



# CITY OF PALM SPRINGS

## DEPARTMENT OF PLANNING SERVICES

### MEMORANDUM

**Date:** July 13, 2016

**To:** Planning Commission

**From:** Department of Planning Services *JN*

**Subject:** ITEM 2A. – GERGIS YOUSEF FOR THE ACCESSORY SALE OF ALCOHOL AT AN EXISTING GAS STATION LOCATED AT THE 2796 NORTH PALM CANYON DRIVE (CASE 5.0712 CUP AMENDMENT).

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The applicant, Gergis Yousef, is seeking an amendment to an approved Conditional Use Permit for the accessory sale of beer, wine and distilled spirits within the existing convenience store at the automobile service station located at 2796 North Palm Canyon Drive. While previous proposals sought remodels and additions to the building, the current request does not include either.

At its regular meeting of September 2, 2015, the City Council considered an appeal of the Planning Commission's June 10, 2015 decision to approve an Amendment to a Conditional Use Permit for a small addition and remodel at an existing gas station located at 2796 North Palm Canyon Drive. The Council upheld the appeal and referred the item back to the Planning Commission for consideration.

The appeal sought consideration of all Historic Site Preservation Board (HSPB) recommendations, which are listed below.

1. *Recommend the building for Class 1 designation.*
2. *Retain the garage doors at the service bays and construct any proposed new wall behind it so as not to alter the exterior appearance of the original building.*
3. *Accommodate the proposed use within the (currently) existing building footprint without further additions.*
4. *Make no changes to the exterior of the original bldg.*
5. *Consider repainting the building in its original colors and consider using different paint colors to differentiate the addition from the original*

- building.*
6. *Any changes should be done in accordance with the Secretary of the Interior Standards for the Treatment of Historic Structures.*
  7. *If an addition is proposed, break the wall plane to distinguish original from new.*
  8. *If an addition is proposed, new walls should be no closer than 2 feet from the existing structural column and should not enclose it with the proposed new building.*
  9. *Clerestory windows should be preserved.*
  10. *The canopy structure should be restored, removing surface mounted conduit, damage, etc.*
  11. *Staff should set up site visits for HSPB and AAC members to allow them to complete their recommendations to PC.*
  12. *The Board recommended that the Owner consider wider marketing approach to the overall property, possibly adding a tourist related component (tours, etc.) to increase the economic viability of the site.*
  13. *Board recommended against the project itself, stating that it further compromises integrity of the original bldg.*
  14. *Open dialogue with applicant and City staff in seeking city funds to collaborate and contribute to restoration / revitalization / expanded use of the site.*

On May 25, 2016, the Planning Commission reviewed a revised proposal where the addition was removed from the project and an interior remodel was proposed. The Commission expressed concerns with the removal of interior walls and tabled the item until further study was conducted, allowing the HSPB and Council to determine if the site merits a higher level of historic designation.

In response, the applicant has submitted a request to offer accessory alcohol sales within the existing retail space and forego remodeling until a future time. Staff has prepared a revised draft resolution for approval, which includes following added condition:

- PLN 13. Site Changes. The following shall be completed within sixty days of the Commission's action:
- a. Existing Canopy. The canopy structure shall be restored, removing surface mounted conduit, damage, etc. to the satisfaction of the Director of Planning Services.
  - b. CUP Conditions from 1996 Approval. The applicant shall comply with conditions not yet completed from the 1996 approval to the satisfaction of the Director of Planning Services.

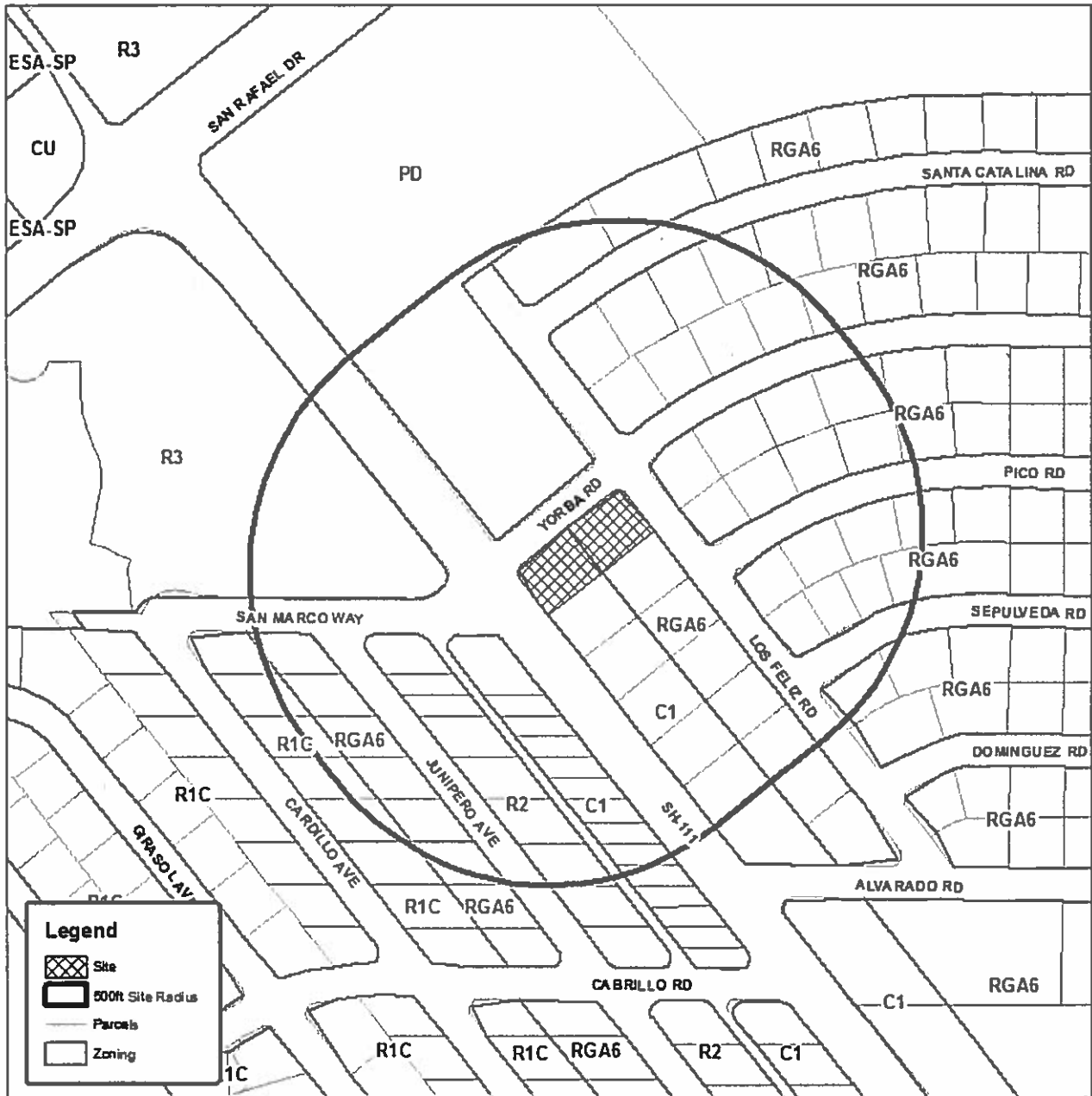
**Attachments:**

1. Vicinity Map
2. Draft Resolution with Conditions
3. CUP Conditions from 1996 Approval
4. Appeal Letter
5. Planning Commission Meeting Minutes (excerpt), May 25, 2016
6. Planning Commission Staff Memorandum, May 25, 2016
7. City Council Staff Report, September 2, 2015
8. City Council Meeting Minutes (excerpt), September 2, 2015
9. Planning Commission Staff Memorandum, June 10, 2015
10. Planning Commission Meeting Minutes (excerpt), June 10, 2015
11. Historic Site Preservation Board Meeting Minutes, June 9, 2015
12. Planning Commission Staff Report, May 13, 2015
13. Planning Commission Meeting Minutes (excerpt), May 13, 2015
14. Public Comment Letters
15. Plans

# Attachment 1



# Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

# Attachment 2

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING CASE 5.0712 CUP, A CONDITIONAL USE PERMIT TO REPLACE EXISTING AUTOMOBILE SERVICE SPACE WITH SEONDARY RETAIL FOR AN EXISTING GASOLINE SERVICE STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE (HIGHWAY 111).

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

- A. On June 24, 1963, the City Council granted a Conditional Use Permit (Case 5.322) for the subject automobile service station, which was constructed after a building permit was issued by the Building Department on August 8, 1963.
- B. On June 13, 1984, the Planning Commission approved a Minor Architectural Application (Case 3.676) for addition and revised elevations, which was constructed after a building permit was issued by the Building Department on August 28, 1984
- C. On June 12, 1996, the Planning Commission approved an amendment to the approved Conditional Use Permit (Case 5.0712), allowing a 467-square foot retail space.
- D. Based on the foregoing, the subject automobile service station existed prior to the enactment of further restrictions established in Section 93.23.01 of the Zoning Code and has remained in continuous operation to the best of the City's knowledge.
- E. In 2014, Gergis S. Yousef ("Applicant") filed an application with the City pursuant to Section 94.02.00 (Conditional Use Permit) of the Zoning Code for an amendment to the approved Conditional Use Permit ("Amendment" to Case 5.0712) for an addition and remodel to replace the existing automotive service bays with secondary retail for the sale of convenience items, sandwiches and alcoholic beverages (beer, wine and distilled spirits) at the subject gas station.
- F. On June 10, 2015, the Planning Commission approved the Applicant's requested Amendment application, subject to conditions, after receiving recommendations from the Historic Site Preservation Board on June 9, 2015.
- G. On June 19, 2015, the Palm Springs Modern Committee ("Appellant") filed an appeal of Planning Commission's action to approve the Amendment.
- H. On September 2, 2015, the City Council upheld the appeal and directed staff to return the item to Planning Commission for further review.

I. On May 25, 2016, the Planning Commission reviewed a revised floor plan, which involved an interior remodel without any proposed additions, and tabled the item for further study.

J. On June 15, 2016, the Applicant submitted a revised floor plan depicting the elimination of all previously proposed remodels and additions related to the Amendment, and requested approval to sell alcoholic beverages (beer, wine and distilled spirits) within the existing retail space.

K. A notice of public hearing for Case 5.0712 CUP Amendment was given in accordance with applicable law.

L. On July 13, 2016, a public hearing on the application for approval of Case 5.0712 CUP Amendment was held by the Planning Commission in accordance with applicable law.

M. 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.

N. Pursuant to the California Environmental Quality Act (CEQA Guidelines), the Planning Commission finds that the Amendment to Case No. 5.0712-CUP is Categorically Exempt under Section 15301 (existing facilities). The Planning commission further finds that there are no reasonably foreseeable potentially significant environmental impacts resulting from this project.

O. Pursuant to PSZC Section 94.02.00 (Conditional Use Permit), the Planning Commission finds as follows:

1. *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

Pursuant to Zoning Code Section 92.12.01.D.5, "automobile service stations" are permitted in the C-1 zone with the approval of a Conditional Use Permit (CUP). The subject use was established prior to current zoning code and is permitted to remain in operation under the previously approved CUP. The proposed application is to modify the existing accessory / secondary commercial space as a part of the automobile service station.

2. *That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*



The existing gasoline service station was established prior to the enactment of current zoning standards and has remained in continuous operation. The station serves motorists traveling on Highway 111 and residents in the surrounding community. The proposed modification to the floor plan will provide more convenience retail options, which is permitted in the zone and under the General Plan land use designation. Therefore, the proposed modification will be desirable for the community; is in harmony with the general plan; and will not be detrimental to existing and future uses permitted in the C-1 zone.

*3. That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*

The existing gasoline service station has four double-sided bays – a total of eight gasoline service pumps. Based on the size of the lot, the zoning code permits a total of 12 gasoline service pumps. Parking will be accommodated within the existing parking lot. Approximately 17 percent of the site is landscaping. Therefore, the subject site is adequate in size and shape to accommodate the revised floor plan.

*4. That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*

The change in floor plan is expected to create a minor increase in vehicular traffic and have little impact to North Palm Canyon Drive and other adjacent roadways such that further improvements are necessitated. Existing adjacent streets will adequately serve the secondary retail.

*5. That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards.*

Conditions of Approval are proposed in the attached "Exhibit A" to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance, limitations on operating hours and other necessary requirements.

