



CITY COUNCIL STAFF REPORT

DATE: December 17, 2008

PUBLIC HEARING

SUBJECT: SUNQUITZ, LLC. -- AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY A ONE-YEAR TIME EXTENSION REQUEST FOR CASE NO. 5.1025 - PD-307, A PREVIOUSLY APPROVED PLANNED DEVELOPMENT DISTRICT FOR THE DEVELOPMENT OF APPROXIMATELY 94,000 SQUARE FOOT COMMERCIAL RETAIL CENTER LOCATED AT THE NORTHWEST CORNER OF NORTH SUNRISE WAY AND EAST TAHQUITZ CANYON WAY.

FROM: David H. Ready, City Manager

BY: Department of Planning Services

SUMMARY

The appellant Hank Gordon of Sunquitz, LLC, is appealing a decision of the Planning Commission denying a one-year time extension request for a previously approved planned development district for the development of approximately 94,000 square foot commercial and retail center. The Planning Commission's decision to deny the one-year time request was made at the October 22, 2008, public hearing meeting.

RECOMMENDATION

1. Open the public hearing and receive public testimony.
2. Adopt Resolution No. _____ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING AN APPEAL AND GRANTING A ONE-YEAR TIME EXTENSION REQUEST FOR THE PREVIOUSLY APPROVED PLANNED DEVELOPMENT DISTRICT (PD 307) ALLOWING THE DEVELOPMENT OF A 94,000-SQUARE FOOT COMMERCIAL RETAIL CENTER TO BE LOCATED AT THE NORTHWEST CORNER OF NORTH SUNRISE WAY AND EAST TAHQUITZ WAY, ZONE RA, SECTION 14."

PRIOR ACTIONS

On September 12, 2005, the Indian Planning Commission (IPC) reviewed the project and recommended approval to the Agua Caliente Band of Cahuilla Indians Council.

Item No. **1.A.**

On January 25, 2006, the Planning Commission recommended that the City Council adopt the Mitigated Negative Declaration and approve Case No. 5.1025 PD-307.

On March 15, 2006, the City Council approved the proposed project as recommended by the Planning Commission.

On September 24, 2007, the Architectural Advisory Committee reviewed the proposed final development and construction plans, and found the project to be in substantial conformance with all applicable development standards of the preliminary Planned Development. The Planning Commission found the final development plans to be substantially in conformance with the previously approved Planned Development District 307 on October 24, 2007.

On January 16, 2008, the City Council adopted a resolution of public convenience or necessity for a "Type 21" license to sell beer, wine and distilled spirits at the future Vons Grocery Store at the proposed development.

On October 22, 2008, the Planning Commission reviewed a one-year time extension request for the project, and by a 5-1-1 vote, (Donenfeld opposed / Ringlein absent) denied the request.

BACKGROUND AND STAFF ANALYSIS

The previously approved project is for the development and operation of a retail shopping center containing approximately 94,000 square feet of retail space in four commercial structures on an approximately eight-acre site. The subject site is located at the northwest corner of Sunrise Way and Tahquitz Canyon Way.

Architectural approvals for the project were granted pursuant to Section 94.04.00 of the Palm Springs Zoning Code (PSZC). All architectural approvals have a two-year time limit for construction. This project was originally approved on March 15, 2006; therefore, the architectural approval expired on March 15, 2008. According to Section 94.04.00 (H) of the PSZC, "*extensions of time may be granted by the Planning Commission upon demonstration of good cause*". The applicant submitted a letter of time extension request on August 13, 2008, approximately five (5) months after the date of expiration of the entitlements.

Pursuant to Section 94.04.00(H), retroactive time extensions are accepted if submitted within six months of the original expiration date. In his letter of time extension request, the applicant stated that construction has not commenced at the site due to construction cost increases along with the current weak economic and development climate.

