a "small residential shopping center" (Appeal, p. 1) is simply false. The Appellant attempts to pigeonhole this Center as a "small residential shopping center" based upon its *current* General Plan designation of Neighborhood Convenience Center. (Appeal, p. 1.) However, *that designation was not placed upon the Center until long after the existing Center structures were built*. In 1981, when the PDD was approved, and in 1982, when the development plans for the existing restaurant were approved, *the site was designated under the General Plan as "Resort Commercial."* (Attachment 3, p. 1.) The Resort Commercial designation was specifically for "tourist commercial services principally servicing resort clientele; these services include restaurants, entertainment and retail uses. Commercial recreation and entertainment facilities are closely associated with this designation, but should be designed to be compatible with neighboring developments...." (Attachment 3, p. 3.) It is our understanding that the General Plan designation changed to "Neighborhood

Honorable Mayor and Members of the
Palm Springs City Council
January 29, 2014
Page 3

Convenience Center” in the 2007 General Plan Update. That change, however, did not transform the nature of the existing Center.

B. The Restaurant

The PDD did not limit the types of restaurants for the Center. As stated above, the General Plan designation for the restaurant site at the time the restaurant was approved and constructed was Resort Commercial. To suggest that the restaurant may not have entertainment components and should not draw patrons from outside the immediate neighborhood is simply wrong. This is demonstrated not only by the language of the applicable General Plan and the PDD, but how it was interpreted and applied to this very restaurant. The development plans for the restaurant at issue were approved as part of Phase I of the commercial development of the site in Resolution No. 14215, approved on April 21, 1982. It was approved as an 8,000 square foot structure with break out event rooms and a patio area that was used for outdoor dining and entertainment, including live music. Obviously, a restaurant of that size and layout is not intended merely to service the immediate neighborhood. If anyone had an issue with operation of a restaurant of this scope, the time to raise the issue was in 1982, when the plans were approved and found consistent with the PDD.

The restaurant was built in approximately 1983. It was operated under different names. It has been shuttered for approximately two years. The Applicant is attempting convert this vacant building into a viable, tax generating restaurant.

C. The Surrounding Land Uses

The Appellant baldly states that the Center “is surrounded by residential use, with all the expectation of quiet and privacy.” (Appeal, p. 1.)

The Appellant’s description is simply false.

The Appellant claims that the “Cantina Project is bordered on the northwest by the Parkview Mobile Estates with 198 lots (55+age tenants)....” In fact, the Parkview Mobile Estates are located at 393 West Mesquite Avenue. While the southeast corner of the park is cattycorner from the currently vacant building pad within the Center located at the corner of Morongo Road and South Belardo Road, the site of the Hacienda Cantina is at an entirely different corner, namely, Morongo Road and South Palm Canyon Drive.

The Appellant apparently categorizes the Happy Traveler RV Park as a residential use, and claims that it also borders the Hacienda Cantina “to the north.” In actuality, the use to the north of the Hacienda Cantina is a 66-unit hotel (Travelodge). The Happy Traveler RV Park is located at 211 West Mesquite Avenue. A portion of the park extends to the north side of

Honorable Mayor and Members of the
Palm Springs City Council
January 29, 2014
Page 4

Morongo Road, to the northwest of the site. That portion of the RV Park is across the street from the future development pad described in the paragraph above. More fundamentally, the RV Park is not a residential use. Patrons reserve spaces in much the same way as visitors rent rooms at the Travelodge next door. (See happytravelerrv.com.) Indeed, the Park's website boasts that it is "in town" and within walking distance to area restaurants. Interestingly, while the Appellant claims the owner of the Park, Mr. Marantz, "expressed distress" over the project, he apparently did not wish to appeal. Mr. Marantz informed Mr. Meaney that during off season - the time of year during which the pool area will be most frequently used - the Park's occupancy is only 10%.

The Appellant claims "[t]here is also a hotel south of the project." This is also incorrect. The uses to the south are the Stein-Mart and other commercial tenants.

Most significantly, the Appellant also claims to live "immediately to the west of the planned Hacienda Cantina." (Appeal, p. 1.) This is incorrect. What is "immediately to the west" of the restaurant is a future building pad for a commercial building (Pad B). The Tahquitz Mesa Villas apartment complex is across South Belardo Road from that building pad, not from the Hacienda Cantina. The Appellant's apartment (according to the address on her appeal letter) is in building 5 in the western portion of the complex. She is separated from the restaurant by numerous buildings, two tennis courts, a pool complex, South Belardo Road, and the future building on Pad B. The estimated distance between the Appellant's unit and the patio where the uses covered by the LUP will occur is approximately 700 feet.

III. THE APPELLANT'S PROCEDURAL CLAIMS ARE WITHOUT MERIT

The majority of the Appellant's comments relate to the City's adopted procedures relating to the LUP. The City's land use procedures clearly spell out certain types of decisions that can be made by the Planning Director with no hearing and no notice. The uses authorized by this LUP clearly fall into that category. In Section 92.12.01, subsection C, the PSZC defines "Uses Permitted by Land Use Permit." Subpart 2 of that subsection covers "[o]utdoor uses as an accessory to a permitted main use and located on the same property as the permitted use" and specifically lists "[m]usicians/entertainment (subject to provisions of noise ordinance)." The Appellant has not argued that any other activities were approved by the challenged LUP, nor could she. The language in the LUP tracks the language in the code to the letter.

