

*Twin Palms Home Owners Association, Inc.*

*P. O. Box 13710  
Palm Desert, CA 92255-3710  
Telephone (760) 776-5100*

April 15, 2009

Mr. Craig A. Ewing, AICP  
Director of Planning Services  
City of Palm Springs  
3200 E Tahquitz Canyon Way  
Palm Springs, CA 92263-2742

- 1.) **Minor Architectural Application (Case No. 3.1142 MMA); Supplement dated 4/15/09**
- 2.) **4/15/09 Landscape Plan with requested Tree Replacements**

Dear Mr. Ewing:

Accompanying this Supplemental Letter is our "4/15/09 Landscape Plan" which identifies all of the trees from the four windstorms which were either downed or irreparably damaged by violent winds or were recommended for removal by our arborist. As requested by the Planning Commission on April 8, 2009, we have conferred with all the interested homeowners and have come up with a replacement plan that we think will satisfy everyone. Hopefully our 4/15/09 Landscape Plan will clarify and put into perspective the total damage from the four storms, identify all the proposed replacement trees and allow the Commission to approve our application so that we can proceed with our replanting program. The numbered dots on the plan correspond with the proposed locations and species as listed in the legend on our Landscape Plan.

Damage from the fourth windstorm that occurred on April 3, 2009 and listed below is the subject of this Supplement which identifies the trees that were irreparably damaged and are in the process of being removed as a result of this storm:

1. **Behind 1837 S. La Paloma**, near the west pool, one (1) large pine tree blew down and was irreparably damaged. See the accompanying photographs labeled as No's 1 and 2.

**Replacement:** We request that this downed pine be replaced with a 15-gallon floss silk tree.

2. **Behind 1827 via Aguila**, near the east pool, one (1) large pine tree blew down and rested on the back of the building and was removed from the building by Marina Landscape. See the accompanying photographs labeled as No's 3 and 4.

**Replacement:** We request that this downed pine be replaced with a 15-gallon Desert Willow.

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APR 16 2009

**PLANNING SERVICES  
DEPARTMENT**

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3. **Behind 1850 S. La Paloma**, one (1) pine tree continues to list heavily into another pine tree and may very well fall in the next storm. This pine was recommended for removal by our arborist as identified in a previous report to you. See the accompanying photographs labeled as No's 5 and 6.

**Replacement:** We request that this severely leaning pine be replaced with a 15-gallon Desert Willow.

4. **Adjacent to 1223 Twin Palms and behind 1816 S. La Paloma**, two (2) pines blew down in the March 22, 2009 storm and are in the process of being removed. One of these pines, which had been recommended for removal by our arborist and as identified in the original MAA, unfortunately fell into an adjacent pine that now has to be removed. With the latest storm, we lost one (1) large Brachychiton which now has to be replaced. See the accompanying photographs labeled as No's 7 and 8.

On two previous occasions, we requested your approval for replacement trees, but now that we have two large open areas (marked as Areas A and B on our 4/15/09 Landscape Plan), we would like for you to consider the following:

**AREA A:** As a result of a meeting this week between Loraine Lawrence (1223 Twin Palms) and Nadine Navarro (1816 S. La Paloma), they would like us to replace the trees in Area A with two (2) Floss Silk trees, three (3) Feather trees and one (1) Raymond Ash as now shown on the 4/15/09 Landscape Plan and as suggested by Ms. Lawrence's arborist;

**AREA B:** As a result of a meeting on April 14, 2009 with Mr. Steve Rowland (1833 S. La Paloma) and Ms. Francine McWinney and James Myers (1829 S. La Paloma), they would like us to replace the previously approved replacement trees for those that were either blown down or recommended for removal in this area with seven (7) Floss Silk trees. They feel that these particular trees would look very nice interspersed behind their two homes. Therefore, we request your approval to substitute the previously approved trees and other replacement trees in Area B as shown on the 4/15/09 Landscape Plan.