#### THE PLANNING COMMISSION RESOLVES:

Based upon the foregoing, the Planning Commission hereby approves the Amendment to Case 5.0712 CUP; authorizing the accessory sale of alcohol (beer, wine and distilled spirits) within the existing retail space, as well as the continued operation of automobile servicing at the existing gasoline station located at 2796 North Palm Canyon Drive, subject to the attached conditions set forth in Exhibit A.

ADOPTED this 13th day of July, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Flinn Fagg, AICP  
Director of Planning Services

RESOLUTION NO. \_\_\_\_\_

**EXHIBIT A**

Case 5.0712 CUP Amendment  
Automobile Service Station

2796 North Palm Canyon Drive

July 13, 2016

**CONDITIONS OF APPROVAL**

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

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

**ADMINISTRATIVE CONDITIONS**

- ADM 1. Project Description. Except as modified by the conditions below, this approval is for the accessory sale of beer, wine and distilled spirits within the existing retail floor space at the existing automobile service station. Additions and remodels to the floor space are not approved as a part of this Amendment to Case 5.0712 CUP.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved floor plan on file in the Planning Division, except as modified by the conditions below.
- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Indemnification. 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 Case 5.0712 CUP Amendment. 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 and 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.

- ADM 6. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 7. Time Limit on Approval. Approval of this Conditional Use Permit shall be valid for a period of two (2) years from the effective date of the approval. Once constructed, the Conditional Use Permit, provided the project has remained in compliance with all conditions of approval, does not have a time limit.
- ADM 8. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 9. Cause No Disturbance. The owner shall monitor outdoor parking areas, walkways, and adjoining properties and shall take all necessary measures to ensure that customers do not loiter, create noise, litter, or cause any disturbances while on-site. The owner and operator shall ensure that at closing time, all customers leave the property promptly and that the property is clean and secure before the owner / operator leaves the premises. The Police Chief, based upon complaints and/or other cause, may require on-site security officers to ensure compliance with all City, State, and Federal laws and conditions of approval. Failure to comply with these conditions may

result in revocation of this permit, temporary business closure or criminal prosecution.

- ADM 10. Comply with City Noise Ordinance. This use shall comply with the provisions of Section 11.74 Noise Ordinance of the Palm Springs Municipal Code. Violations may result in revocation of this Conditional Use Permit.
- ADM 11. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers.

### **ENVIRONMENTAL ASSESSMENT CONDITIONS**

- ENV 1. Notice of Exemption. The project is exempt from the California Environmental Quality Act (CEQA); therefore, an administrative fee of \$50 shall be submitted by the applicant in the form of a money order or a cashier's check payable to the Riverside County Clerk within two business days of the Commission's final action on the project. This fee shall be submitted by the City to the County Clerk with the Notice of Exemption. Action on this application shall not be considered final until such fee is paid.

### **PLANNING DEPARTMENT CONDITIONS**

- PLN 1. Outdoor Lighting Conformance. Lighting shall be in conformance with Sections 93.06.00 and 93.21.00 of the Palm Springs Zoning Code. Manufacturer's cut sheets of all exterior lighting on the building and in the landscaping or parking area shall be included. If lights are proposed to be mounted on buildings, down-lights shall be utilized. There shall be no footcandle spill onto adjacent streets or properties from the subject use. No lighting of hillsides is permitted.
- PLN 2. Outside Operation. Operations outside permanent structures shall be limited to the dispensing of gasoline, oil, water, air, changing tires, and attaching and detaching trailers. There shall be no outside storage or display of tires, oil or other products and accessories. The sale of liquid propane gas (LPG) may be permitted if approved in connection with the conditional use permit and architectural review. After approval of the conditional use permit, the sale of LPG may be permitted if approved in conjunction with a land use permit.
- PLN 3. Noise. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level measured at property lines shall not exceed street background noise normally occurring at the site location.
- PLN 4. Public Restroom. Accessible public restrooms shall be provided.

- PLN 5. Accessory Commercial Display and Storage. Display and storage of accessory or secondary non-automotive commercial uses shall be totally within the principal building.
- PLN 6. Sale of Beer, Wine, Liquor or Other Alcoholic Beverages.
- a. Such sales must be offered only in conjunction with the secondary retail sale of food, groceries and sundries in which not less than fifty (50) percent by value of the retail sales of all products, other than gasoline and other motor vehicle fuels, comprises sales of products other than beer, wine, liquor and other alcoholic beverages
  - b. Video recording surveillance cameras shall be used to record all purchases and attempted purchases of alcoholic beverages. Signs shall be posted, one (1) outside the building at or near the gasoline servicing area and another inside the building near the cash registers notifying the public that "all alcoholic beverage transactions are monitored in cooperation with the Palm Springs Police Department." The videotape equipment used shall be such as to record at least twenty-four (24) hours of operation, the tapes shall be maintained for the prior seventy-two (72) hours, and the film shall be made available to any representative of the Palm Springs Police Department within twenty-four (24) hours of a request. The tapes shall be made available for use in evidence against any person who purchased or attempted to purchase alcoholic beverages as well as for use in any court or administrative proceeding regardless of the type of criminal activity or the party or parties involved.
- PLN 7. Smart Controller for landscape irrigation. The applicant is to use "smart controllers" available from the Desert Water Agency for water efficiency in the irrigation system.
- PLN 8. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned.
- PLN 9. Screen Roof-mounted Equipment. All roof mounted mechanical equipment shall be screened per the requirements of Section 93.03.00 of the Zoning Ordinance.
- PLN 10. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 11. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 12. No off-site Parking. Vehicles associated with the operation of the proposed development including company vehicles or employees vehicles shall not be

permitted to park off the proposed building site unless a parking management plan has been approved.

PLN 13. Site Changes. The following shall be completed within sixty days of the Commission's action:

- a. Existing Canopy. The canopy structure shall be restored, removing surface mounted conduit, damage, etc. to the satisfaction of the Director of Planning Services.
- b. CUP Conditions from 1996 Approval. The applicant shall comply with conditions not yet completed from the 1996 approval to the satisfaction of the Director of Planning Services.

#### **POLICE DEPARTMENT CONDITIONS**

POL 1. Developer shall comply with Section II of Chapter 8.04 "Building Security Codes" of the Palm Springs Municipal Code.

#### **BUILDING DEPARTMENT CONDITIONS**

BLD 1. Prior to any construction on-site, all appropriate permits must be secured.

**END OF CONDITIONS**

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# Attachment 3

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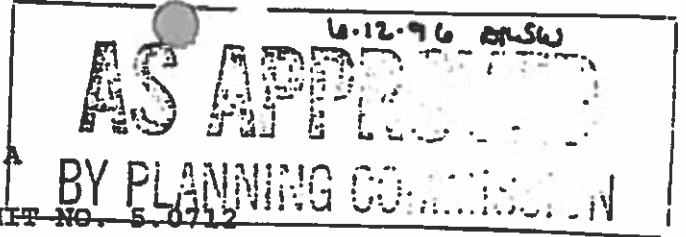


EXHIBIT A

CONDITIONAL USE PERMIT NO. 5.0712

SHELL SERVICE STATION - RETAIL SALES AREA

2796 NORTH PALM CANYON DRIVE

JUNE 12, 1996

CONDITIONS OF APPROVAL

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

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

PLANNING:

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 Case 5.0712-CUP. 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 and 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 further indemnification hereunder, except, the City's decision to settle or abandon a matter following an adverse judgement or failure to appeal, shall not cause a waiver of the indemnification rights herein.
3. Pursuant to Fish and Game Code Section 711.4 a filing fee of \$78.00 is required. This project has a de minimis impact on fish and wildlife, and a Certificate of Fee Exemption shall be completed by the City and two copies filed with the County Clerk. This application shall not be final until such fee is

paid and the Certificate of Fee Exemption is filed. Fee shall in the form of a money order or cashier's check payable to Riverside County.

4. The retail sales area must include appropriate occupancy separation from the service bays and from the gas pump area pursuant to the Uniform Building Code. A building permit application shall be submitted within 30 days of the approval of this conditional use permit for the required building modifications.
5. The City shall have the right to continually monitor and review the subject site with regard to on-site parking and circulation considering any future changes in operation and/or activity at the subject service station; if necessary, as deemed by the Director of Planning and Building, future revisions to this conditional use permit may be necessary such as, modification of the use, modification of the site design and ultimately the revocation of this Conditional Use Permit for the non-automotive retail sales area if necessary.
6. In the future, should development on the property to the south of the subject site warrant additional buffering, or should other concerns arise as determined by the Director of Planning and Building, the masonry wall along the west property shall be extended to a total height of six feet.
7. All on-site planters which contain no landscaping or dead landscaping, including planters fronting the walls along Los Felices Road, shall be re-landscaped.  
A landscape and irrigation plan shall be submitted for review approval by the Department of Planning and Building prior to issuance of any building permits. Landscape plans shall be approved by the Riverside County Agricultural Commissioner's Office prior to submittal.
8. Within 30 days of the approval of this conditional use permit, a satellite dish permit application shall be submitted for review and approval by the Director of Planning and Building for the existing satellite mounted on the roof.
9. Within 30 days of the approval of this conditional use permit, plans shall be submitted for review and approval by the Director of Planning and Building for roof mounted mechanical equipment screening for the existing roof mounted equipment and satellite dish, which shall be screened from all possible vantage points both existing and future per Section 9303.00 of the Zoning Ordinance. The screening shall be considered as an element of the overall design and must blend with the architectural design of the building and shall be installed immediately after approval of the screening plans.

10. Exterior lighting shall be provided for the parking lot on the east portion of the property.

Within 30 days of the approval of this conditional use permit, an exterior lighting plan for the parking lot to the east of the service bays shall be submitted for review and approval by the Director of Planning and Building; immediately thereafter, the lights shall be installed.

- A photometric study must be submitted showing illumination levels in the parking area which shall be an average of one-foot candle.

- Manufacturers cut sheet of proposed light fixtures shall be submitted for review and approval.

- Parking lot light fixtures shall align with stall striping and shall be located two to three feet from curb face.

11. All building/roof mounted flood lights shall be removed prior to the final inspection of the building permit for new parking lot lighting.

12. The existing trash enclosure shall be upgraded to comply with the City's specification for trash/recyclable materials enclosure and shall be enlarged to accommodate a recyclable materials bin. Within 30 days of the approval of the conditional use permit, a plan for the trash enclosure upgrade shall be submitted for review and approval by the Director of Planning and Building and shall be constructed immediately thereafter.

13. Within 30 days of the approval of the conditional use permit, an accurate parking lot striping plan shall be submitted for review and approval by the Director of Planning and building. The parking lot shall entail the following and shall be indicated on the plan:

- Parking stalls shall be delineated with a 4 to 6 inch double stripe - hairpin or elongated "U" design with a total width of 22 inches.

- Parking spaces shall be 17 feet deep by 9 feet wide with end spaces increased to 11 feet in width. One handicap parking space shall be provided which is 18 feet deep by 9 feet wide plus an 8 foot walkway on the right side and shall be designated as "van accessible".

14. A minor architectural application shall be submitted for review and approval by the Director of Planning and Building prior to the submittal for building permits, for any exterior alterations to the site and the building, including but not limited to, new lighting, a revised trash enclosure, new landscaping, mechanical equipment screening and alterations to the exterior building facade.

15. Should alcohol sales be proposed, a revision to this conditional use shall be required, which must be approved by the Planning Commission.
16. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon the total building permit valuation as calculated pursuant to the valuation table in the Uniform Building Code, the fee being 1/2% for commercial projects or 1/4% for residential projects with first \$100,000 of total building permit valuation for individual single-family units exempt. Should the public art be located on the project site, said location shall be reviewed and approved by the Director of Planning and Building and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.
17. No outside storage of any kind shall be permitted including storage of tires which shall be removed prior to the issuance of the certificate of occupancy.
18. All parking spaces shall be made available for patrons of the service station and shall not be used for the storage of inoperative vehicles.
19. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.