Nor has any plausible argument been advanced to suggest that the music activities are not an accessory use to the restaurant. The music is to entertain the restaurant patrons in the patio/pool area.

Thus, the City Council has established the procedure for the approval of this type of use, and City Staff followed that procedure in every respect. What the Appellant is challenging is the

Honorable Mayor and Members of the
Palm Springs City Council
January 29, 2014
Page 5

procedure itself. There is no question City Staff had the authority to issue the LUP without notice to anyone. The Appellant was aware of the approval and had the opportunity to express her view to the Planning Commission, which considered the matter *de novo*, unanimously rejected the appeal, and approved the LUP with one additional condition. The Appellant was permitted to speak for more than the allotted time at the beginning of the meeting, was able to submit her prepared comments, and was invited to speak again when the matter was being discussed by the Planning Commission. What the Appellant is really advocating for is a modification of the PSZC to require noticed public hearings for LUPs. That is an issue for another day, and is not a basis for overturning the Planning Commission's unanimous approval of the LUP.

IV. THE NOISE ISSUE

The LUP activities are specifically designed to allow the restaurant to remain viable during the summer season. The conditions of approval place stringent noise restrictions on all live entertainment. Such entertainment must cease by 6:00 p.m. Any instrument amplification is limited, and must be projected away from the nearby residential properties. Noise must be low enough to allow patrons to carry on normal conversations. All activities must strictly comply with the City's noise ordinance, which restricts noise levels to 50 to 60 dBA, depending on the time of day. In addition, a subcommittee of the Architectural Advisory Committee is required to review the plans for the walls and hedges to ensure that they further reduce noise levels.

The Planning Commission added an additional condition for there to be an annual review to ensure that the conditions of approval are being followed and that any noise complaints are being properly handled. The condition requires that "Staff shall track noise complaints made to Police and Code Enforcement and provide an annual report, beginning from the date the facility opens." Contrary to the Appellant's claim, the Planning Commission did not "admit" this project is "in character, identical to others, such as the Ace Hotel, Saguaro Hotel, Riviera, etc." (Appeal, p. 2.) This is not a hotel project; it is a restaurant with accessory entertainment.

The design of the patio area where the live music would occur will avoid noise problems. In addition to the fencing and landscaping on the patio, the location is on the easternmost portion of the property, approximately 700 feet from the Appellant's apartment. It is adjacent to South Palm Canyon Drive, one of the busiest roadways in the entire Coachella Valley. Currently, the roadway in front of the patio area has over 21,000 vehicles pass by daily. (Attachment 4.) That number is expected to rise over time. Given the ambient traffic noise in this location, impacts from daytime live music that meets the City noise ordinance would be minimal.

Finally, the design of the sound system itself will reduce noise spillover onto any adjoining properties. The sound equipment is being professionally designed and installed by an

Honorable Mayor and Members of the
Palm Springs City Council
January 29, 2014
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industry sound expert with years of experience in the sound business, including sound systems for everything from churches to music festivals. The state of the art equipment that the company has provided for Hacienda Cantina will cause ambient and misdirected sound to be dramatically reduced. The technology is specifically designed to control the geographic range of noise impacts.

The Appellant's arguments are based upon the assumption that the Applicant will not be complying with the stringent conditions of approval imposed upon the LUP. Such an assumption is contrary to law. (Civ. Code § 3548; *Pinello v. Taylor* (1933) 128 Cal.App. 508.) In addition, if there are violations, there certainly are consequences. Condition No. 14 of the LUP authorizes revocation of the LUP for failure to comply with the PSMC, City Ordinances, or the conditions of approval of the LUP. Similarly, PSZC Section 94.02.01.D.5 provides for revocation of the LUP upon 10 days notice for noncompliance with the conditions of approval.

V. CEQA

The Appellant has also questioned the City's reliance on the Class 3 CEQA exemption contained in CEQA Guideline 15303. Her appeal to the Planning Commission quoted only part of that Guideline and also exaggerated the scope of the improvements (which were not even part of the appealed action). Subsection (e) of the Guideline specifically states that it is intended to cover "accessory (appurtenant) structures including ... patios, swimming pools and fences." Before the Planning Commission, the Appellant described the restaurant improvements as "a commercial swimming pool" with "90 cabanas." The Applicant is not constructing a commercial swimming establishment. Instead, a modest-sized pool (15 feet by 70 feet) is being constructed to allow Cantina patrons to cool off in the summer heat. This is certainly not a "commercial pool." Likewise, only 10 (not 90) cabanas are being installed to allow patrons to escape from the afternoon sun.

The Appellant has suggested that the project is eliminating parking. While certain parking spaces are eliminated under the now final MAA, others have been added. Specifically, while 26 parking spaces were removed, 39 spaces were added, for a net increase of 13 spaces. In addition, the site is actually over-parked due to the lack of development on some of the existing building pads within the center. Moreover, as explained in the Staff Report presented to the Planning Commission, a parking analysis was completed for the MAA and the site has adequate parking for the new accessory uses.

In short, substantial evidence supports staff's determination that the accessory uses are exempt from CEQA.

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VI. ATTEMPTS TO RESOLVE THE APPEAL

Despite the lack of merit to the appeal, Mr. Meaney has personally met with the Appellant, had telephone conferences with the Appellant, exchanged countless e-mails with her and has tried to address her concerns. In response to a comment by the Appellant about a community workshop, Mr. Meaney proposed to host such a workshop for all interested persons in lieu of this appeal. Mr. Meaney proposed to use the workshop to: (1) explain his plans for the restaurant and outline when he plans to utilize the patio area for live entertainment (off season); and (2) to provide attendees with all of the conditions of approval and the procedures for noise complaints. The Appellant ultimately rejected this offer in favor of this appeal.