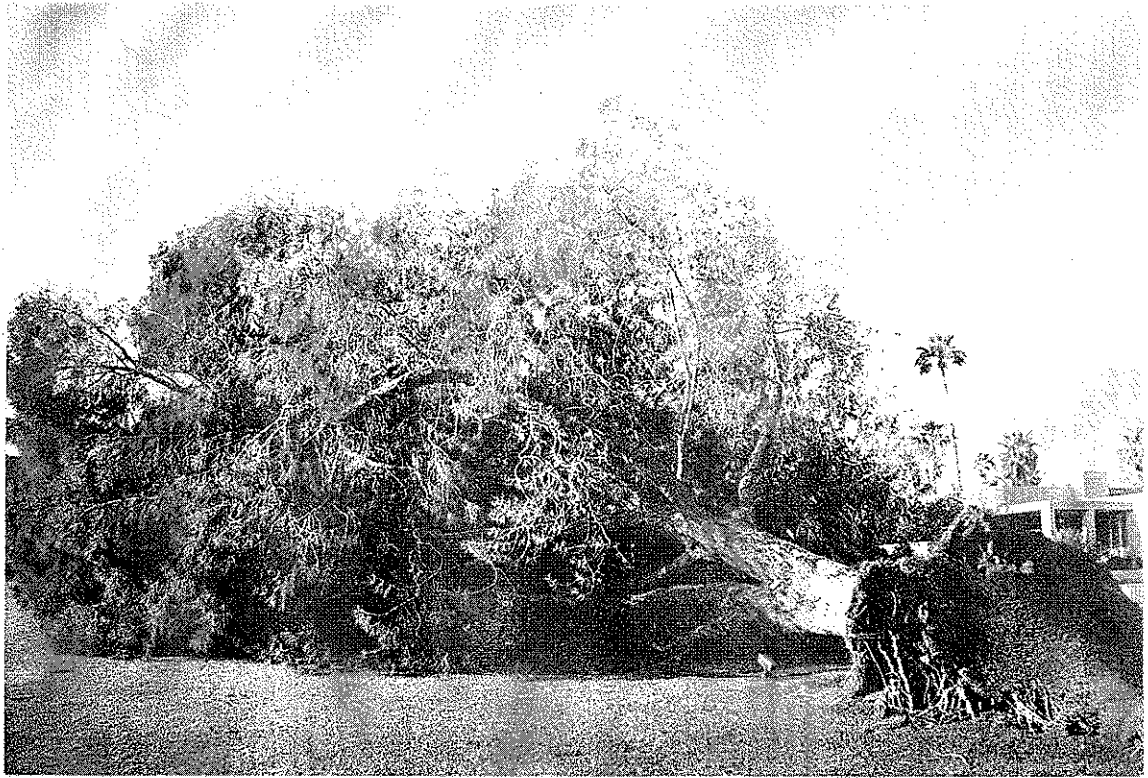
As per the size of trees shown on the original "Approved" 1976 Landscape Plan, all the above trees will be replaced with 15-gallon size trees.

Following your approval of our "4/15/09 Landscape Plan", we will move forward with its implementation. We thank you and your staff for all the assistance given to us to bring this matter to a conclusion.