POLICE DEPARTMENT:

20. Developer shall comply with Section II of Chapter 8.04 of the Palm Springs Municipal Code.

BUILDING DEPARTMENT:

21. All appropriate building permits must be secured.

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# Attachment 4

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**CHATTEN-BROWN & CARSTENS LLP**

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June 19, 2015

*Via Hand Delivery*

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

Re: Appeal of Conditional Use Permit Amendment to Expand Existing Retail Space for William F. Cody Designed Gas Station at 2796 North Palm Canyon Drive, Zone C-1 (Case 5.0712 CUP)

Dear Mr. Thompson:

As allowed by Palm Springs Municipal Code sections 94.02.00 and 2.05, and pursuant to Public Resources Code section 21151(c), the Palm Springs Modern Committees appeals the Planning Commission's approval of a conditional use permit (CUP) amendment for the William F. Cody designed gas station located at 2796 North Palm Canyon Drive.

We appeal the Planning Commission approval because the CUP amendment allows an addition to this historic building that would materially alter its historic significance. The applicant misrepresented the project to the Planning Commission by repeatedly stating the project would not touch the Cody-designed building. This is not true; the west elevation of the Cody-designed building will be removed to provide wall-less, open interior space for tenant improvements.

The CUP amendment fails to comply with the recommendations made by the Historic Site Preservation Board (HSPB), which recommended no changes to the original building. The HSPB also recommended that this project follow the Secretary of Interior's Standards for Rehabilitation. The project does not follow these standards, thereby resulting in an adverse impact to an historic resource.

The Planning Commission approved this project based upon a categorical exemption. The reliance on a categorical exemption was improper because the project could adversely impact the historic Cody-designed building. "A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource." (CEQA Guidelines § 15300.2(f).) In order to approve the impactful changes allowed by the CUP amendment, the City is required to prepare environmental review for the project.

We further appeal approval of this project because the required findings for a CUP cannot

James Thompson  
June 19, 2015  
Page 2 of 2

be made. The alteration that adversely impacts this historic building is not necessary or desirable for the development of the community. It is not in harmony with the objectives of the City's General Plan, which require the protection of historic resources.

We will provide further detailed comments to the City Council after our appeal has been accepted.

Thank you for your time and consideration in this matter. Please feel free to contact me if you have any questions regarding this appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Minter". The signature is fluid and cursive, with a prominent initial "A" and "M".

Amy Minter  
Attorney at Law

Enclosure: Check for Appeal Fee

cc: Flinn Fagg, Planning Director (*via email: [Flinn.Fagg@palmsprings-ca.gov](mailto:Flinn.Fagg@palmsprings-ca.gov)*)

# Attachment 5



9. Developer to landscape/improve south side of Tahquitz Creek. Developer to provide cash bond for construction of Palm Canyon Drive undercrossing, consistent with the Tahquitz Creek Master Plan.

10. Vehicular gates are not allowed (see also PLN 18).

**Motion:** Commissioner Weremiuk, seconded by Commissioner Lowe and unanimously carried 6-0-1 on a roll call vote.

**AYES:** Commissioner Donenfeld, Commissioner Hirschbein, Commissioner Lowe, Commissioner Weremiuk, Vice-Chair Calderine, Chair Klatchko

**ABSENT:** Commissioner Middleton

A recess was taken at 3:28 pm.

The meeting reconvened at 3:39 pm.

*Item 2E was taken out of order.*

**2E. FOUNTAIN VILLAGE DEVELOPMENT FOR A TENTATIVE PARCEL MAP TO SUBDIVIDE A 1.7-ACRE PARCEL INTO TWO SINGLE-FAMILY RESIDENTIAL LOTS AND AN ADMINISTRATIVE MINOR MODIFICATION (AMM) APPLICATION FOR A 10 PERCENT REDUCTION OF THE REQUIRED LOT WIDTH IN THE R-1-A ZONING DESIGNATION FOR THE PARCEL LOCATED AT THE WESTERN TERMINUS OF WEST SANTA ROSA DRIVE; ZONE R-1-A; SECTION 15 (CASE TPM 36922 / 7.1482 AMM). (ER)**

Staff requested this item be tabled indefinitely and will be re-noticed.

**ACTION:** Table.

**Motion:** Commissioner Lowe, seconded by Commissioner Donenfeld and unanimously carried 6-0-1 on a roll call vote.

**AYES:** Commissioner Donenfeld, Commissioner Hirschbein, Commissioner Lowe, Commissioner Weremiuk, Vice-Chair Calderine, Chair Klatchko

**ABSENT:** Commissioner Middleton

**2B. GERGIS YOUSEF FOR A CONDITIONAL USE PERMIT TO MODIFY FLOOR AREA TO PROVIDE ADDITIONAL RETAIL SPACE AT THE EXISTING GASOLINE STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE, ZONE C-1, SECTION C-1 (CASE NO. 5.0712 CUP). (DN)**

Associate Planner Newell provided background information on the proposed project.

The Commission asked clarification on items pertaining to:

- Proceeding with the subject matter pending the initiation for a Class 1 site.
- What conditions have not been met from the original approval issued in 1996.
- The original design and whether bringing back the original colors of the building is appropriate.
- The timeline to complete the nomination for the HSPB's initiation for a Class 1 site.

Chair Klatchko opened the public hearing:

GERGIS YOUSEF, applicant, commented that Shell Gas cancelled his contract because of the run-down appearance. He said the garage is not doing any business and cannot survive the loss of income and urged approval of the building improvements.

JADE NELSON, spoke about this being the last functioning historic gas station, the architectural significance of the building and its architect. He requested no changes be made to the building.

GARY JOHNS, Historic Site Preservation Board, chair, recommended the project be delayed until the historic nomination has been conducted.

STAN POLLAKUSKY, confirmed that nothing has been modified to the exterior of the building and emphasized that the work the owner is requesting is for interior renovations.

ROBERT IMBER, said if this is approved it will have more damages than the original project entailed.

NICKY MC LAUGHLIN, representing Palm Springs Modern Committee, said the changes will alter the architectural integrity of the building and requested the final decision on this project be continued.

JACOB YOUSEF, owner's son, said they cannot progress without making any improvements and pointed-out that gas stations will not allow other colors.

PETER BLACKBURN, Palm Springs Modern Committee, board member, spoke about revisions that have been since the original building was built.

There being no further speakers the public hearing was closed.

Commissioner Weremiuk made a motion to table the item to allow the HSPB deliberations on the Class I designation. She said went to the site and the wall and clerestory windows seemed to appear as the original. She believes the applicant needs to satisfy the original conditions of approval.

Staff confirmed that this item will be re-noticed when a determination has been made on the Class 1 designation.

Vice-Chair Calderine struggled with the complications of the historic resources and the consequences that will be placed on the owner.

**ACTION:** To continue to a date uncertain.

**Motion:** Commissioner Weremiuk, seconded by Commissioner Lowe and unanimously carried 6-0-1 on a roll call vote.

**AYES:** Commissioner Donenfeld, Commissioner Hirschbein, Commissioner Lowe, Commissioner Weremiuk, Vice-Chair Calderine, Chair Klatchko  
**ABSENT:** Commissioner Middleton

~~20. **CIG WIRELESS ON BEHALF OF DOUGLAS C. JONES REQUESTING A TIME EXTENSION FOR AN APPROVED CONDITIONAL USE PERMIT AND VARIANCE TO CONSTRUCT TWO WIRELESS TELECOMMUNICATIONS FACILITIES CONSISTING OF 57-FT TALL MONOPOLES DESIGNED AS PALM TREES ON A VACANT PARCEL OF LAND LOCATED AT 3430 NORTH SUNRISE WAY (ADJACENT TO AND WEST OF GOLDEN SANDS MOBILE HOME PARK), ZONE O, SECTION 36 (CASE NOS. 5.1321 CUP AND 6.533 VAR). (DN)**~~

Associate Planner Newell noted a correction on the applicant name and provided an overview of the proposed time extension.

Chair Klatchko open the public hearing:

**NORM MCCLOUD**, Icon Towers (formerly CIG Wireless) applicant, confirmed that Eric Taylor (developer for Serena Park) supports the project as well as numerous people needing coverage in the area. He explained it will be a two-carrier mono-palm and requested approval of the time extension.

**PATRICIA NEWBURG**, said she has problems with her phone and computer service and spoke in support of the project.

**DOUG JONES**, property owner, said they have communicated with the adjacent properties and they are in support.

**JIM BAYLE**, Four Seasons resident, said they need the service and requested approval.

**PATTI LIVELY**, Four Seasons resident, commented on the lack of service in this area and requested approval.

# Attachment 6



# CITY OF PALM SPRINGS

## DEPARTMENT OF PLANNING SERVICES

### MEMORANDUM

**Date:** May 25, 2016

**To:** Planning Commission

**From:** Department of Planning Services *DR*

**Subject:** ITEM 2B – GERGIS YOUSEF FOR THE SHELL GAS STATION REMODEL LOCATED AT THE 2796 NORTH PALM CANYON DRIVE (CASE 5.0712 CUP).

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At its regular meeting of September 2, 2015, the City Council considered an appeal of the Planning Commission's June 10, 2015 decision to approve an amendment to a Conditional Use Permit for an existing gas station located at 2796 North Palm Canyon Drive. The Council upheld the appeal and referred the item back to the Planning Commission for consideration.

The appeal sought consideration of all Historic Site Preservation Board (HSPB) recommendations. Staff provided the HSPB's recommendations below and an analysis on the revised submittal below.

1. *Recommend the building for Class 1 designation.*

No changes proposed by applicant. However, the HSPB has initiated proceedings for a Class 1 nomination for the site.

2. *Retain the garage doors at the service bays and construct any proposed new wall behind it so as not to alter the exterior appearance of the original building.*

The garage doors will remain and new wall will be built behind the doors so as not to alter the exterior appearance of the original building.

3. *Accommodate the proposed use within the (currently) existing building footprint without further additions.*

The applicant has eliminated the proposed addition at the northwest corner of the building, and all work will occur within the existing footprint.

4. *Make no changes to the exterior of the original bldg.*

The applicant has reduced the project scope to an interior remodel only.

5. *Consider repainting the building in its original colors and consider using different paint colors to differentiate the addition from the original building.*

Staff recommends this as a condition of approval.

6. *Any changes should be done in accordance with the Secretary of the Interior Standards for the Treatment of Historic Structures.*

Existing exterior features of the service station will be protected and maintained. The garage doors will remain in place and a new wall will be built behind these doors on the interior of the building. The existing canopy columns will be preserved in place. Portions of the interior masonry wall will remain. The clerestory windows will remain and be protected in place.

7. *If an addition is proposed, break the wall plane to distinguish original from new.*
8. *If an addition is proposed, new walls should be no closer than 2 feet from the existing structural column and should not enclose it with the proposed new building.*

The addition has been eliminated from the proposal.

9. *Clerestory windows should be preserved.*

A site section exhibit has been provided indicating a steel beam will be installed on the interior to protect the clerestory glass. Staff recommends this as a condition of approval.

10. *The canopy structure should be restored, removing surface mounted conduit, damage, etc.*

Staff recommends this as a condition of approval.

11. *Staff should set up site visits for HSPB and AAC members to allow them to complete their recommendations to PC.*
12. *The Board recommended that the Owner consider wider marketing approach to the overall property, possibly adding a tourist related component (tours, etc.) to increase the economic viability of the site.*

Staff has discussed this with the applicant and provided as much guidance as possible. Direction was given to contact various preservation groups and small business assistance organizations for background and support.

13. *Board recommended against the project itself, stating that it further compromises integrity of the original bldg.*
14. *Open dialogue with applicant and City staff in seeking city funds to collaborate and contribute to restoration / revitalization / expanded use of the site.*

See response to recommendation 12 above. There are no city programs available for such support at this time.

Based on the above discussion, staff recommends the Planning Commission consider the following revisions:

1. Repaint. The applicant shall submit a request to repaint the building prior to issuance of building permits. The colors shall match the original colors of the building to the greatest extent possible.
2. Clerestory Windows. The existing clerestory windows are to be preserved in place.
3. Existing Canopy. The canopy structure shall be restored, removing surface mounted conduit, damage, etc. to the satisfaction of the Director of Planning Services.