For the reasons stated herein, the Applicant respectfully requests that Appellant's appeal be denied and that the Planning Commission's approval of the LUP be upheld in all respects.

Very truly yours,

RUTAN & TUCKER, LLP


M. Katherine Jenson

Attachments:

1. Resolution No. 14025 (Approving PDD No. 131), Nov. 4, 1981
2. Staff Report dated Nov. 4, 1981, for PDD No. 131
3. 1993 General Plan, showing Hacienda Cantina as "Resort Commercial"
4. 24-Hour Traffic Volumes for Palm Canyon at Mesquite, April 2, 2013, prepared by Newport Traffic Studies

RESOLUTION NO. 14025

OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS,
CALIFORNIA, APPROVING PLANNED DEVELOPMENT DISTRICT
NO. 131, FOR JOHN WESSMAN FOR A COMMERCIAL COMPLEX
ON SOUTH PALM CANYON DRIVE BETWEEN MORONGO ROAD
AND WEST BELARDO ROAD.

WHEREAS application has been received from John Wessman for a planned development district to construct a commercial complex on property located on South Palm Canyon Drive between Morongo Road and West Belardo Road; and

WHEREAS the Planning Commission has recommended approval of the application, after holding public hearings in accordance with Ordinance procedures; and

WHEREAS the City Council is in agreement with the recommendation of the Planning Commission,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Palm Springs does hereby approve Planned Development District 131, including the preliminary plot plan for John Wessman on property herein described based on the following findings and subject to the following conditions:

FINDINGS:

1. That the use at the location set forth in the application is properly one for which a planned development district is authorized by this Ordinance.
2. That the proposed shopping center is necessary for the development of the community, is in harmony with the various elements of the General Plan, and is not detrimental to existing uses, or to future uses permitted on adjacent properties.
3. That the proposed site, being 16 net acres, is adequate in size and shape to accommodate said use and all yards, setbacks, parking, landscaping, and other features to adjust said use to existing or future uses in the neighborhood.
4. That a site specific traffic analysis has been prepared for the proposal which indicates adjacent streets can be properly designed to handle the type and quantities of traffic to be generated by the proposed use.

CONDITIONS:

1. A continued study shall be made of the intersection of South Palm Canyon and East Palm Canyon Drives, and Belardo Road, and shall be reviewed and approved by the Planning Commission.
2. All conditions of the Development Committee shall be met.
3. Final parking facilities plan shall be designed in conformance with Section 9306.00 of the Zoning Ordinance with a 10% overall reduction in the number of parking spaces provided the 10% reduction is averaged throughout the site.
4. The westerly elevations shall be reviewed for sun control by the Architectural Advisory Committee and the Development Committee.
5. All mitigative measures outlined in the Environmental Assessment/Initial Study shall be implemented.

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Res. No. 14025
Page 2

- 6. A detailed phasing program shall be submitted as part of final development plans with all off-site improvements being installed with Phase I.
- 7. A General Plan amendment shall be required for the downsizing of Belardo Road from Morongo Road to the intersection of South Palm Canyon Drive (from an 80 foot secondary thoroughfare to a 60 foot collector) to be completed prior to the approval of final development plans for Phase I.
- 8. A bus turnout and/or alternative method of providing public transportation shall be provided with a bus shelter to be designed and constructed by the applicant.
- 9. The project shall be responsible for implementation of the adjacent portions of the Master Plan of Flood Control and Drainage and/or payment of drainage fees when adopted by the City Council.