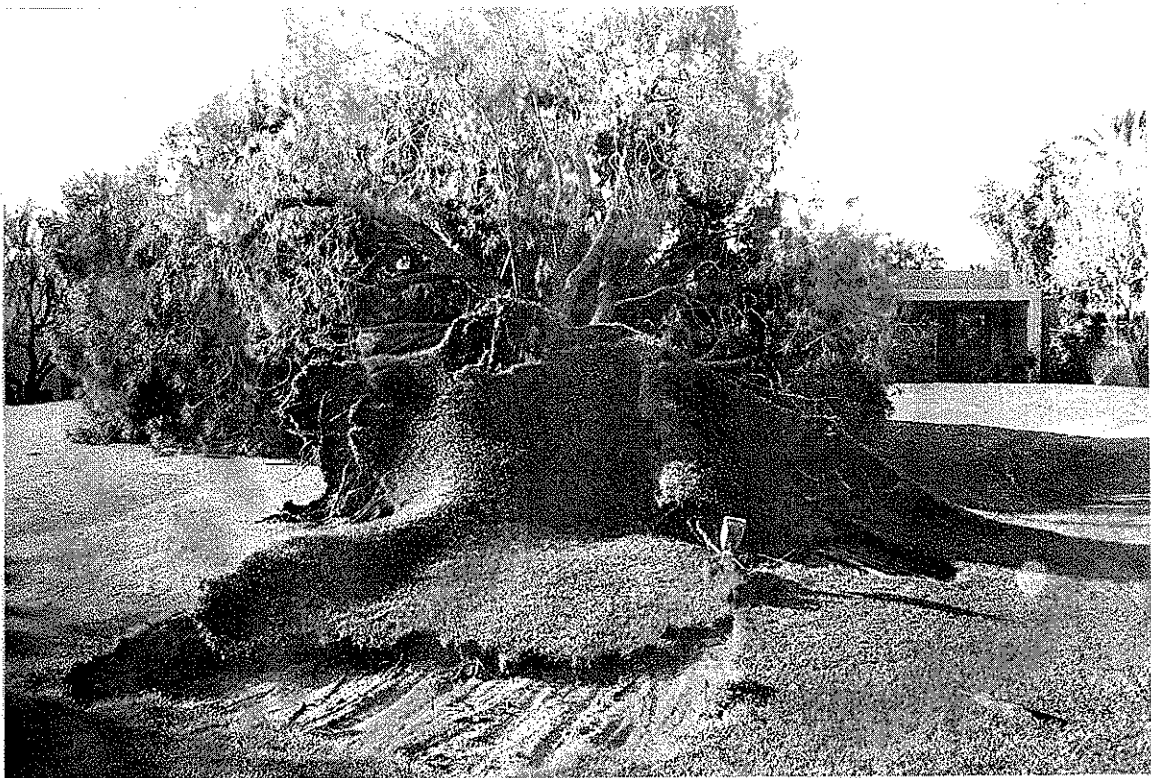
Sincerely,

TWIN PALMS HOME OWNERS ASSOCIATION, INC.