At their meeting of October 22, 2008, the Planning Commission considered changes in the applicable rules and the changes in the character of the neighborhood since the original entitlement was approved. In the discussion that led to the decision to deny the time extension request, the Commission found that a retroactive time extension should not be granted for the following reasons:

- The changes made to the site plan are such that it is no longer in keeping with the previously approved project.
- The development of one of the few remaining prominent corners in the City should be reconsidered for its highest and best use.
- As a gateway from the Palm Springs Airport to the downtown section of the City, a more attractive development is desired at this location.

Staff concluded earlier that since the approval of the original entitlement, there have been no substantial changes in the applicable rules or in the character of the neighborhood that would warrant denial of the time extension. However, the Planning Commission had a different conclusion; hence the time extension request was denied.

Staff and the City Manager have considered the appellant's request in light of the applicant's efforts to bring the project to fruition, as well as current economic environment. While the Planning Commission raised valid concerns about the project and its location, staff and the City Manager have concluded that the City Council should uphold the appeal and grant a one year extension on the project.

FISCAL IMPACT

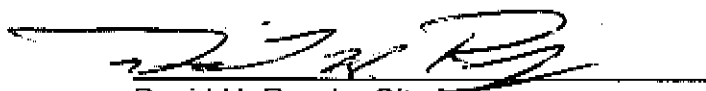
None.