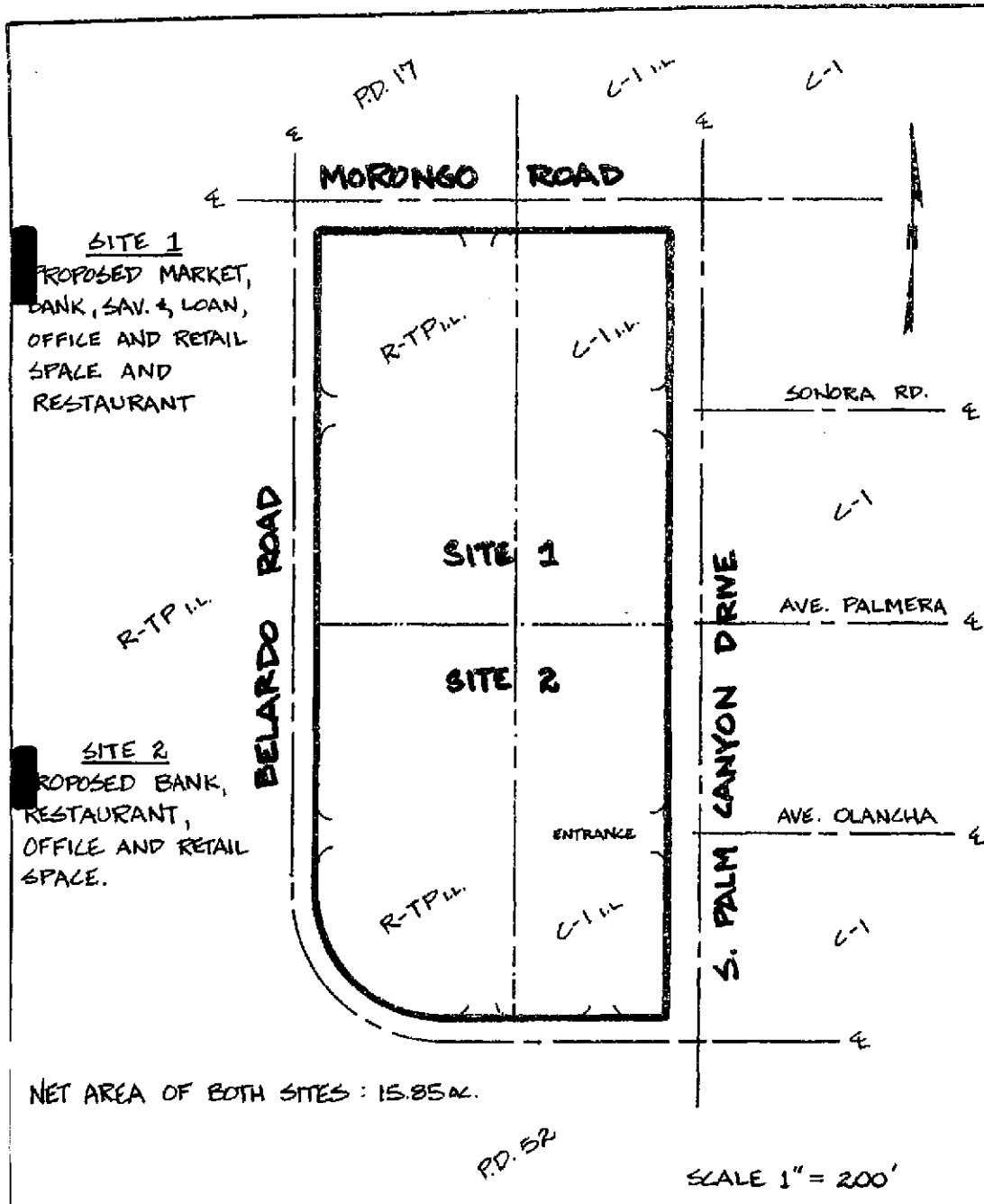
ADOPTED this 4th day of November, 1981.

AYES: Councilmembers Beirich, Field, Rose and Mayor Doyle
 NOES: None
 ABSENT: None
 ABSTAIN: Councilmember Ortner

ATTEST: CITY OF PALM SPRINGS, CALIFORNIA

By: [Signature] City Clerk [Signature] City Manager

REVIEWED & APPROVED: MDR A



CITY OF PALM SPRINGS			
CASE NO.	5.0177-PD-131	APPROVED BY PLAN. COMM. DATE	
APPLICANT	J. Wessman	APPROVED BY COUNCIL DATE 11/4/81	
REMARKS	Section 22	ORD. NO.	RESOL. NO. 14025

DATE: November 4, 1981
TO: City Council
FROM: Planning Director via Director of Community Development
CASE 5.0177-PD-131 - J. WESSMAN

RECOMMENDATION:

The Planning Commission recommends approval of a planned development district for John Wessman to allow development of an 16-acre retail complex located on South Palm Canyon Drive between Morongo Road and West Belardo Road, Section 22.

BACKGROUND:

The subject property has been in use for many years as Rancho Trailer Park. The applicant has proceeded with terminating the trailer park occupancy per the provisions of State Law governing conversion of such uses and has developed plans covering the majority of the park. The final date of residency for park tenants is around December 1, 1981. The proposed site plan includes a supermarket use (Ralph's) and Home Savings and Loan as specific tenants along with additional retail, office, financial and restaurant uses. The total building area initially proposed is 188,890 sq. ft.

STATISTICAL BREAKDOWN:

Proposed Building Area:

Office	69,660 sq. ft.
Retail & Market	101,575 sq. ft.
Restaurant	17,655 sq. ft.
TOTAL	188,890 sq. ft.

Surface Area Coverage:

Building	139,790 sq. ft.	20%
Parking & Drives	323,800 sq. ft.	47%
Landscaping	222,632 sq. ft.	33%
TOTAL	686,222 sq. ft.	
	(15+ acres)	

Parking provided: 900 spaces

Parking required: 978 spaces (It must be noted that until detailed floor plans are submitted, staff is unable to provide an exact calculation of parking requirements.)

Among the concerns surfacing in the hearings were relocation impacts, traffic, streets, and drainage. Special reports were prepared in conjunction with each of these areas of concern and mitigative measures were developed to offset anticipated impacts. One of the mitigations suggested in the traffic study was the downgrading of Belardo Road between Morongo Road and South Palm Canyon Drive from an 80-foot secondary thoroughfare to a 60-foot collector street. This recommendation was supported by the Traffic Engineer but rebuked by the Tribal Council and further hearings will have to be held.

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November 4, 1981
PD-131 - J. WESSMAN

Page 2

The Planning Commission, at its meeting of October 14, 1981, voted 4 - 1, two absent, to order the filing of a Negative Declaration (with mitigation) and to approve Planned Development District 131 subject to conditions outlined in the attached resolution.