  
Marvin H. Geistlinger  
President



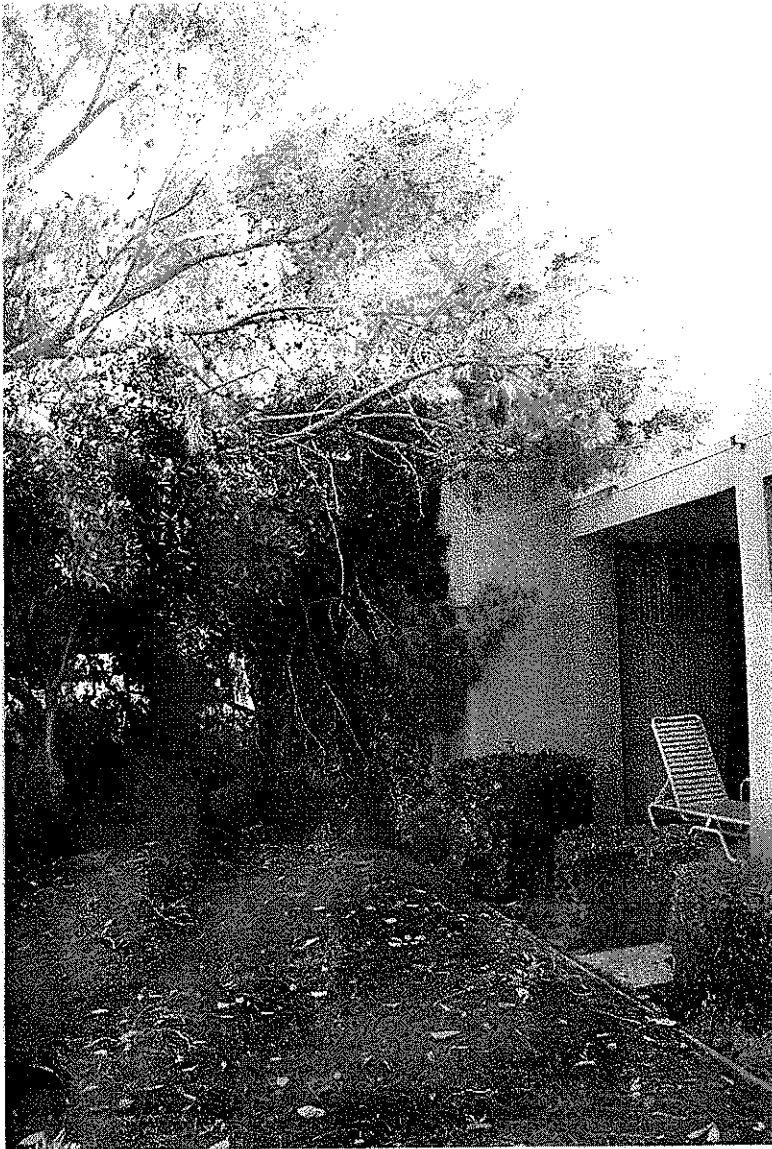
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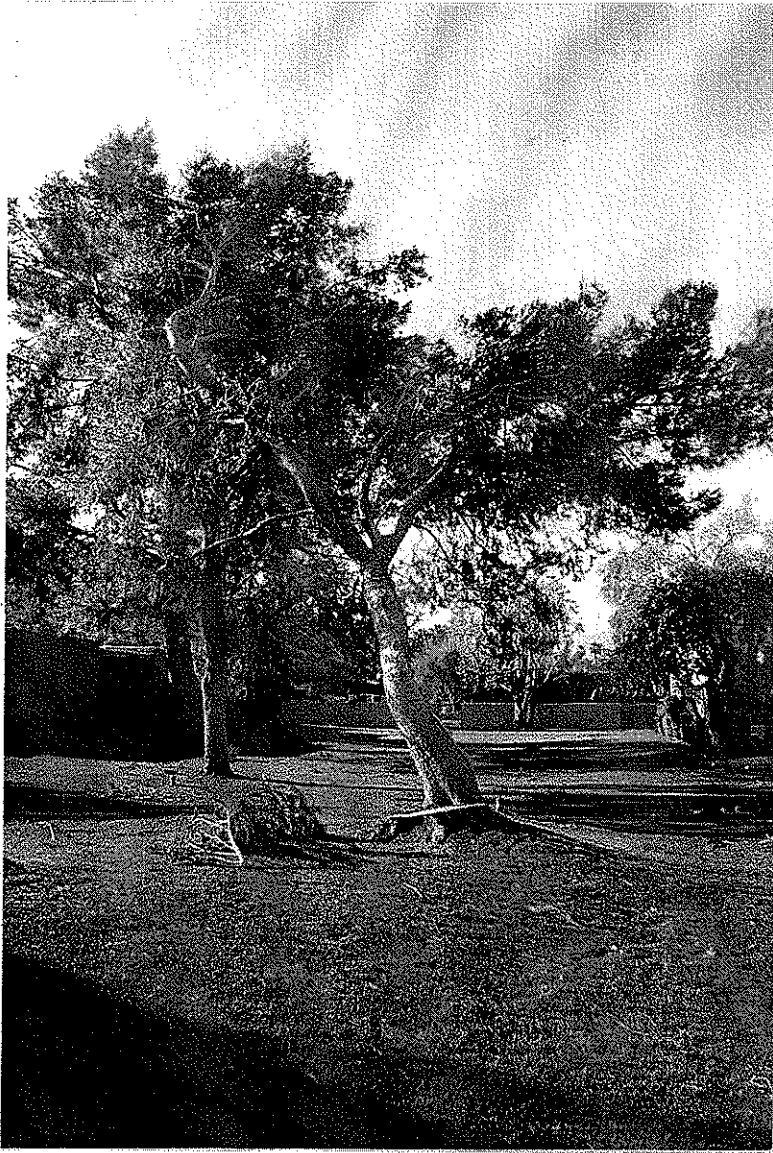
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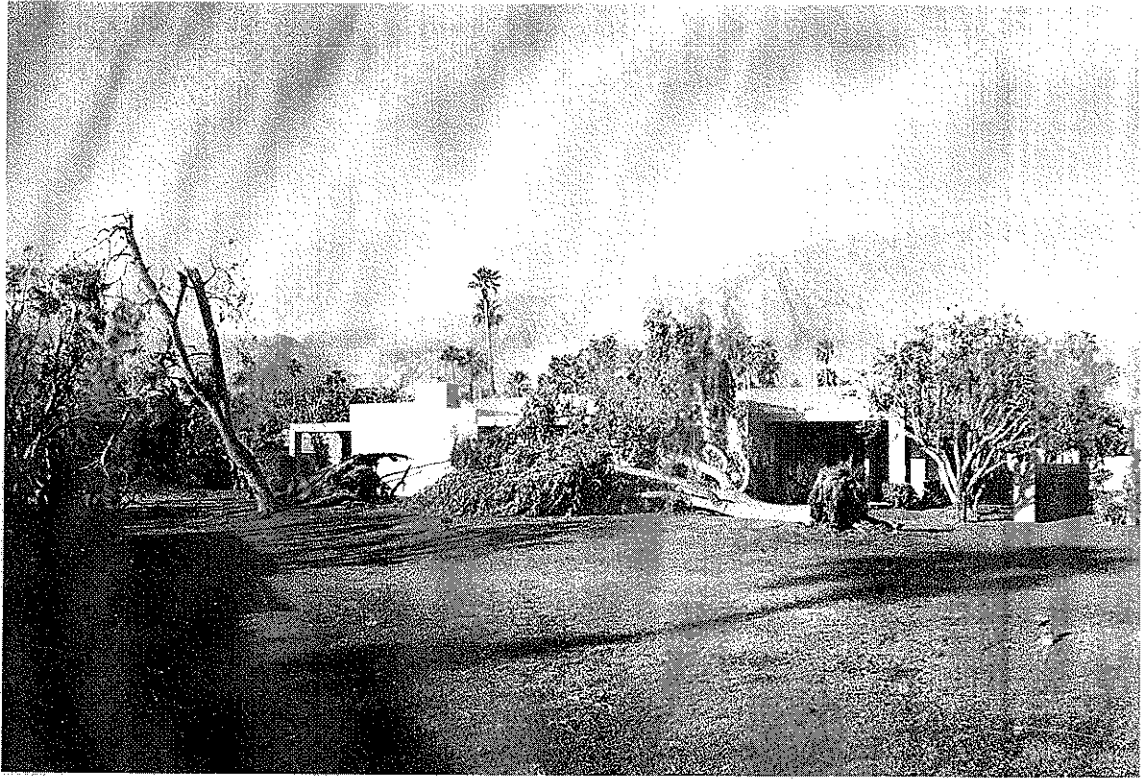