~~Attachments:~~

- ~~1. Vicinity Map~~
- ~~2. Appeal Letter~~
- ~~3. City Council Staff Report, dated September 2, 2015~~
- ~~4. City Council Meeting Minutes (excerpt), September 2, 2015~~
- ~~5. Planning Commission Staff Memorandum, dated June 10, 2015~~
- ~~6. Planning Commission Meeting Minutes (excerpt), June 10, 2015~~
- ~~7. Historic Site Preservation Board Meeting Minutes, June 9, 2015~~
- ~~8. Planning Commission Staff Report, dated May 13, 2015~~
- ~~9. Planning Commission Meeting Minutes (excerpt), May 13, 2015~~
- ~~10. Public Comment Letter~~
- ~~11. Plans~~

# Attachment 7





## CITY COUNCIL STAFF REPORT

DATE: September 2, 2015 PUBLIC HEARING

SUBJECT: PALM SPRINGS MODERN COMMITTEE APPEALING THE JUNE 10, 2015, DECISION OF THE PLANNING COMMISSION TO APPROVE A CONDITIONAL USE PERMIT TO EXPAND AND MODIFY FLOOR SPACE AT AN EXISTING GAS STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE, ZONE C-1 (CASE 5.0712 CUP).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

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### SUMMARY

The City Council will review an appeal of a Conditional Use Permit (CUP) issued by the Planning Commission on June 10, 2015, for a 156-square foot addition and remodel of an existing "Shell" gas station located at 2796 North Palm Canyon Drive. The CUP was issued to property owner, Mr. Gergis Yousef, and appealed by Palm Springs Modern Committee.

### RECOMMENDATION:

1. Open the hearing and receive public testimony;
2. Adopt Resolution No. \_\_\_\_ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA REJECTING AN APPEAL BY Palm Springs Modern Committees AND UPHOLDING THE APPROVAL DECISION OF THE PLANNING COMMISSION REGARDING A CONDITIONAL USE PERMIT (CASE 5.0712 CUP) TO REPLACE EXISTING AUTOMOBILE SERVICE SPACE WITH SECONDARY RETAIL FOR AN EXISTING GASOLINE SERVICE STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE (HIGHWAY 111)."

**BACKGROUND INFORMATION:**

<b>Related Relevant City Actions by Planning, Fire, Building, etc...</b>	
June 1963	City Council approved CUP for gas station.
Aug. 1963	Building permit issued for construction of gas station.
Aug. 1984	Building permit issued to remodel and add 1,485-square feet.
June 1996	The Planning Commission approved a revision to CUP for 467-sq. ft. retail space (Planning Commission Resolution 4497).
2004	Building identified in city-wide historic resource survey.
May 13, 2015	The Planning Commission reviewed the project and referred the item to the Historic Site Preservation Board (HSPB) for comment.
June 9, 2015	The HSPB reviewed the project and made recommendations on the proposal (discussed later in this report).
June 10, 2015	The Planning Commission approved the project subject to conditions.

<b>Most Recent Ownership/Business</b>	
2004	Gergis Yousef

<b>Field Check</b>	
Feb 2015	Staff has visited the site to observe existing conditions

**DETAILS OF APPLICATION REQUEST:**

<b>Site Area</b>	
Lot Area	~24,000-square feet
Building Area	Existing: 2,796-square feet Proposed Addition: 156-square feet Total: 2,952-square feet

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Existing General Plan Designation</b>	<b>Existing Zoning Designation</b>
Subject Property	Automobile Service Station	MU / MU (Mixed Use / Multi-use)	C-1 (Retail Business) & R-G-A(6) (Garden Apt. & Cluster Residential)
North	Multi-family Residential	MDR (Medium Density Residential)	PD-100
South	Vacant	MU / MU	C-1 & R-G-A (6)
East	Single-family Residential	LDR (Low Density Residential)	R-G-A (6)
West	Vacant	HDR (High Density Residential)	R-3 (Multi-family & hotel)



**SUBJECT SITE**

**PROJECT DESCRIPTION:**

Originally designed by architect William F. Cody, the existing automobile service station was built in 1963 under a Conditional Use Permit (CUP) approval. The applicant is requesting approval to amend the existing CUP to remodel the service station building which currently provides automobile service, petroleum dispensing and convenience retail. The remodel includes replacing the existing vehicle service bays with retail space, selling convenience items, sandwiches and beverages. The sale of beer and wine for off-site consumption is also proposed. Floor space will include accessory storage, office and cashier space, as well as a men's and women's restroom.

**PROJECT ANALYSIS:**

**General Plan**

Element	Request	Compliance
<p><u>Land Use:</u>  <b>Mixed-use/Multi-use (Maximum of 15 dwelling units per acre for residential uses and a maximum 0.50 FAR for nonresidential uses).</b> Specific uses intended in these areas include community-serving retail commercial, professional offices, service businesses, restaurants, daycare centers,</p>	<p>The proposed request is to modify an existing commercial operation, expanding the community-serving retail for surrounding neighborhoods</p>	<p>Yes</p>

public and quasi-public uses. Residential development at a maximum density of 15 units per acre is permitted; planned development districts may allow residential densities up to 30 d.u. / acre and also ensure that all proposed uses are properly integrated and allow the implementation of development standards that are customized to each site.

and motorists traveling on Highway 111.

## Zoning

### Permitted Uses:

The subject property is split zoned with the westerly half zoned C-1 (Business Retail) and the easterly half R-G-A(6) (Garden Apartment and Cluster Residential). The service station is primarily located within the C-1 Zone.

Pursuant to Section 92.12.01(D)(5) of the Palm Springs Zoning Code (PSZC), "automobile service stations" are permitted with the approval of a Conditional Use Permit.

### Development Standards:

Pursuant to Section 93.23.01 of the PSZC, automobile service stations must meet certain requirements. While the subject gasoline station was approved and constructed prior to these current standards, staff has provided an analysis of the proposal against the current ordinance below.

93.23.01	Auto Service Station Requirement	Proposed Project	Conform
<b>A. Location</b>			
1. Major Thoroughfare Frontage	200 feet	100 feet	No (existing)
2. Adjoining properties	The site shall not adjoin an existing hotel or residential use at the time of its establishment	The site does not adjoin an existing hotel or residential use at the time of its establishment	Yes
3. Distance from misc. uses.	The minimum distance from the site to a property containing a school, park, playground, church, museum or similar use shall be two hundred fifty (250) feet. The minimum distance to a residential zone shall be one hundred seventy-five (175) feet.	None of mentioned uses are within 250 feet of subject site.  Residential zone is within 175 feet of site.	Yes  No (existing)
4. Distance from other automobile service stations	The minimum distance between properties containing automobile service stations shall be five hundred (500) feet...	Site located more than 500 feet to nearest gas station.	Yes
<b>B. Site Area</b>	20,000 square feet	20,000 square feet	Yes
<b>C. Access</b>	Access drives shall be at least thirty (30) feet from any street corner measured from the intersection of the ultimate right-of-way lines;	Palm Canyon entry is ~60 feet from Yorba	Yes

	the city engineer may require a greater distance based upon street and traffic characteristics. All drives shall be designed to provide vehicle queuing in a manner that minimizes possible hazard or slowing of vehicles on adjacent city streets. Reciprocal access/parking arrangements may be with adjacent properties to enhance public convenience and safety.	Westerly Yorba entry is ~18 feet from Palm Canyon  Easterly Yorba entry is ~90 feet from Los Felices  Los Felices entry to be eliminated	No (existing)  Yes  Yes
<b>D. Number of Pumps</b>	One (1) gasoline pump shall be permitted per two thousand (2,000) square feet of site area. The number of pumps shall be the same as the number of sale transactions which may be conducted simultaneously at all of the pump stations.	8 pumps exist, whereas 12 would be permitted.	Yes
<b>E. Utility Trailers</b>	Utility trailers, not exceeding ten (10) in number, may be stored for rent on service stations only in the C-2, C-M and M-1 zones; provided, they are screened from view and occupy an area which is in excess of the two thousand (2,000) square feet of site area required per pump.	None proposed.	Yes
<b>F. Walls</b>	A solid masonry wall six (6) feet in height shall be erected on all interior property lines which abut property in a residential zone or wherever else deemed necessary by the planning commission.	Wall ranging in height from 30 inches to 5 feet installed along the southerly property line	No (existing)
<b>G. Paving</b>	The entire ground area shall be paved except that ten (10) percent of the site area shall be reserved for landscaping.	17%	Yes
<b>H. Lighting</b>	Lighting shall conform to the requirements of Section 93.06.00.	Project conditioned to comply	Yes
<b>I. Outside Operation</b>	Operations outside permanent structures shall be limited to the dispensing of gasoline, oil, water, air, changing tires, and attaching and detaching trailers. There shall be no outside storage or display of tires, oil or other products and accessories. The sale of liquid propane gas (LPG) may be permitted if approved in connection with the conditional use permit and architectural review. After approval of the conditional use permit, the sale of LPG may be permitted if approved in conjunction with a land use permit.	Project conditioned to comply	Yes

<b>J. Noise</b>	Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level measured at property lines shall not exceed street background noise normally occurring at the site location.	Project conditioned to comply	Yes
<b>K. Minimum Building Area</b>	The minimum gross floor area for each automobile service station building, not including the canopy area, shall be seven hundred fifty (750) square feet. Accessible public restrooms shall be provided.	Project conditioned to comply	Yes
<b>L. Accessory Commercial Uses.</b>	Accessory non-automotive commercial uses shall be limited to vending machine sales of soft drinks, coffee and tea, snacks, cigarettes, and maps within a sales area of not greater than twenty-five (25) square feet. Secondary retail sales of food, groceries and sundries, other than those from a vending machine, shall be contained within an indoor retail space of not less than seven hundred fifty (750) square feet, except that existing automobile service stations, at the time of the adoption of this Zoning Code, which convert space for such use are not limited by a minimum area requirement. Display and storage of accessory or secondary non-automotive commercial uses shall be totally within the principal building.	Proposed secondary retail space exceeds 750-square feet and will be totally within the principal building.	Yes
<b>M. Sale of Beer, Wine, Liquor or Other Alcoholic Beverages.</b>	<ol style="list-style-type: none"> <li>1. Such sales must be offered only in conjunction with the secondary retail sale of food, groceries and sundries in which not less than fifty (50) percent by value of the retail sales of all products, other than gasoline and other motor vehicle fuels, comprises sales of products other than beer, wine, liquor and other alcoholic beverages.</li> <li>2. Video recording surveillance cameras shall be used to record all purchases and attempted purchases of alcoholic beverages. Signs shall be posted, one (1) outside the building at or near the gasoline servicing area and another inside the building near the cash registers notifying the public that "all alcoholic beverage transactions are monitored in cooperation with the Palm Springs Police Department." The videotape</li> </ol>	Project conditioned to comply	Yes



	<p>equipment used shall be such as to record at least twenty-four (24) hours of operation, the tapes shall be maintained for the prior seventy-two (72) hours, and the film shall be made available to any representative of the Palm Springs Police Department within twenty-four (24) hours of a request. The tapes shall be made available for use in evidence against any person who purchased or attempted to purchase alcoholic beverages as well as for use in any court or administrative proceeding regardless of the type of criminal activity or the party or parties involved.</p>		
<p><b>N. Signs</b></p>	<p>All signing shall conform to the provisions of 93.20.00.</p>	<p>Project conditioned to comply</p>	<p>Yes</p>

**Parking:** The parking ratio outlined in Section 93.06.00(D) of the Zoning Code requires, "Stations with mini-marts shall provide parking at the rate of one (1) space for every two hundred (200) square feet of gross floor area within enclosed structures plus one (1) space for water/air dispensers, if provided." The proposed use will have a building that is roughly 2,952-square feet in size and one water / air dispenser. Therefore, 15 parking spaces for the retail floor area are required and one parking space for the water / air dispenser is required. The proposal includes 16 parking spaces, plus an additional parking space around the air / water dispenser.

**PLANNING COMMISSION ACTION:**

On May 13, 2015, the project was reviewed by the Planning Commission and continued to a date certain of June 10, 2015. The continuance was to allow input and recommendations from the Historic Site Preservation Board (HSPB), which reviewed the project on June 9, 2015 and offered the following comments and recommendations:

1. Canopy should be cleaned up, repaired and restored, including cosmetic damage and removal of surface mounted conduit and appurtenances;
2. Opposed to 149-square foot addition as it causes further incremental damage; however if approved, Board recommends addition be setback and separated two feet from existing column;
3. Retain existing garage doors and construct wall behind (on interior);
4. Original paint colors recommended;
5. Board admonished Commissioners to conduct a site visit;
6. Site merits Class 1 historic designation.