Craig A. Ewing, AICP
Director of Planning Services



Thomas Wilson, Assistant City Manager



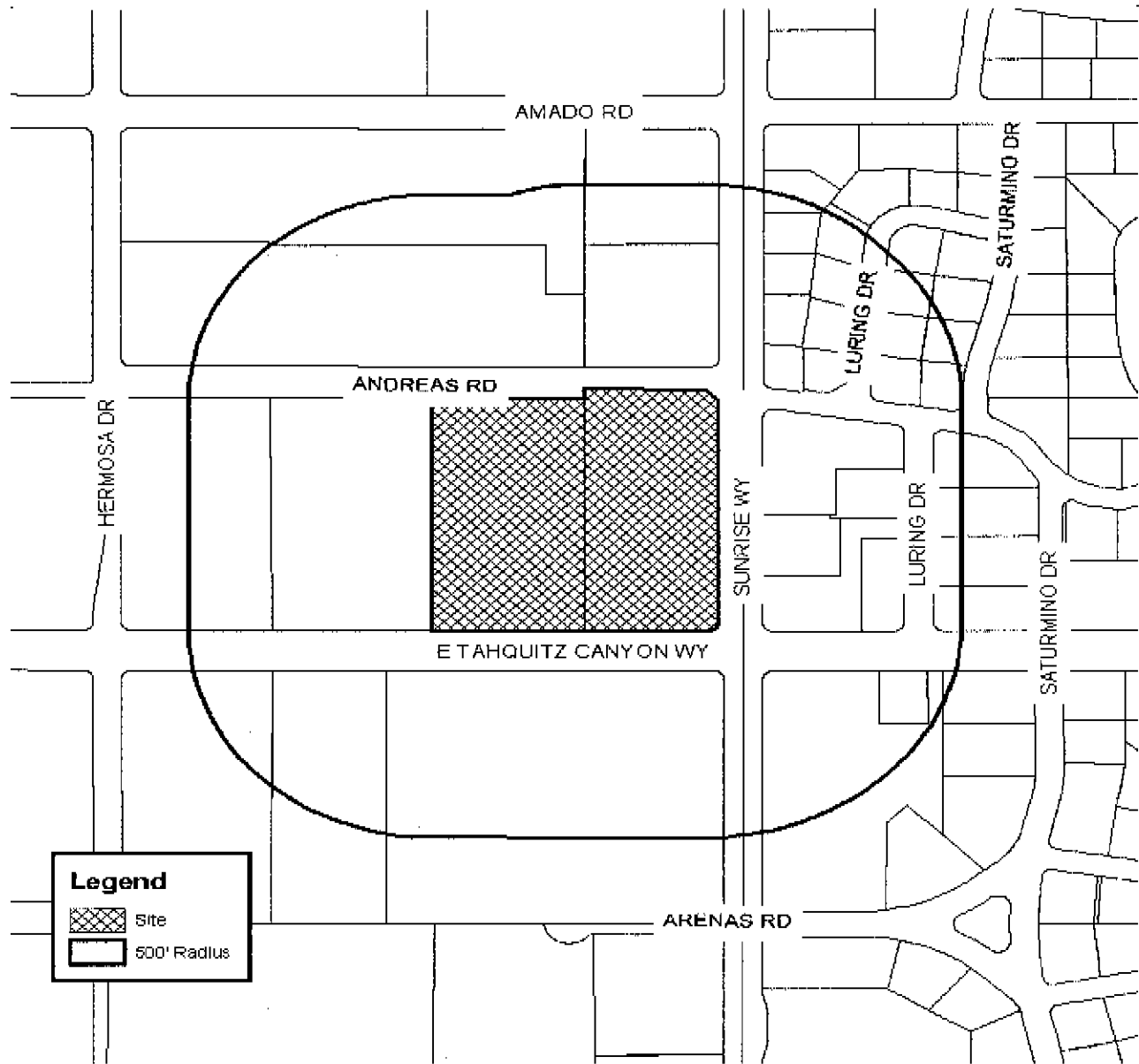
David H. Ready, City Manager

Attachments:

1. Vicinity Map
2. Draft Resolution
3. Letter of Appeal from Mr. Hank Gordon
4. Letter of the appeal hearing date to the appellant
5. Reduced Site Plan
6. Planning Commission Minutes, dated October 22, 2008 (excerpt)
7. Planning Commission Staff Report, October 22, 2008
8. Planning Commission Resolution 7175



Department of Planning Services Vicinity Map



Legend

-  Site
-  500' Radius

CITY OF PALM SPRINGS

CASE NO: 5.1025 PD-307

APPLICANT: H & H Investments, LLC
Tahquitz Plaza/Vons
Retail Center

DESCRIPTION: Planned Development District 307 for the development and operation of a 94,000-square foot shopping center at the northwest corner of Tahquitz Canyon Way and Sunrise Way, Zoned RA, Section 14. APN: 508-070-042, 508-070-035.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING AN APPEAL AND GRANTING A ONE-YEAR TIME EXTENSION REQUEST FOR THE PREVIOUSLY APPROVED PLANNED DEVELOPMENT DISTRICT (PD 307) ALLOWING THE DEVELOPMENT OF A 94,000-SQUARE FOOT COMMERCIAL RETAIL CENTER TO BE LOCATED AT THE NORTHWEST CORNER OF NORTH SUNRISE WAY AND EAST TAHQUITZ WAY, ZONE RA, SECTION 14

WHEREAS, Sunquitz LLC ("Applicants") filed an application with the City pursuant to Chapter 94.04.0(H) of the Palm Springs Zoning Code for a one-year time extension for Case No. 5.1025, PD-307 to construct a 94,000-square foot commercial retail center as part of a previously approved Planned Development District.

WHEREAS, on October 22, 2008, a public hearing on the application was held by the Planning Commission; and

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

WHEREAS, on October 22, 2008, the Planning Commission denied a one-year time extension request for Case No. 5.1025-PD 307; and

WHEREAS, on November 19, 2008, Sunquitz, LLC, filed an appeal of the Planning Commission's decision regarding the one-year time extension request; and

WHEREAS, on December 17, 2008, the City Council conducted a public hearing on the appeal by Sunquitz, LLC; and

WHEREAS, the City Council reviewed all of the evidence presented in connection with the matter, including, but not limited to, the staff report and exhibits prepared on the matter, and all written and oral testimony presented.