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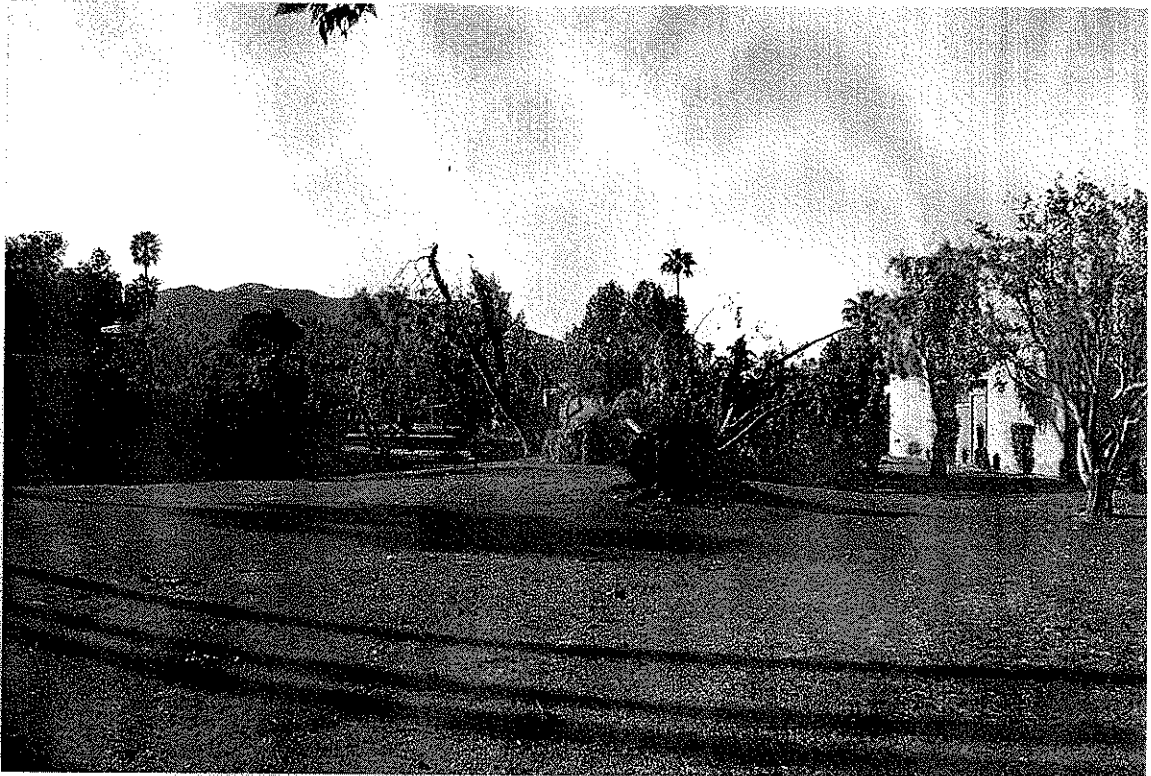