On June 10, 2015, the Planning Commission approved the project with the inclusion of the following HSPB recommendations:

1. Canopy to be cleaned up, repaired and restored, including cosmetic damage and removal of surface mounted conduit and appurtenances;
2. Addition shall be setback and separated two feet from existing column;
3. Retain existing garage doors and construct wall behind (on interior);
4. Original to be considered paint colors for exterior to the satisfaction of the Planning Director.

#### APPEAL AND STAFF ANALYSIS:

On June 19, 2015, Palm Springs Modern Committee filed an appeal of the Planning Commission's action on the project. Staff has provided the grounds of the appeal and a response below.

*Appellant's 1<sup>st</sup> Point: "We appeal the Planning Commission approval because the CUP amendment allows an addition to this historic building that would materially alter its historic significance. The applicant misrepresented the project to the Planning Commission by repeatedly stating the project would not touch the Cody-designed building. This is not true; the west elevation of the Cody-designed building will be removed to provide wall-less, open interior space for tenant improvements."*

Staff Response 1: The City's Historic Preservation Ordinance, Chapter 8.05 of the Palm Springs Municipal Code (PSMC), includes four categories for designating historic sites and districts, which includes Class 1, Class 2, Class 3 and Historic District. Buildings and structures built prior to 1969 are automatically so classified as Class 3. The building in question meets the definition of a Class 3 site and qualifies for a six-month stay of demolition. The building is not planned for demolition, but only alteration. Under Chapter 8.05 of the PSMC, alterations proposed to a Class 3 site are not subject to a review of impact on historical significance.

*Appellant's 2<sup>nd</sup> Point: "The CUP amendment fails to comply with the recommendations made by the Historic Site Preservation Board (HSPB), which recommended no changes to the original building. The HSPB also recommended that this project follow the Secretary of Interior's Standards for Rehabilitation. The project does not follow these standards, thereby resulting in an adverse impact to an historic resource."*

Staff Response 2: As noted previously in this report, the Planning Commission approved the CUP after receiving comments and recommendations from the HSPB. The Planning Commission's discretionary action was based on the authority granted under Section 94.02.00 of the Palm Springs Zoning Code (PSZC) and does not require that it include all recommendations from staff and other committees and boards.

Notwithstanding, the Planning Commission approved the CUP based on recommendations from the HSPB, including (1) the canopy be restored to its original condition without conduit and appurtenances and (2) the new addition be setback two feet from the existing columns so as to maintain the integrity of the canopy structure.



Appellant's 3<sup>rd</sup> Point: *"The Planning Commission approved this project based upon a categorical exemption. The reliance on a categorical exemption was improper because the project could adversely impact the historic Cody-designed building. 'A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.' (CEQA Guidelines § 15300.2(f).) In order to approve the impactful changes allowed by the CUP amendment, the City is required to prepare environmental review for the project."*

Staff Response 3: According to Section 15064.5 of the 2015 California Environmental Quality Act (CEQA) Guidelines, "Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired." In order to determine if the proposed project had an adverse impact on a historic resource, the City relied upon the Primary Record generated in the 2004 City-wide Historic Resource Survey, building permit records and review by the Historic Site Preservation Board.

The 2004 Citywide Historic Resources Survey recognized the property as one of the two hundred sites for which Primary Records were completed. The Record describes this property as "a unique reflection of the Modernist idiom within the context of commercial development in Palm Springs from the 1940s through the 1960s" that "appears to meet the level of significance necessary for individual National Register or California Register of Historical Resources eligibility at the local level." The Record incorrectly states, "The structure...has not undergone any apparent modifications since construction." As mentioned in the background above, the site has been modified to some extent, most notably the addition in 1984 which increased floor space by 1,485-square feet, according to building permit records.

The HSPB reviewed the current remodel and addition and generally supported the proposal under certain conditions. When taking action on the application, the Planning Commission considered and incorporated some of these recommendations. Further, the Commission determined the project would not cause substantial adverse change in the significance of the historical resource, because the alterations do not materially impair the resource.

Appellant's 4<sup>th</sup> Point: *"We further appeal approval of this project because the required findings for a CUP cannot be made. The alteration that adversely impacts this historic building is not necessary or desirable for the development of the community. It is not in harmony with the objectives of the City's General Plan, which require the protection of historic resources."*

Staff Response 4: When reviewing and considering all of the evidence presented in connection with the hearing on this project, the Planning Commission determined that the proposal satisfied all required findings necessary for approving the project, including the following:

*b. That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*

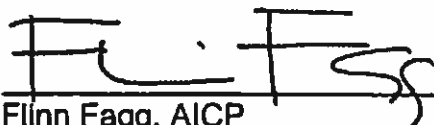
The existing gasoline service station was established prior to the enactment of current zoning standards and has remained in continuous operation. The station serves motorists traveling on Highway 111 and residents in the surrounding community. The proposed modification to the floor plan will provide more convenience retail space, which is permitted in the zone and under the General Plan land use designation. Therefore, the proposed modification will be desirable for the community; is in harmony with the general plan; and will not be detrimental to existing and future uses permitted in the C-1 zone.

The 2007 General Plan includes goals and policies related to the preservation of historic buildings and sites, specifically Community Design Goal, CD28: "Ensure the preservation and adaptive reuse of historic buildings and sites." The General Plan also refers to the Chapter 8.05 of the Palm Springs Municipal Code for the designation and preservation of historic sites. The project was reviewed in accordance with all requirements of the General Plan, Zoning Code and Municipal Code.

CONCLUSION:

While the subject property is not currently a Class 1 historic site, the Planning Commission requested the proposal be reviewed by the HSPB for input and recommendation. After receiving input on the proposal, the Commission approved the project in accordance with all applicable laws, including CEQA and the Palm Springs General Plan, Zoning Code and Municipal Code.

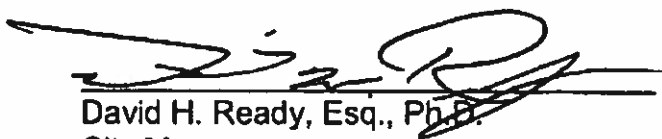
FISCAL IMPACT: No Fiscal Impact.



Flinn Fagg, AICP  
Director of Planning Services



Marcus Fuller, P.E., M.P.A., P.L.S.  
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.  
City Manager

Attachments:

1. Vicinity map
2. Draft resolution
3. Appellant's letter
4. Applicant's justification letter
5. Planning Commission Resolution 6504
6. Planning Commission Meeting Minutes, June 10, 2015
7. Planning Commission Meeting Minutes, May 13, 2015
8. Historic Site Preservation Board Meeting Minutes, June 9, 2015
9. 2004 Historic Resource Survey Primary Record for Shell Company Gas Station
10. Public Correspondence
11. Photographs (Before and After)
12. Plan Exhibits

# Attachment 8

Mayor Pougnet opened the public hearing, and the following speakers addressed the City Council.

DAVID GANDOLFO, Applicant, commented on the letter of appeal and stated there is a need in the City for additional public storage.

**ACTION:** 1) Continue the Public Hearing to September 16, 2015; and 2) Direct the City Clerk to post a Notice of Continued Public Hearing and Notice the Appellant. **Motion Councilmember Mills, seconded by Mayor Pro Tem Lewin and unanimously carried on a roll call vote.**

**1.B. PALM SPRINGS MODERN COMMITTEE APPEALING THE JUNE 10, 2015, DECISION OF THE PLANNING COMMISSION TO APPROVE A CONDITIONAL USE PERMIT TO EXPAND AND MODIFY FLOOR SPACE AT AN EXISTING GAS STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE (CASE 5.0712 CUP):**

Flinn Fagg, Director of Planning Services, provided background information as outlined in the Staff Report dated September 2, 2015.

Councilmember Foat questioned if the Planning Commission received the recommendations from the Historic Site Preservation Board.

Mayor Pougnet opened the public hearing, and the following speakers addressed the City Council.

CHRIS MENRAD, Appellant, commented on the removal of a portion of the building is being removed, and stated the Planning Commission did not receive all the recommendations of the HSPB.

GERGIS YOUSEF, Applicant, commented on the condition and stated the proposed work is being done to the interior of the building with minimal exterior work.

GARY JOHNS, stated he attended both the HSPB and the Planning Commission meeting, the information from the HSPB was not received by the Planning Commission, and requested the project go to the AAC as well.

STEVEN PRICE, commented on the history of the property and the architect, and requested the City Council uphold the appeal.

ROBERT IMBER, commented on the significance of the Cody designed gas station, and stated the Planning Commission did not receive the information from the HSPB.

STAN POLLAKUSKY, designed the project and commented on the removal of an interior wall, stated the modifications are very minor, and requested the City Council approve the project.

JIM CARVELL, requested the City Council allow the project to provide an opportunity for the business to continue.

Applicant Rebuttal commented on the business model and the need to allow for a convenience store to make the business viable.

No further speakers coming forward, the public hearing was closed.

Councilmember Mills requested City Staff clarify if the plans included an addition and the removal of the interior wall, stated the structure is historic, recommended the City Council review the previous conditions for the CUP that have not been implemented regarding screening, permit for satellite dish, and the screening of the mechanical equipment, recommend the City enforce the conditions of the CUP, stated he is not supportive of the addition, but he supports the interior modifications, and stated he would be supportive of returning the Item to the Planning Commission, recommended the Planning Commission also review the signage.

Councilmember Hutcheson commented on the amount of ancillary business needed to operate, stated the City should find a balance to preserve the building while providing an opportunity for the owner to operate a viable business, and stated support for the removal of the interior wall.

Councilmember Foat commented on the historic nature, expressed her concern with the information to the Planning Commission and stated her support for returning to the Planning Commission.

Mayor Pro Tem Lewin requested staff clarify if the modifications were part of the Cody design, and expressed concerns for the business owner to have a viable business.

**ACTION:** 1) Uphold the Appeal; and 2) Return the item to the Planning Commission for expedited review. **Motion Councilmember Foat, seconded by Councilmember Mills and unanimously carried on a roll call vote.**

**1.C. CROWN CASTLE (T-MOBILE WIRELESS) FOR AN AMENDMENT TO AN EXISTING CONDITIONAL USE PERMIT ELIMINATING IMPOSED TIME LIMITS, APPROVING THE ADDITION OF THREE NEW PANEL ANTENNAS, AND APPROVING A CEQA CATEGORICAL EXEMPTION**

# Attachment 9



CITY OF PALM SPRINGS  
DEPARTMENT OF PLANNING SERVICES  
MEMORANDUM

**Date:** June 10, 2015  
**To:** Planning Commission  
**From:** Department of Planning Services *DR*  
**Subject:** Agenda Item 2A. Gergis Yousef for Gas Station Remodel  
Case 5.0712 CUP Amendment

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At its meeting of May 13, 2015, the Planning Commission continued the subject item to the June 10, 2015, regular meeting to receive input and recommendations from the Historic Site Preservation Board (HSPB). The project will be reviewed by the HSPB on June 9<sup>th</sup> and their comments will be provided to the Commission prior to the June 10<sup>th</sup> meeting.

The Commission also requested a landscape and asphalt plan. The applicant has provided a landscape plan proposing drought-tolerant plant species without the use of turf. The applicant also provided a narrative of the proposed building changes and before and after photographs of the proposed addition (see attached).

Attachments:

1. Vicinity Map
2. Draft Resolution
3. June 9, 2015 Historic Site Preservation Board Staff Report
4. May 13, 2015 Planning Commission Staff Report
5. May 13, 2015 Planning Commission Minutes
6. Applicant Narrative (received June 2, 2015)
7. Photographs
8. Landscape Plan
9. Public Correspondence (1 letter)



# Attachment 10

**ACTION:** Approve Item 1A and 1B as part of the Consent Calendar.

**Motion:** Commissioner Roberts, seconded by Commissioner Lowe and unanimously carried 5-0-1 on a roll call vote.

**AYES:** Commissioner Lowe, Commissioner Middleton, Commissioner Roberts, Commissioner Weremiuk, Vice-Chair Klatchko

**ABSENT:** Commissioner Calderine

**1A. APPROVAL OF MINUTES: MAY 27, 2015**

Approve, as submitted.

**1B. DAN RINKENBERGER REQUESTING A MAJOR ARCHITECTURE APPLICATION FOR A REMODEL AND 1,500-SQUARE FOOT ADDITION TO AN EXISTING HILLSIDE HOUSE LOCATED AT 2244 ARABY DRIVE (CASE 3.3851 MAJ). (GM)**

Approve, as submitted.