Marvin D. Roos
MARVIN D. ROOS
Planning Director

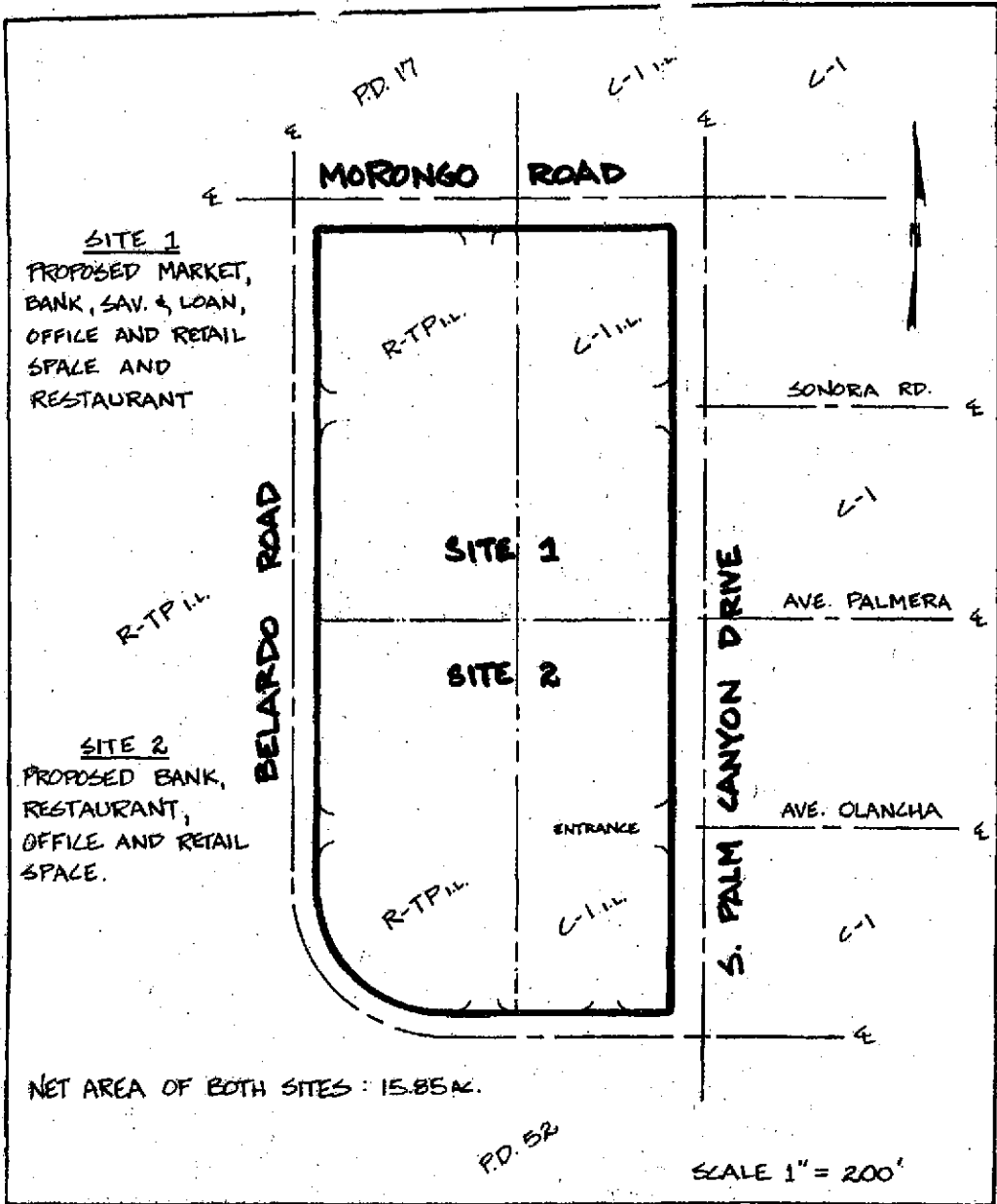
APPROVED John A. Mangione
JOHN A. MANGIONE
Director of Community Development

APPROVED Thomas R. Kelly
City Manager

ATTACHMENTS:

- 1. Map
- 2. Planning Commission Minutes of 10/14/81
- 3. Resolution

WP 3244



CITY OF PALM SPRINGS			
CASE NO.	5-0177-PD-131	APPROVED BY PLAN. COMM. DATE	
APPLICANT	J. Messman	APPROVED BY COUNCIL DATE 11-4-81	
REMARKS	Section 22	ORD. NO.	RESOL. NO. 4 a 3

No. 25

CASE 5.0177-PD-131. Application by J. WESSMAN for a planned development district for construction of a shopping center on Highway 111 between Morongo Road/Belardo Road, C-1 & R-3 Zones (IL), Section 22.

(Commission response to written comments on draft Negative Declaration, action for filing, and project approval.)

(No comments received.)

Planning Director gave the staff report including findings, recommendations, and direction for Commission action. He stated that the traffic issues will be addressed in final development plans, and that the Tribal Council recommendations would be resolved by Ordinance requirements. He stated that the staff recommendation would be for final approval of the preliminary PD, and that the energy problem on the west elevations would be addressed in the final development plan stage.

Discussion followed on the parking deficiency, height limits, and setbacks.

In reply to a question by Commissioner D. Harris, Housing Administrator stated that relocation of tenants from the mobilehome park will be accomplished by December 1, with the number of tenants of the park equalling the number of spaces being developed.

Discussion followed on the intersection of East and South Palm Canyon. Traffic Engineer stated that the present design as Belardo downsized to a collector street.

Discussion followed on the traffic movement at the intersection, parking calculations for the shopping center, setbacks, frontage landscaping, use of the buildings, retail use on Belardo, drainage of the site, flooding on S. Palm Canyon in front of the project, and project phasing. Planning Director stated that all off-site improvements will be installed with the completion of Phase I.