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

SECTION 1. That the applicant has demonstrated continuous on-going efforts to bring the project to fruition in a difficult economic environment.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the City Council hereby upholds the appeal and grants a one-year time extension request to Planned Development District 307 for a 94,000-square foot commercial retail center to be located at the northwest corner of N. Sunrise Way and E. Tahquitz Canyon Way.

Resolution No.
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ADOPTED THIS ____ day of _____, 2008.

ATTEST:

David H. Ready, City Manager

James Thompson, City Clerk

Resolution No.

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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

Kathie Hart

From: Hank Gordon [hgordon@laurichproperties.com]
Sent: December 03, 2008 10:24 AM
To: Edward Robertson
Cc: Jay Thompson; Kathie Hart; Craig Ewing
Subject: RE: Appeal Hearing Date

Thank you, I will be there
Hank

From: Edward Robertson [mailto:Edward.Robertson@palmssprings-ca.gov]
Sent: Wednesday, December 03, 2008 9:04 AM
To: Hank Gordon
Cc: Jay Thompson; Kathie Hart; Craig Ewing
Subject: Appeal Hearing Date

Good morning Mr. Gordon,

This email is intended to confirm that your appeal of the Planning Commission's decision to deny the time extension request for Case 5.1025-PD307 has been scheduled for hearing by the City Council on December 17, 2008. The City Council meetings starts at 6:00 pm and is held at the Council Chambers. Do not hesitate to contact me should you have any further questions regarding this matter.

Sincerely,

Edward O. Robertson
Principal Planner
City of Palm Springs, Planning Department
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263-2743
Tel: (760) 323-8245
Fax: (760) 322-8360
Edward.Robertson@palmssprings-ca.gov

LAURICH
PROPERTIES
INC.

November 18, 2008

Via e-mail: craig.ewing@palmsprings-ca.gov
and U.S. Mail

Mr. Craig Ewing
Director of Planing Services
City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

ref: PC case # 5.1025 MAJ/PD 307
NWC Sunrise and Tahquitz

RECEIVED
CITY OF PALM SPRINGS
2008 NOV 21 AM 9:31
JAMES J. HUGHES
CITY CLERK

Dear Mr. Ewing:

This letter will serve as our appeal to the City Council of the Planning Commission's denial of our request to extend the maturity date of our entitlements for one year. In appealing I would like to have the maturity date extended until December 31, 2009.

By separate cover you will receive the \$546.00 appeal fee from our accounting department in Las Vegas.

Please let me know when this can be put on the City Council's agenda.

Thank you

Sunquitz NWC LLC
By Sunquitz NWC MGMT. Co., Inc. its Managing Member

By *Hank Gordon* President
Hank Gordon

HG/lg

RECEIVED

NOV 21 2008

PLANNING SERVICES
DEPARTMENT

CITY OF PALM SPRINGS

RECD BY: DR 01 04018607
PAID BY: SONGSIRE WAD LLC
TODAY'S DATE: 11/24/08
REGISTER DATE: 11/24/08 TIME: 09:50

DESCRIPTION	AMOUNT
OTHER CHARGES SVCS	\$546.00
COST 10% APPEAL FC 11/12/08	

TOTAL DUES	\$546.00

CHECK PAID:	\$546.00
CHECK NO: 1260	
TENDERED:	\$546.00
CHARGE:	\$ 0.00

Kathie Hart

From: Edward Robertson
Sent: December 03, 2008 9:04 AM
To: hgordon@laurichproperties.com
Cc: Jay Thompson; Kathie Hart; Craig Ewing
Subject: Appeal Hearing Date

Good morning Mr. Gordon,

This email is intended to confirm that your appeal of the Planning Commission's decision to deny the time extension request for Case 5.1025-PD307 has been scheduled for hearing by the City Council on December 17, 2008. The City Council meetings starts at 6:00 pm and is held at the Council Chambers. Do not hesitate to contact me should you have any further questions regarding this matter.