**2. PUBLIC HEARINGS:**

**2A. CONT'D - GERGIS YOUSEF FOR A CONDITIONAL USE PERMIT TO EXPAND THE EXISTING RETAIL SPACE FOR AN EXISTING GAS STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE, ZONE C-1 (CASE 5.0712 CUP). (DN)**

Associate Planner Newell provided a recap of the Historic Site Preservation Board's comments and recommendations on the proposed project.

Vice-Chair Klatchko opened the public hearing:

GERGIS YOUSEF, applicant, stated that the building is an eyesore and it needs a lot of work; he requested approval.

STAN POLLAKUSKY, project designer, said the change will not be noticeable from the street and requested helping the owner create a successful business.

GARY JOHNS, said the expansion is not going to improve the entire building and believes there are many benefits from the suggestions made by the HSPB.

JIM CARVAJAL, resides in North Palm Springs, said the gas station is an eyesore and tourists do not care who the architect is. He said the improvement will increase the value of the neighborhood.

GERGIS YOUSEF, applicant, said he cares about the building and would like to improve it.

There being no further speakers the public hearing was closed.

Commissioner Weremiuk verified the applicant's willingness to comply with the HSPB recommendations.

Commissioner Roberts noted the importance of historic resources in the city; but realizes building needs change and spoke in favor of the remodel.

Approve, with the Historic Site Preservation Board recommendations and consider the original paint color for the exterior to the satisfaction of the Planning Director.

**ACTION:** Approve, subject to the HSPB recommendations and applicant to consider original paint color for the exterior building to the satisfaction of the Planning Director.

**Motion:** Commissioner Roberts, seconded by Commissioner Lowe and unanimously carried on a roll call vote.

**AYES:** Commissioner Calerdine, Commissioner Lowe, Commissioner Middleton, Commissioner Roberts, Commissioner Weremiuk, Vice-Chair Klatchko

~~2B. CONT'D - GANDO PROPERTIES FOR A MAJOR ARCHITECTURAL APPLICATION TO CONSTRUCT AN APPROXIMATE 103,943 SQUARE FEET OFFICE SPACE, WAREHOUSE AND A SELF-STORAGE FACILITY ON AN APPROXIMATE 4.5-ACRE PARCEL AND A VARIANCE APPLICATION SEEKING FOR THE REDUCTION OF SIDE-YARD SETBACKS LOCATED AT THE SOUTH EAST CORNER OF GENE AUTRY TRAIL AND TACHEVAH DRIVE, ZONE M-1-P (CASE 3.3830 MAJ / 6.542 VAR). (ER) (BUILDING SIZE INCORRECTLY NOTED AS 96,445 SQ. FT.)~~

A recess was taken @ 1:57 pm.

The meeting reconvened at 2:00 pm.

Principal Planner Robertson summarized the modifications made to the proposed project.

Commissioner Weremiuk provided explanation that she does not have a property or financial conflict of interest and will continue with deliberations on this matter.

Commissioner Calerdine requested an update on the hydrology report on the site.

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# Attachment 11

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HISTORIC SITE PRESERVATION BOARD  
CITY OF PALM SPRINGS, CALIFORNIA  
Large Conference Room,  
3200 East Tahquitz Canyon Way, Palm Springs, California 92262  
www.palmspringsca.gov

MINUTES

JUNE 9, 2015



9:00AM  
REGULAR MEETING

**CALL TO ORDER:** The Chair called the meeting to order at 9:00 a.m.

**ROLL CALL:** Chair Gary Johns, Vice-Chair Roxann Ploss, Members Dick Burkett, Todd Hays, Bill La Voie, Linda Dixon, James Williamson

Absent: (none).

**ACCEPTANCE OF THE AGENDA:** M/S/C (Dixon/Hays, 7-0) to approve.

**PUBLIC COMMENT:**

COREY ALDER, President of Nexus Companies / O & M LLC, spoke in opposition of the proposed application for consideration of Class 1 designation and the proposed stay of demolition of the Tahquitz Plaza at 600, 650, 700 and 750 East Tahquitz Canyon Way.

ROBERT IMBER, of Palm Springs Modern Tours, spoke in opposition of Case 5.0712; the proposed changes at the William Cody-designed Shell gas station on North Palm Canyon Drive.

~~MUCH KAPTUR, Architect and developer of Tahquitz Plaza I and II, spoke in support of the proposed designation of the Tahquitz Plaza Buildings and in opposition of the proposed "Aberdeen" development proposed for that site.~~

RENEE BROWN, of the Palm Springs Historic Society (PSHS) spoke about the continued deterioration of the City-owned Cornelia White House and asked the HSPB to intervene on the PSHS' behalf to demand the City act swiftly to stabilize and preserve the structure; the second oldest existing in Palm Springs.

~~PETER MORUZZI, founder of the PS Modern Committee, spoke in support of the Tahquitz Plaza Class 1 historic designation and urged the HSPB to place a stay of demolition on the structures. He noted the PS Modern Committee has submitted an appeal to the City of the owner's recent application to demolish the structures.~~

SOBHY YOUSEF, owner of the William Cody-designed Shell Gas station, spoke in support of the Certificate of Approval request for modification to the gas station.

STAN POLLAKUSKI, designer for the modifications to the Shell station spoke in support of the certificate of approval request and further explained the proposed modifications.

~~CHRIS MENRAD, resident, spoke in support of the Tahquitz Plaza Class 1 historic designation application, and expressed concern about safety and security of the buildings and reminded the City about the vacant building ordinance and his concern that the owner was not maintaining the security of the now vacant buildings.~~

JADE THOMAS NELSON, resident, expressed his support of the Boards' ongoing efforts and concerns about pressures of development on historic structures and the loss of historic sites. He expressed his support for the Tahquitz Plaza class 1 nomination, the Orbit In Class 1 designation, the Morse Residence Class 1 nomination, and concern about the adverse impact of the proposed modifications to the Cody-designed Shell gas station.

The Chair closed public comment.

**1. CONSENT CALENDAR:**

**1.A. APPROVAL OF THE MINUTES: MAY 12, 2015 MEETING.**

M/S/C (Hays/Dixon, 6-0-1 Hays abstained) to approve with corrections.

**2. UNFINISHED BUSINESS: (none)**

~~**3. NEW BUSINESS:**~~

**3.A. PALM SPRINGS PLANNING COMMISSION REFERRAL OF A REQUEST BY GERGIS YOUSEF FOR A CONDITIONAL USE PERMIT AMENDMENT TO EXPAND THE EXISTING RETAIL SPACE AT A WILLIAM F. CODY DESIGNED GAS STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE, ZONE C-1 (CASE 5.0712 CUP).**

Planning Director Fagg explained the Planning Commission's action to refer this item to HSPB for its review, comments, and recommendations to the Commission before the Commission considers action on the application.

Staff Planner Newell summarized the project and the staff report.

Member La Voie opined that the proposed material (metal panel) and finish is inappropriate as is the relationship of the proposed (and previous) addition to the original building.

Member Williamson felt much of the historic integrity of the original building has been lost and shouldn't be further compromised.

Member Burkett noted the proposed project would further compromise the historic integrity of the original building.

Chair Johns discussed the significance of the building, its architect, and the context in which it was developed in the 60's. He noted opportunities and options that the owner could consider to expand the business model at the site while not further compromising the building's architecture. He recommended staff set up HSPB site visits and AAC site visits to better understand the site and explore whether there are City grants that may assist the applicant in business growth (including architectural tours) and building restoration.

Member Dixon does not recommend further modifications to the exterior appearance of the building.

Recommendations to the Planning Commission:

1. Recommend the building for Class 1 designation.
2. Retain the garage doors at the service bays and construct any proposed new wall behind it so as not to alter the exterior appearance of the original building.
3. Accommodate the proposed use within the (currently) existing building footprint without further additions.
4. Make no changes to the exterior of the original bldg.
5. Consider repainting the building in its original colors and consider using different paint colors to differentiate the addition from the original building.
6. Any changes should be done in accordance with the Secretary of the Interior Standards for the Treatment of Historic Structures.
7. If an addition is proposed, break the wall plane to distinguish original from new.
8. If an addition is proposed, new walls should be no closer than 2 feet from the existing structural column and should not enclose it with the proposed new building.
9. Clerestory windows should be preserved.
10. The canopy structure should be restored, removing surface mounted conduit, damage, etc.
11. Staff should set up site visits for HSPB and AAC members to allow them to complete their recommendations to PC.

12. The Board recommended that the Owner consider wider marketing approach to the overall property, possibly adding a tourist related component (tours, etc.) to increase the economic viability of the site.
13. Board recommended against the project itself, stating that it further compromises integrity of the original bldg.
14. Open dialogue with applicant and City staff in seeking city funds to collaborate and contribute to restoration / revitalization / expanded use of the site.

**3.B. AN APPLICATION BY CHRIS & MERAH BOND FOR CLASS 1 HISTORIC DESIGNATION OF 1932 SOUTH NAVAJO DRIVE, ZONE R-1-C (CASE HSPB #96).**

M/S/C (Ploss/La Voie, 7-0) to receive the application and historic resources report, initiate study and investigation pursuant to PSMC 8.05.135, direct staff to arrange site inspections for HSPB members to review the site, and to prepare a noticed public hearing at the HSPB meeting of July 14, 2015 to consider the application.

**3.C. INITIATE STUDY PURSUANT TO PSMC 8.05.135 FOR POSSIBLE CLASS 1 HISTORIC SITE DESIGNATION OF 600-750 EAST TAHQUITZ CANYON WAY, TAHQUITZ PLAZA, ZONE REO (CASE HSPB#97).**

Director Fagg clarified the process initiated herein for the applicant (who expressed concern that he received notice of this agenda item the day before). The HSPB may not take any formal action recommending designation to the City Council prior to the public hearing but may initiate study without public hearing.

M/S/C (Ploss/Dixon, 7-0) to receive the historic resources report and initiate study and investigation pursuant to PSMC 8.05.135 on the subject site in consideration of the submitted Class 1 historic resources report and continue the matter to a noticed public hearing of July 14, 2015 and direct staff to arrange site visits for board members to familiarize themselves with the content of the report and the conditions at the site.

**3.D. INITIATE A STAY OF DEMOLITION PURSUANT TO PSMC 8.05.170 FOR 600-750 EAST TAHQUITZ CANYON WAY, TAHQUITZ PLAZA, ZONE REO (CASE HSPB #97).**

Member Williamson asked questions regarding the process of stay and who can remove it.

Director Fagg clarified that the stay is typically lifted after the action to consider designation is complete by the City Council, or if no recommendation is made by the HSPB, the stay can be terminated at that time. He will review with the City Attorney whether a stay can be lifted under other circumstances.



# Attachment 12



## PLANNING COMMISSION STAFF REPORT

DATE: May 13, 2015

SUBJECT: GERGIS YOUSEF FOR A CONDITIONAL USE PERMIT TO EXPAND THE EXISTING RETAIL SPACE FOR AN EXISTING GAS STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE, ZONE C-1 (CASE 5.0712 CUP). (DN)

FROM: Department of Planning Services

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### SUMMARY

The Planning Commission will consider a Conditional Use Permit request to remodel an existing automobile service station located at 2796 North Palm Canyon Drive. The proposal includes the addition of approximately 156-square feet and the reconfiguring of all interior space to retail; no other exterior changes are proposed. Business name: Shell Gas Station.

### RECOMMENDATION:

Approve, subject to conditions.