Vice Chairman declared the hearing open.

P. Selzer, 600 E. Tahquitz-McCallum, representing the applicant, stated that all off-site improvements would be constructed with Phase I, and that all staff recommendations were acceptable except the requirement for drainage fees. He stated that since the amount of drainage fees were unknown, it is unfair that fees were made a condition of approval, that all developments in the area should participate in the fees, that the project will not affect the drainage any more than the current use of the land, that the height is required for the aesthetics of the project, and that traffic studies will demonstrate that Belardo should be designated as a collector street.

Vice Chairman stated that the best time to effect an upgrading of facilities is at the time there is a change of use. Mr. Selzer stated that the system as a whole should be dealt with, and that the applicant is amenable to posting a bond for drainage.

Vice Chairman stated that the drainage fee issue is a City Council

CASE 5.0177-PD-131 (Cont'd.).

decision.

Commissioner Allan stated that when a new project is proposed with a higher use, problems of the site should be resolved; that conditions have been put on other projects; and that perhaps building should be stopped until the needs of an area are known. She stated that Morongo Road residents will be impacted by a traffic signal; that the project will impact the area; and that the need for the center should be balanced with total needs of the community.

Mr. Selzer reiterated that the resolution of the drainage fees will ultimately be the decision of the Council; and that he will appear before the Council.

L. Olinger, 1496 Maricopa Drive, stated he was not opposed to the project, but requested that the Indian Planning Commission recommendations be considered. He stated that there was a severe traffic problem, and that it appears to the Indians that the traffic congestion problem is being solved after the development of the project, not before development as it should be. He stated that on the Master Plan, Belardo is shown as a secondary thoroughfare, and if it is downsized, traffic will impact the area across the street as he plans to build on his property with R-3 densities and did not want to appear before the Commission to be told that the downsized street will not handle the traffic volume. He stated that a gain of 10 feet on the Wessman project will allow more parking, and if 10 feet is not given to the Wessman project, there will be a parking deficiency. He requested that further scrutiny be made of the downsizing.

Discussion followed regarding the downsizing of Belardo.

P. Selzer (rebuttal) stated that the 10 feet gained will be in landscaping and not parking and will make the project more pleasing from Palm Canyon.

There being no further appearances, the hearing was closed.

Commissioner D. Harris stated that he was not satisfied that the applicant had addressed drainage, parking, and height problems and was not ready to vote for the project.

Discussion followed regarding drainage fee requirements. Commissioner Allan stated that the signal at Morongo is not in the best interests of the residents on Morongo, but since the experts feel that Morongo is the correct location, she would not disagree with the decision.

Discussion followed on the problems and impacts of the project. Planning Director stated that a General Plan amendment study will be undertaken for Belardo, and that the Belardo question must be answered before approval of final development plans for Phase I.

Discussion continued on the traffic problems.

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Commissioner Koetting requested that the parking deficiency be defined.

October 14, 1981 PLANNING COMMISSION MEETING MINUTES
 CASE 5.0177-PD-131 (Cont'd.).

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Commission consensus was that the traffic problem should be addressed immediately.

Motion was made by Allan, seconded by Koetting, and carried (D. Harris dissented; Madsen, M. Harris absent) ordering the filing of a Negative Declaration, and approving PD-131 subject to the following conditions:

1. That a continued study be made of the intersection of S. Palm Canyon E. Palm Canyon, and Belardo, to be reviewed and approved by the Planning Commission.
2. That all conditions of the Development Committee be met.
3. That the final parking facilities plan be designed in conformance with Section 9306.00 of the Zoning Ordinance with a 10 percent overall reduction in the number of parking spaces provided the 10 percent reduction is averaged throughout the site.
4. That the westerly elevations be reviewed for sun control by the AAC and the Development Committee.
5. That all mitigative measures outlined in the Environmental Assessment/Initial Study be implemented.
6. That a detailed phasing program be submitted as part of final development plans with all off-site improvements being installed with Phase I.
7. That a General Plan amendment be required for the downsizing of Belardo Road from Morongo Road to the intersection of S. Palm Canyon (from an 80 foot secondary thoroughfare to a 60 foot collector) to be completed prior to the approval of final development plans for Phase I.
8. That a bus turnout and/or alternative method of providing public transportation be provided with a bus shelter to be designed and constructed by the applicant.
9. That the project be responsible for implementation of the adjacent portions of the Master Plan of Flood Control and Drainage and/or payment of drainage fees when adopted by the City Council.

Tribal Council comments:

"In memorandum dated September 22, 1981, the Tribal Council requested that this case be continued pending Indian Planning Commission and Tribal Planning Consultant review and comments on the Traffic Analysis prepared by Linscott, Law, and Greenspan and dated September 17, 1981.

After consideration of the recommendations of the Indian Planning Commission, the Tribal Council submitted the following recommendations:

1. That Belardo Road, between Ramon Road and South Palm Canyon Drive, be retained on the General Plan Street Plan as a secondary thoroughfare (80' R/W).
2. That studies be initiated to determine the possibility and cost/benefit

of extending Belardo Road southerly to connect with West Palm Canyon at South Palm Canyon Drive.