Sincerely,

Edward O. Robertson
Principal Planner
City of Palm Springs, Planning Department
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263-2743
Tel: (760) 323-8245
Fax: (760) 322-8360
Edward.Robertson@palm Springs-ca.gov

1B. Case 5.1025 MAJ / PD 307 Time Extension - A request by Sunquitz LLC, for a one year time extension for a previously approved final PD to include a 94,000 square foot commercial retail center located at the northwest corner of North Sunrise Way and East Tahquitz Canyon Way, Zone RA, Section 14, APN 508-070-035 and -042. (Project Planner: Glenn Mlaker, Assistant Planner)

Glenn Mlaker, Assistant Planner, provided background information as outlined in the staff report dated October 22, 2008. Mr. Mlaker noted that approval was granted on March 15, 2006, and staff has received a revision to the plans creating an access at the rear of the of the property.

Commissioner Scott noted that the applicant's letter makes reference to a request for City's economic assistance. Mr. Ewing responded that there has been discussion with the Economic Development Department with regard to the project but is uncertain if anything has been approved by the City Council.

In response to a question about a new drive aisle along the westerly edge of the site plan, Mr. Ewing clarified that the applicant requested a revision to the plans during the current entitlement. Staff has determined the change was insignificant overall and it was approved at staff level.

Commissioner Conrad noted that there has been a considerable amount of grocery stores relocating within the community and questioned if there are any plans for the current Jensen's site. Staff responded that there has been potential interest but nothing has been confirmed.

Commissioner Caffery stated that the northwest and southwest corners of Sunrise and Tahquitz were the only "prominent corners" remaining in the City and expressed disappointment with a grocery store and pharmacy on both these sites given that there are numerous grocery stores throughout the City.

Vice Chair Cohen noted a concern with the noise factor along the rear of the property.

M/S/C (Caffery/Conrad, 5-1/Donenfeld), 1 absent/Rinalain\ To deny

Staff noted that a resolution of denial would be prepared and brought back to the Commission for their next meeting. Mr. Ewing reported that following the Commission's final action on the request, it may be appealed to the City Council.



Planning Commission Staff Report

Date: October 22, 2008

Application ID: Case 5.1025 - PD-307

Type: Final Planned Development Time Extension

Location: Northwest corner of North Sunrise Way and East Tahquitz Canyon Way (Von Center)

APN: APN 508-070-035 & 508-070-042

Applicant: Sunquitz LLC

General Plan: RA, (Resort Attraction)

Zone: PD-307

From: Craig A. Ewing, AICP, Director of Planning Services

Project Planner: Glenn Mlaker, Assistant Planner

PROJECT DESCRIPTION

The applicant is requesting a one year time extension for a previously approved commercial project for the construction of a 94,000-square foot commercial retail center. The subject site is located on the northwest corner of North Sunrise Way and East Tahquitz Canyon Way.

RECOMMENDATION

That the Planning Commission approve a one year time extension for Case 5.1025-PD 307.

PRIOR ACTION

On June 20, 2005, the Architectural Advisory Committee reviewed the proposed preliminary architectural plans, and recommended approval as submitted.

On September 12, 2005, the Indian Planning Commission (IPC) reviewed the project and recommended approval to the Agua Caliente Band of Cahuilla Indians Council.

On January 25, 2006, the Planning Commission recommended that the City Council adopt the Mitigated Negative Declaration and approve Case No. 5.1025 PD-307.

On March 15, 2006, the City Council approved the proposed project as recommended by the Planning Commission.

On September 24, 2007, the Architectural Advisory Committee reviewed the proposed final development and construction plans, and found the project to be in substantial conformance with all applicable development standards of the preliminary Planned Development (PD-307).

On October 24, 2007, the Planning Commission found the final development plan to be substantially in conformance with the previously approved Planned Development District 307.