### BACKGROUND:

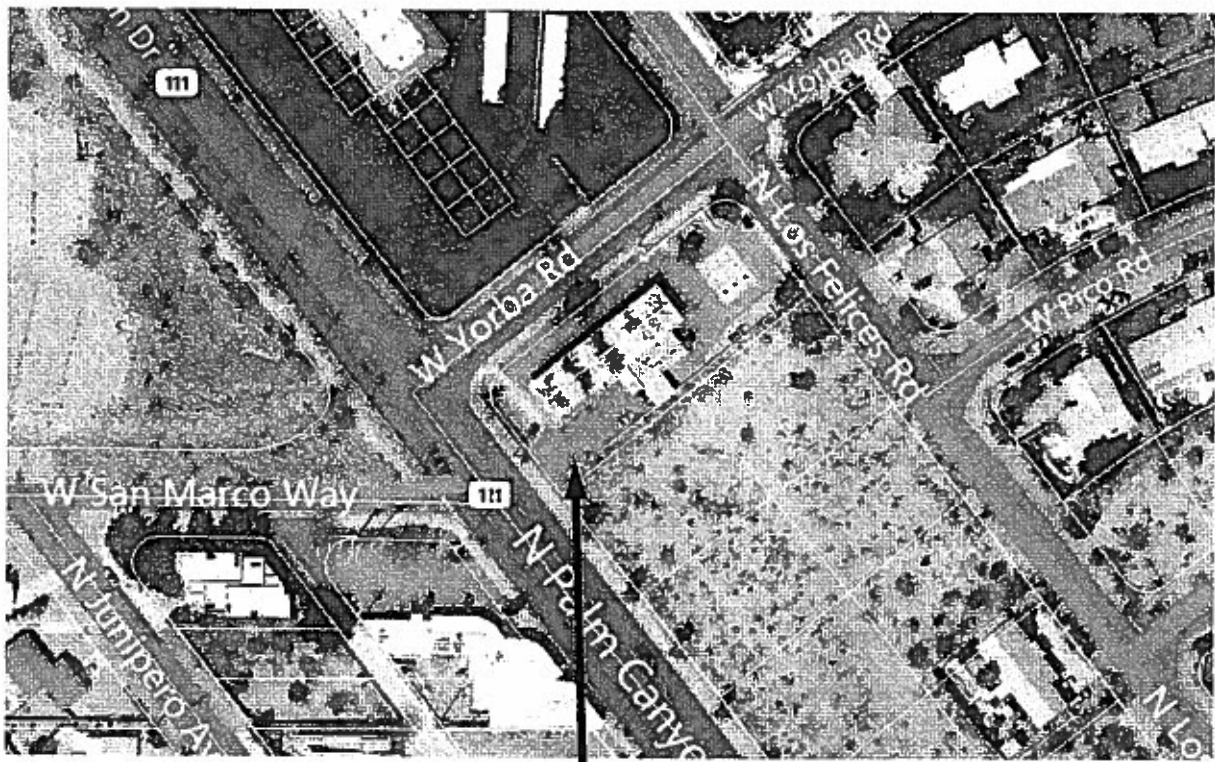
<b>Notification</b>	
4/30/2015	Public hearing notice sent to all property owners and registered occupants within 500 feet of the site.
5/02/2015	Public hearing notice published in local paper.
As of the writing of this report, staff has not received any letters from the public.	

<b>Field Check</b>	
Feb 2015	Staff has visited the site to observe existing conditions

<b>Site Area</b>	
Lot Area	~24,000-square feet
Building Area	Existing: 2,796-square feet Proposed Addition: 156-square feet Total: 2,952-square feet

<b>Site Area</b>	
Lot Area	~24,000-square feet
Building Area	Existing: 2,796-square feet Proposed Addition: 156-square feet Total: 2,952-square feet

<b>Most Recent Ownership/Business</b>	
2004	Gergis Yousef



**SUBJECT SITE**

<b>Surrounding Property</b>	<b>Existing General Plan Designations</b>	<b>Existing Land Use</b>	<b>Existing Zoning Designations</b>
Subject Property	MU / MU (Mixed Use / Multi-use)	Multi-tenant Commercial	C-1 (Retail Business) & R-G-A(6) (Garden Apt. & Cluster Residential)
North	MDR (Medium Density Residential)	Multi-family Residential	PD-100
South	MU / MU	Vacant	C-1 & R-G-A (6)
East	LDR (Low Density Residential)	Single-family Residential	R-G-A (6)
West	HDR (High Density Residential)	Vacant	R-3 (Multi-family & hotel)

**PROJECT DESCRIPTION:**

Originally designed by architect William F. Cody, the existing automobile service station was built in 1963 under a Conditional Use Permit (CUP) approval. The applicant is requesting approval of amend the existing CUP to remodel the service station building which currently provides automobile service, petroleum dispensing and convenience retail. The remodel includes replacing the existing vehicle service bays with retail space, selling convenience items, sandwiches and beverages. The sale of beer and wine for off-site consumption is also proposed. Floor space will include accessory storage, office and cashier space, as well as a men's and women's restroom.

**ANALYSIS:**

**General Plan**

Element	Request	Compliance
<p><u>Land Use:</u></p> <p><b>Mixed-use/Multi-use (Maximum of 15 dwelling units per acre for residential uses and a maximum 0.50 FAR for nonresidential uses).</b> Specific uses intended in these areas include community-serving retail commercial, professional offices, service businesses, restaurants, daycare centers, public and quasi-public uses. Residential development at a maximum density of 15 units per acre is permitted; planned development districts may allow residential densities up to 30 d.u. / acre and also ensure that all proposed uses are properly integrated and allow the implementation of development standards that are customized to each site.</p>	<p>The proposed request is to modify an existing commercial operation, expanding the community-serving retail for surrounding neighborhoods and motorists traveling on Highway 111.</p>	<p>Yes</p>

**Zoning**

**Permitted Uses:**

The subject property is split zoned with the westerly half zoned C-1 (Business Retail) and the easterly half R-G-A(6) (Garden Apartment and Cluster Residential). The service station is primarily located within the C-1 Zone.

Pursuant to Section 92.12.01(D)(5) of the Palm Springs Zoning Code (PSZC), "automobile service stations" are permitted with the approval of a Conditional Use Permit.

**Development Standards:**

Pursuant to Section 93.23.01 of the PSZC, automobile service stations must meet certain requirements. While the subject gasoline station was approved and constructed prior to these current standards, staff has provided an analysis of the proposal against the current ordinance below.

93.23.01	Auto Service Station Requirement	Proposed Project	Conform
<b>A. Location</b>			
1. Major Thoroughfare Frontage	200 feet	100 feet	No (existing)
2. Adjoining properties	The site shall not adjoin an existing hotel or residential use at the time of its establishment	The site does not adjoin an existing hotel or residential use at the time of its establishment	Yes
3. Distance from misc. uses.	The minimum distance from the site to a property containing a school, park, playground, church, museum or similar use shall be two hundred fifty (250) feet. The minimum distance to a residential zone shall be one hundred seventy-five (175) feet.	None of mentioned uses are within 250 feet of subject site.  Residential zone is within 175 feet of site.	Yes  No (existing)
4. Distance from other automobile service stations	The minimum distance between properties containing automobile service stations shall be five hundred (500) feet...	Site located more than 500 feet to nearest gas station.	Yes
<b>B. Site Area</b>			
20,000 square feet			
<b>C. Access</b>			
	Access drives shall be at least thirty (30) feet from any street corner measured from the intersection of the ultimate right-of-way lines; the city engineer may require a greater distance based upon street and traffic characteristics. All drives shall be designed to provide vehicle queuing in a manner that minimizes possible hazard or slowing of vehicles on adjacent city streets. Reciprocal access/parking arrangements may be with adjacent properties to enhance public convenience and safety.	Palm Canyon entry is ~60 feet from Yorba  Westerly Yorba entry is ~18 feet from Palm Canyon  Easterly Yorba entry is ~90 feet from Los Felices  Los Felices entry to be eliminated	Yes  No (existing)  Yes  Yes
<b>D. Number of Pumps</b>			
	One (1) gasoline pump shall be permitted per two thousand (2,000) square feet of site area. The number of pumps shall be the same as the number of sale transactions which may be conducted simultaneously at all of the pump stations.	8 pumps exist, whereas 12 would be permitted.	Yes
<b>E. Utility Trailers</b>			
	Utility trailers, not exceeding ten (10) in number, may be stored for rent on service stations only in the C-2, C-M and M-1 zones;	None proposed.	Yes

	provided, they are screened from view and occupy an area which is in excess of the two thousand (2,000) square feet of site area required per pump.		
<b>F. Walls</b>	A solid masonry wall six (6) feet in height shall be erected on all interior property lines which abut property in a residential zone or wherever else deemed necessary by the planning commission.	Wall ranging in height from 30 inches to 5 feet installed along the southerly property line	No (existing)
<b>G. Paving</b>	The entire ground area shall be paved except that ten (10) percent of the site area shall be reserved for landscaping.	17%	Yes
<b>H. Lighting</b>	Lighting shall conform to the requirements of Section 93.06.00.	Project conditioned to comply	Yes
<b>I. Outside Operation</b>	Operations outside permanent structures shall be limited to the dispensing of gasoline, oil, water, air, changing tires, and attaching and detaching trailers. There shall be no outside storage or display of tires, oil or other products and accessories. The sale of liquid propane gas (LPG) may be permitted if approved in connection with the conditional use permit and architectural review. After approval of the conditional use permit, the sale of LPG may be permitted if approved in conjunction with a land use permit.	Project conditioned to comply	Yes
<b>J. Noise</b>	Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level measured at property lines shall not exceed street background noise normally occurring at the site location.	Project conditioned to comply	Yes
<b>K. Minimum Building Area</b>	The minimum gross floor area for each automobile service station building, not including the canopy area, shall be seven hundred fifty (750) square feet. Accessible public restrooms shall be provided.	Project conditioned to comply	Yes
<b>L. Accessory Commercial Uses.</b>	Accessory non-automotive commercial uses shall be limited to vending machine sales of soft drinks, coffee and tea, snacks, cigarettes, and maps within a sales area of not greater than twenty-five (25) square feet. Secondary retail sales of food, groceries and sundries, other than those from a vending	Proposed secondary retail space exceeds 750-square feet and will be totally within the principal building.	Yes

	<p>machine, shall be contained within an indoor retail space of not less than seven hundred fifty (750) square feet, except that existing automobile service stations, at the time of the adoption of this Zoning Code, which convert space for such use are not limited by a minimum area requirement. Display and storage of accessory or secondary non-automotive commercial uses shall be totally within the principal building.</p>		
<p><b>M. Sale of Beer, Wine, Liquor or Other Alcoholic Beverages.</b></p>	<p>1. Such sales must be offered only in conjunction with the secondary retail sale of food, groceries and sundries in which not less than fifty (50) percent by value of the retail sales of all products, other than gasoline and other motor vehicle fuels, comprises sales of products other than beer, wine, liquor and other alcoholic beverages.                  2. Video recording surveillance cameras shall be used to record all purchases and attempted purchases of alcoholic beverages. Signs shall be posted, one (1) outside the building at or near the gasoline servicing area and another inside the building near the cash registers notifying the public that "all alcoholic beverage transactions are monitored in cooperation with the Palm Springs Police Department." The videotape equipment used shall be such as to record at least twenty-four (24) hours of operation, the tapes shall be maintained for the prior seventy-two (72) hours, and the film shall be made available to any representative of the Palm Springs Police Department within twenty-four (24) hours of a request. The tapes shall be made available for use in evidence against any person who purchased or attempted to purchase alcoholic beverages as well as for use in any court or administrative proceeding regardless of the type of criminal activity or the party or parties involved.</p>	<p>Project conditioned to comply</p>	<p>Yes</p>
<p><b>N. Signs</b></p>	<p>All signing shall conform to the provisions of 93.20.00.</p>	<p>Project conditioned to comply</p>	<p>Yes</p>



*Parking:* The parking ratio outlined in Section 93.06.00(D) of the Zoning Code requires, "Stations with mini-marts shall provide parking at the rate of one (1) space for every two hundred (200) square feet of gross floor area within enclosed structures plus one (1) space for water/air dispensers, if provided." The proposed use will have a building that is roughly 2,952-square feet in size and one water / air dispenser. Therefore, 15 parking spaces for the retail floor area are required and one parking space for the water / air dispenser is required. The proposal includes 16 parking spaces, plus an additional parking space around the air / water dispenser.

**REQUIRED FINDINGS:**

Pursuant to PSZC Section 94.02.00 (Conditional Use Permit), the commission shall not approve or recommend approval of a conditional use permit unless it finds as follows:

- a. *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code;*

Pursuant to Zoning Code Section 92.12.01.D.5, "automobile service stations" are permitted in the C-1 zone with the approval of a Conditional Use Permit (CUP). The subject use was established prior to current zoning code and is permitted to remain in operation under the previously approved CUP. The proposed application is to modify the existing accessory / secondary commercial space as a part of the automobile service station.