3. That the determination of the location of the traffic signal recommended by the traffic consultant include an in-depth study of the need to provide direct access from Belardo Road to a connection with South Palm Canyon Drive at a signalized intersection. A signal at Morongo Road and South Palm Canyon Drive would address this need and would present minimal impact in the shopping center plan. The alternatives would include a signal at Sonora Road and South Palm Canyon Drive and the extension of Sonora Road through the shopping center, to Belardo Road. While Sonora Road is a planned east-west collector street, and provides better service to the area easterly of South Palm Canyon Drive, the adverse impacts of this alternative on the center are obvious.
4. That future planning and development of the area include the extension of Belardo Road northerly to Sunny Dunes Road.
5. That the off-street parking deficiencies noted in the staff report be resolved.
6. That the attached recommendations of the Indian Planning Commission and Tribal Planning Consultant relative to lighting, driveway design, channelization, signing, etc., be incorporated into the design of the Center.
7. That the site plan for the shopping center be continued for further review after the matters as outlined above have been addressed.

* * * * *

CASE 5.0202 (MISC.). Initiation by the CITY OF PALM SPRINGS for traffic modifications on Riverside Drive North, Section 23, in response to a request by residents in and around Riverside Drive North.

(Environmental assessment and tentative approval.)

Planning Director stated that Commission had requested staff to return with alternative solutions to North Riverside Drive regarding volume and speed of traffic; read letters in opposition to the barricading of North Riverside Drive; and stated that the Commission could remove the item from the agenda since the assessment district formed to pay for the barricades has apparently been dissolved.

Traffic Engineer stated that Alternative #2 which considered neighborhood input for solution to the problems would be the most viable. He stated that other solutions, such as doing nothing; prohibiting left turns off Sunrise; and installation of stop signs are not viable especially since installation of stop signs would set a precedent.

Commissioner Koetting stated that the City of Indian Wells installed stop signs on a similar type street and the solution seemed to be satisfactory.

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Commissioner D. Harris stated that there should be a signal light or

11/11/03
11/11/03

11/11/03

RIVERSIDE

COUNTY

CENTRAL CITY

INITIAL	COMMERCIAL - INDUSTRIAL	
UNITS PER ACRE) (21) (30) ROLLED RESORT	CBD NCC CSC RC GC P IND HC	CENTRAL BUSINESS DISTRICT NEIGHBORHOOD CONVENIENCE CENTER COMMUNITY SHOPPING CENTER RESORT COMMERCIAL GENERAL COMMERCIAL PROFESSIONAL BUSINESS/INDUSTRIAL HIGHWAY COMMERCIAL
	OPEN SPACE	
LINEOUS	C D PR W	CONSERVATION (1 UNIT PER 20 ACRES) DESERT PARKS AND RECREATION WATER/FUTURE

Resort Commercial

Objective

- 3.22. The Resort Commercial (R-C) land use designation provides for resort hotels, including a broad range of convenience and tourist commercial services principally serving resort clientele; these services include restaurants, entertainment and retail uses. Commercial recreation and entertainment facilities are closely associated with this designation, but should be designed to be compatible with neighboring development and to assure safe and adequate access from the highway and off-street parking. Resort Commercial facilities are most appropriate for the Palm Canyon Drive/Tahquitz Canyon Drive corridors outside the downtown area where an auto-oriented scale is established.
-

Policy

- 3.22.1. Accommodate a full diversity of commercial uses, including retail, office, food sales and service, general merchandise, apparel and accessories, dry goods, financial services, and personal services which provide for the day-to-day needs of nearby residents and visitors.
- 3.22.2. Accommodate the development of hotels and other visitor-serving residential uses at a maximum density of 43 guest rooms per net acre.
- 3.22.3. Accommodate commercial recreation uses which cater to both the City's residents and its visitors.
- 3.22.4. Special attention to setbacks, landscaping, architecture and signs shall be required to emphasize the City's unique resort character.
- 3.22.5. Structures shall be a maximum of thirty-five (35) feet in height. A minimum of five percent (5%) of any property or project shall be reserved for open space or recreation areas.

Tahquitz Canyon Corridor (See Subarea 7 of Summary of Downtown Development Policies)

This area's recent development activity is due to the Palm Springs Convention Center. This area has the potential for a substantial amount of additional tourist-oriented retail, restaurant and hotel development. Tahquitz Canyon Way is the major, east-west, axis, a broad boulevard with a median lined with palm trees, linking downtown with the airport. This area has direct access to the Downtown to the west and is flanked by areas, to the north and south, with a potential for high-density residential and hotel uses.

3/3/93

I-62

Objective

- 3.23. Establishment of a unique district which capitalizes on the presence of the Palm Springs Convention Center as a major economic and cultural use, expanding its role as a principal public activity center and accommodating the introduction of convention-related supporting uses, including restaurants, retail commercial and entertainment, theaters, hotels and limited offices.
-