ANALYSIS

ZONING ORDINANCE

Architectural Approvals, granted pursuant to Section 94.04.00 of the Palm Springs Zoning Code (PSZC), have a time limit for construction which is two years. According to Section 94.04.00 (H) of the PSZC, "*extensions of time may be granted by the Planning Commission upon demonstration of good cause*". The applicant has stated that the construction has not commenced due to certain cost increases combined with the current weak development climate. This project was originally approved on March 15, 2006; therefore, the approval has expired on March 15, 2008.

The applicant submitted a letter of time extension request on August 13, 2008, six (6) months after the date of expiration on January 25, 2008. Pursuant to Section 94.04.00(H), retroactive time extensions are accepted if submitted within six months of the original expiration date. Review time extension request must consider changes in the applicable rules and the changes in the character of the neighborhood since the original entitlement was approved.

Staff has concluded that since the approval of the original entitlement, there have been no substantial changes in the applicable rules or in the character of the neighborhood that would warrant denial of the time extension.

ENVIRONMENTAL DETERMINATION

The Planning Department has reviewed this project under the provisions of the California Environmental Quality Act (CEQA), and has determined that a time extension request is considered a "project" pursuant to the terms of the Environmental Quality Act (CEQA). A Mitigated Negative Declaration of environmental impact (MND) was previously adopted by the Planning Commission on January 25, 2006 for the project. Further environmental documentation is not necessary because the changed circumstances of the project will not result in any new significant environmental effects. The time extension would not result in any new environmental impacts beyond those already assessed in the Mitigated Negative Declaration.

CONCLUSION

Staff believes that the applicant has demonstrated good cause for an extension of time and recommends that the Planning Commission approve a time extension of one year from March 15, 2008 to March 15, 2009 for case 5.1025 MAJ and PD-307.

Glenn Mlaker
Assistant Planner

Craig A. Ewing AICP
Director of Planning Services

Attachments:

- 500' Radius Map
- Draft Resolution
- Letter Requesting Time Extension

RESOLUTION NO. 7175

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA FOR THE DENIAL OF A ONE-YEAR TIME EXTENSION REQUEST FOR CASE NO. 5.1025 PD 307 (VON'S CENTER) ZONE C-I-AA, SECTION 14.

WHEREAS, Sunquitz LLC ("Applicants") filed an application with the City pursuant to Chapter 94.04.0(H) of the Palm Springs Zoning Code for a one-year time extension for Case No. 5.1025, PD-307 to construct a 94,000-square foot commercial retail center as part of a previously approved Planned Development District.

WHEREAS, on October 22, 2008, a public hearing on the application was held by the Planning Commission; and

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

THE PLANNING COMMISSION HERBY FINDS AS FOLLOWS:

Section 1: Pursuant to the requirements of Section 94.04.00(H) of the Palm Springs Zoning Ordinance, the Planning Commission finds that a retroactive time extension cannot be granted for PD 307 because...

- The development of one of the few remaining prominent corners in the City should be reconsidered for its highest and best use.
- As a gateway from the Palm Springs Airport to the downtown section of the City, a more attractive development is desired at this location.
- The changes made to the site plan are such that it is no longer in keeping with the previously approved project.

Section 2: Pursuant to the requirements of Section 94.04.00(G) of the Palm Springs Zoning Ordinance, the Planning Commission finds that the time limit for the commencement of construction under an architectural approval has expired.

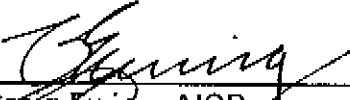
NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby denies a one year time extension request for the development of approximately 94,000 square feet shopping center to be located at the northwest corner of East Tahquitz Canyon Way and Sunrise Way.

ADOPTED this 12th day of November, 2008.

AYES: 7, Scott, Caffery, Hochanadel, Cohen, Ringlein, Conrad and Donenfeld
NOES: None.
ABSENT: None.
ABSTAIN: None.

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA



Craig Ewing, AICP
Director of Planning Services