- b. *That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located;*

The existing gasoline service station was established prior to the enactment of current zoning standards and has remained in continuous operation. The station serves motorists traveling on Highway 111 and residents in the surrounding community. The proposed modification to the floor plan will provide more convenience retail space, which is permitted in the zone and under the General Plan land use designation. Therefore, the proposed modification will be desirable for the community; is in harmony with the general plan; and will not be detrimental to existing and future uses permitted in the C-1 zone.

- c. *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood;*



The existing gasoline service station has four double-sided bays – a total of eight gasoline service pumps. Based on the size of the lot, the zoning code permits a total of 12 gasoline service pumps. The modified floor plan exceeds the minimum area for secondary retail of 750 square feet. Parking will be accommodated within the existing parking lot. Approximately 17 percent of the site is landscaping. Therefore, the subject site is adequate in size and shape to accommodate the revised floor plan.

*d. That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use;*

The change in floor plan is expected to create a minor increase in vehicular traffic and have little impact to North Palm Canyon Drive and other adjacent roadways such that further improvements are necessitated. Existing adjacent streets will adequately serve the secondary retail.

*e. That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards.*


Conditions of Approval are proposed in the attached "Exhibit A" to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance, limitations on operating hours and other necessary requirements.

CONCLUSION:

The revision and minor addition to the existing gasoline service station is consistent with the land use policies of the General Plan and Zoning Code. Staff is able to recommend findings necessary for approval of the proposed use. On that basis, staff recommends approval of the proposal.

ENVIRONMENTAL DETERMINATION:

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project has been determined to be categorically exempt from further environmental review pursuant to Section 15301(e) (Existing Facilities).

  
\_\_\_\_\_  
David A. Newell  
Associate Planner

  
\_\_\_\_\_  
Flirm Fagg, AICP  
Director of Planning Services

**ATTACHMENTS:**

1. Vicinity Map
2. Draft Resolution with Conditions of Approval
3. Site Photographs
4. Project Plans

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# Attachment 13

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**2E. MICHAEL FRICK FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A 497-SQUARE FOOT DETACHED CASITA WITHOUT KITCHEN FACILITIES FOR THE PROPERTY LOCATED AT 2141 EAST CALLE LILETA, ZONE R-1-C (CASE NO. 5.1364 CUP). (DN)**

Associate Planner Newell presented the proposed project to construct a detached casita as outlined in the staff report.

Commissioner Weremiuk asked for clarification on the effective date of the new ordinance.

Chair Hudson opened the public hearing:

STAN POLLAKUSKY, project designer, explained that the casita that will be used for the homeowner guests and does not believe the noise concern is valid.

There being no further speakers the public hearing was closed.

**ACTION:** Approve, subject to conditions, as amended:

1. Add language to conform to the new Ordinance relating to the rental of Accessory Second Dwelling Units for periods of less than 30 days.

**Motion:** Commissioner Weremiuk, seconded by Commissioner Middleton and unanimously carried on a roll call vote.

**AYES:** Commissioner Calderine, Commissioner Lowe, Commissioner Middleton, Commissioner Roberts, Commissioner Weremiuk, Vice Chair Klatchko, Chair Hudson

**2F. GERGIS YOUSEF FOR A CONDITIONAL USE PERMIT TO EXPAND THE EXISTING RETAIL SPACE FOR AN EXISTING GAS STATION LOCATED AT 2796 NORTH PALM CANYON DRIVE, ZONE C-1 (CASE 5.0712 CUP). (DN)**

Associate Planner Newell presented the proposed request to expand the retail space for the existing gas station.

The Commission questioned and/or commented on the following issues:

- Significant architecture;
- Review by the Historic Site Preservation Board and Architectural Advisory Committee;
- Enhancement of landscape plan;
- Deteriorating asphalt.

Chair Hudson opened the public hearing:

GERGIS YOUSEF, applicant, explained that no changes would be made to the building or canopy; the only change is to enclose the garage.

STAN POLLAKUSKY, project designer, does not understand why it must go for further review with when no significant changes are being made.

There being no further speakers the public hearing was closed.

Chair Hudson said he is familiar with this building and feels this is a very important building. He spoke in favor of review by the Historic Site Preservation Board.

Commissioner Roberts appreciates the applicant's willingness to improve the building and preserve the character.

Commissioner Middleton thinks it is appropriate for the Historic Site Preservation Board to review this project. This will be beneficial to the preservation of this building and will be a more economically viable building.

**ACTION:** Return to the Historic Site Preservation Board to provide comments on the proposed addition and materials and;

1. The applicant to consider providing a landscape (removal of turf) and asphalt plan.

**Motion:** Commissioner Weremiuk, seconded by Commissioner Lowe and unanimously carried on a roll call vote.

**AYES:** Commissioner Calerdine, Commissioner Lowe, Commissioner Middleton, Commissioner Roberts, Commissioner Weremiuk, Vice-Chair Klatchko, Chair Hudson

#### **PLANNING COMMISSION REPORTS, REQUESTS AND COMMENTS:**

The Commission commented and/or asked for clarification on the following:

Update on the recent water subcommittee meeting:

1. PDD small lot subcommittee status update;
2. Status report of approved projects;
3. Downtown project status update.

# Attachment 14

RECEIVED

JUL 05 2016

PLANNING SERVICES  
DEPARTMENT

*Norm & Kay Thomas*  
30535 AVENIDA BUENA SUERTE  
TEMECULA, CA 92591  
951 699 0436

July 2, 2016

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

RE: Planning Commission Hearing for CUP Case 5.0712  
Beer Wine and Liquor Sales at 2781 North Palm Canyon Drive  
Palm Springs CA

Thank you for your Notice of Public Hearing scheduled for July 13, 2016, with the Planning Commission, letting us know about the requested CUP.

We oppose the CUP.

We believe beer, wine and liquor sales should be buffered with other commercial zoning and not placed adjacent to residential.

Our condo is at the corner of SH-111 and Yorba Road, with only the intersection separating the proposed liquor sales location from our residence.

Best Regards  
Norm and Kay Thomas

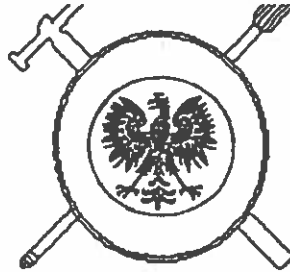


Copy: David A. Newell, Associate  
David.Newell@palmsprings-ca.gov

Gerald E. Siepierski, Inc.

8599 Church  
P.O. Box 225  
Grosse Ile, Michigan 48138

734  
313 / 675-8911



GENERAL CONTRACTORS  
DEVELOPERS: COMMERCIAL AND  
INDUSTRIAL

MOBILE HOME DEALERS: NEW AND USED  
(NOT AFFILIATED WITH GERALD E. SIEPIERSKI - INC.)  
PRIVATE FINANCING: BY DEALER / PARK OWNER

May 17, 2016

RECEIVED

MAY 23 2016

PLANNING SERVICES  
DEPARTMENT

Mr. James Thompson City Clerk  
City of Palm Springs  
3200 E. Tahquitz  
Palm Springs, California 92262

Re; CONDITIONAL USE PERMIT, CASE NO. 5.0712 CUP  
SHELL GAS STATION  
2796 NORTH CANYON DRIVE. MEETING MAY 25, 2016 1;30 p.m.

Dear Mr. Thompson

As per my last two letters in the past i will repeat myself for the third time

I AM AGAINST THE EXPANSION OF THIS GAS STATION FOR THE PURPOSE FOR ADDED RETAIL FLOOR SPACE.

I am not against it if they want to add more auto bays to work on more vehicles at one time

Due to compitition & slow times Larry's beer/wine & spirits across the street had to close down his business for 1 & 1/2 years.

He re-opened just last year and is struggling to stay afloat.

We have a 7/11 down the street corner of raquet club dr & palm canyon. struggling to stay afloat

Why would we want another party store if it is allowed it may put all three out of business ,I am sure this is not the city wants.

ONE WRONG WILL NOT MAKE THREE RIGHTS.

CONSIDER TURNING THIS PROJECT DOWN FOR THE GOOD OF THE CITY AND THE PEOPLE,

If any questions feel free to call or write,

Sincerely yours

Gerald E. Siepierski  
Villa #1-----for 27 years UNIT 114  
2860 N. Los Felices



Palm Springs Planning Commission 5/20/16

Conditional Use Permit

Case # 5.0712 CUP

Shell Gas Station

2796 North Palm Cny.

Palm Springs Ca 92262

attn: James Thompson  
City Clerk

2016 MAY 23 PM 3:21  
JAMES THOMPSON  
CITY CLERK

I am pleased you are re-  
considering the Application of  
Dergis Yusef to modify his  
business.

Having QC lots almost directly  
across the street I am very  
much in favor of his project.  
we need all the upgrades  
we can get to help improve  
our North end.

Thank you for your consideration

Very truly yours

Robin Harris.

APN # 504-060-008-9

R Harris

RECEIVED  
CITY OF PALM SPRINGS  
2016 MAY 23 PM 3:28  
JAMES THOMPSON  
CITY CLERK

Dept of Planning Services.

1/12/16

re: Conditional Use Permit Case No  
5.0712 CUP Shell Gas Station  
2796 N. Palm Cnym Drive.

We own 20 lots Across Hwy 111  
from the Above Shell Gas Station

We support Gergis Yousef application  
to modify his business as we feel it  
would be good for our area and add  
value to our properties.

Thank you

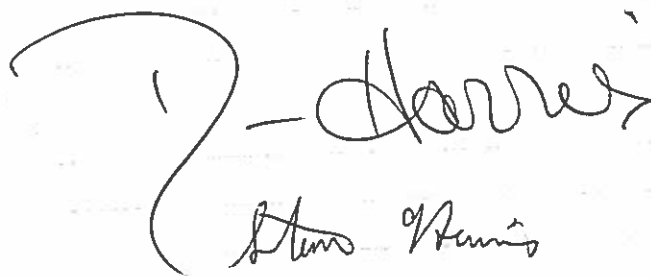
Robin Harris  
22295 Parkmead DR  
PS CA 92262

RECEIVED

JAN 20 2016

PLANNING SERVICES  
DEPARTMENT

Case 5.0712 CUP

  
Robin Harris

Gerald E. Siepierski, Inc.

8599 Church

P.O. Box 225

Grosse Ile, Michigan 4813

1934

313 / 675-8913



Rec'd 8:45 AM  
1-5-16  
cc office

**GENERAL CONTRACTORS**  
DEVELOPERS: COMMERCIAL AND  
INDUSTRIAL

MOBILE HOME DEALERS: NEW AND USED  
(NOT AFFILIATED WITH GERALD E. SIEPIERSKI - INC.)  
PRIVATE FINANCING: BY DEALER / PARK OWNER

REBY GIVEN

January 3, 2016

Mr. James Thompson, city Clerk  
3200 E. Tahquitz Canyon Way  
Palm Springs California 92262

Dear Mr. Thompson

Re' CONDITIONAL USE PERMIT CASE NO.5.0712 CUP  
SHELL STATION  
2796 NORTH PALM CANYON DRIVE

I RESPONDED TO THIS REQUEST WAY PRIOR TO THE JUNE 10, 2015 MEETING  
THAT I AM AGAINST ANY EXPANSION TO THIS SHELL STATION IF IT IS  
FOR FOOD AND LIQUOR/BEER/WINE SALES

IF IT IS FOR EXPANSION OF ADDED BAYS FOR ADDED MECHANICAL WORK  
THEN I AM FOR IT

HOW COULD TWO WRONGS MAKE A RIGHT

LARRYS ACROSS THE STREET IN THE PAST GOT SO BAD HE CLOSED DOWN  
FOR 1 TO 2 yrs. THEN REOPENED

IF YOU ALLOW THIS EXPANSION FOR ADDED FOOD?LIQUOR?BEER?WINE SALES  
THE CITY IS GOING TO HAVE TWO BUSINESSES ACROSS FROM ONE  
OF THE OTHER BOTH BUSINESSES OUT OF BUSINESS..

I AM AGAINST THE EXPANSION AS OUTLINED

SINCERELY YOURS

*Gerald E. Siepierski* *Rose Siepierski*

GERALD E. SIEPIERSKI ROSE SIEPIERSKI  
2860 N. LOS FELICES 114  
PALM SPRINGS, CALIFORNIA 92262

RECEIVED

JAN 07 2016

PLANNING SERVICES  
DEPARTMENT

# Attachment 15