Policies

- 3.23.1. Encourage and accommodate a full diversity of commercial uses, including retail, office, food sales and service, general merchandise, apparel and accessories, dry goods, financial services, personal services, entertainment and cultural which provide for the day-to-day service needs of the nearby residents, employees and visitors.
- 3.23.2. Encourage the establishment of additional full-service hotels and quality restaurants. Provide for quality medium- and high-density residential uses at the edges of this district.
- 3.23.3. Encourage high-intensity uses on the street level of buildings which have Tahquitz Canyon Way frontage between Downtown and Avenida Caballeros to promote an active pedestrian link between the Convention Center and Downtown.
- 3.23.4. Integrated permanent residential uses with commercial activities may be considered provided that the residential and commercial spaces are fully separated, the impacts of noise, odor and other adverse characteristics of commercial activity can be adequately mitigated, and a healthy, safe and well-designed environment is achieved for the residential units. Residential uses shall not be located along the street level frontage of Tahquitz Canyon Way.
- 3.23.5. Permit an increase in height for entertainment production facilities requiring greater than normal floor heights in concert with related uses, provided that a planned development is submitted and approved by the City which demonstrates that the project:
- a. contains activities and functions which will be a significant asset for the City;
 - b. achieves a higher level of architectural design performance than would normally occur;
 - c. adequately mitigates all impacts attributable to the increase in height;
 - d. conveys the sense of "the Village" in its siting of structures, massing, scale, use of open space incorporating "pedestrian-friendly" uses and architectural character; and
 - e. provides benefits to the adjacent area and the greater City above those which can be exacted to account for its direct impacts.
- 3.23.6. Require that all uses and buildings enhance pedestrian activity along Tahquitz Canyon Way in accordance with the land use and design policies and standards specified in this section. Strengthen the pedestrian linkage along Tahquitz Canyon Way toward the Historic Village Center of the downtown through improved lighting and expanded sidewalk area and encouragement of complementary retail, office and restaurant uses.
- 3.23.7. Continue to explore the pedestrian linkage along Andreas Road toward the focus area of the downtown through increased landscaping and widened sidewalks and encouragement of complementary retail, office and restaurant uses.

3/3/93

I-63

- 3.23.8. Encourage that new structures be designed to create a "village-like" environment, by the siting and massing of buildings around common pedestrian areas and open spaces which are linked to Tahquitz Canyon Way and other circulation links to the focus area of downtown, inclusion of pedestrian-oriented uses at the ground elevation, and use of vertical setbacks of buildings in excess of 2 stories or 30 feet above grade.
- 3.23.9. Accommodate expanded development of the Palm Springs Convention Center.
- 3.23.10. Develop a view corridor study, when feasible, for Tahquitz Canyon Way, for the purpose of maintaining the natural views along this major entrance to the downtown, between Sunrise Way and Avenida Caballeros and allow additional or reduced height for hotels within the parameters of such study.

Gallery District

This area has regained vitality in recent years from the influx of art galleries and decorative arts professions. The area also contains numerous offices. The area is typified by low-rise buildings and is primarily auto-oriented. Landmark buildings include the Pacific Building in the heart of this area and the El Mirador Garage, a recently-renovated historic structure, currently occupied by Desert Hospital, at its northern boundary. These structures are the centerpieces for the City's first historic district, the Las Palmas Business Historic District.

This area is flanked on each side by low-density, high-end residential areas. Several quality small hotels as well as a number of run-down motels are located along Indian Canyon Drive in and to the north of the area. The Desert Hospital, the City's largest employer, is immediately northeast of this area.

Objective

- 3.24. Enhancement of the unique role and identity of Palm Canyon Drive between Alejo Road and Tachevah Drive as a corridor of regional-serving art galleries, design furnishings establishments, specialty shops and restaurants as primary uses and maintenance of its low-rise, "village-like" and pedestrian character. A uniform and consistent pattern of development which serves adjacent residents and continues the character of specialty uses.
-

Policies

- 3.24.1. Accommodate a full diversity of commercial uses, including retail, office, food sales and service, general merchandise, apparel and accessories, dry goods, furniture, financial services, personal services and cultural which provides for the day-to-day service needs of nearby residents, employees and visitors.

- 3.24.2. Encourage and accommodate the development of specialty (boutiques, gift shops, etc.), arts-related (galleries, print shops, bookstores, etc.), restaurant and entertainment, interior decorators, architects and other designers, and similar uses.
- 3.24.3. Accommodate housing units on the second level or higher or to the rear of building, provided the impact of noise, odor and other adverse characteristics of commercial activity can be adequately mitigated, and a healthy, safe and well-designed environment is achieved for the residential units. Provide opportunities for artists to have studios in concert with residential units.
- 3.24.4. Investigate the development of a parking district to encourage higher-density re-use of appropriate properties with such uses as offices and restaurants.
- 3.24.5. Encourage cooperative advertising and promotion of the area.
- 3.24.6. Encourage the outdoor display of art objects.
- 3.24.7. Encourage the development of quality outdoor dining facilities.
- 3.24.8. Establish a unified landscape and/or banner theme for the area.
- 3.24.9. Provide pedestrian linkage with the medical/hospital-related uses to the immediate north, especially to the restaurants.

3/3/93

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24 HOUR VOLUMES

STREET : PALM CANYON
 LOCATION : S/O MESQUITE

PS
 DATE : 04-02-13

		NORTHBOUND	SOUTHBOUND	TOTAL
	12:00			
	1:00	56	71	127
	2:00	38	57	95
	3:00	36	22	58
	4:00	22	23	45
	5:00	48	32	80
	6:00	109	84	193
	7:00	228	229	457
	8:00	400	346	746
	9:00	605	458	1,063
	10:00	763	571	1,334
	11:00	813	669	1,482
AM	12:00	904	789	1,693
PM	12:00	861	755	1,616
	1:00	776	840	1,616
	2:00	808	830	1,638
	3:00	748	798	1,546
	4:00	753	692	1,445
	5:00	673	633	1,306
	6:00	712	559	1,271
	7:00	554	554	1,108
	8:00	349	487	836
	9:00	250	437	687
	10:00	170	240	410
	11:00	80	107	187
	12:00			
		10,756	10,283	21,039

Prepared by NEWPORT TRAFFIC STUDIES