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April 14, 2009

**APPEAL TO PLANNING COMMISSION**  
**CASE NO. 3.1141-MAA April 22,2009 HEARING**

**The April 8th,2009 Planning Commission hearing re my 3/20/09 "REQUEST FOR A CONTINUANCE" never was heard . In fact, the word "CONTINUANCE" was not even on the PLANNING COMMISSION "AGENDA", or in the PLANNING DEPARTMENT STAFF REPORT.** Although I had been advised by the Planning Director that the decision re my request for a "Continuance" would be heard **BEFORE A HEARING ON THE APPEAL TOOK PLACE.** everyone seemed to know it was going to be a "full" appeal hearing. Everyone, that is, but me. The Planning Director's exhibits were already displayed on the wall. The Planning Director and the Commissioners were seated with all their files beside them. And I, the appellant, waited patiently for a "Continuance" hearing that never came. Only an "Appeal" hearing was heard, but, without my formal, written appeal argument, or my arborist's report. And **WITHOUT ONE WORD FROM PLANNING, OR THE COMMISSION ABOUT MY REQUEST FOR A "CONTINUANCE".**

**THE APPEAL HEARING WAS HELD, WITHOUT THE COMMISSION FIRST DECIDING ON REQUEST FOR "CONTINUANCE, AND, HEARING HELD WITHOUT APPELLANT'S "FORMAL WRITTEN APPEAL", WITHOUT APPELLANT'S ARBORIST REPORT , AND WITHOUT APPELLANT'S VERBAL ARGUMENT HEARD**

After the public hearing statements, the Commission, without explanation, held a full hearing re my appeal, except that I, the Appellant, who noticed the appeal, and paid \$305. for the right to appeal and argue my case, **was not allowed to say one word during it.**

And, worse, the alleged "Appeal argument" attached to the Planning Director's staff report was **NOT MY FORMAL " APPEAL ARGUMENT"**, it was my **2/06/09 letter "NOTICING "** my appeal. (See attached 2/06/09 letter). It said:

**" To preserve my right to appeal(yet again) I am requesting, in writing, my intention to appeal your January 27, 2009 decision. I will submit my formal appeal papers when I am given a formal deadline to do so. I have not received anything in writing to that purpose. I will wait for written instructions re filing my formal appeal".**

The Planning Director never answered this letter. **And this section of my letter was left out of the Planning Director's Staff Report.** The Planning Director knew (see letters to City Manager, Ready and City Attorney, Holland) that my formal appeal had not been sent, pending the decision re the "Continuance".

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11:50 am  
APR 16 2009

PLANNING SERVICES

## **APPELLANT ONLY ALLOWED THREE MINUTES TO ARGUE AFTER FULL COMMISSION HEARING ON "APPEAL"**

When the appeal hearing was over, and all the exhibits displayed, and all the Commissioner's questions, asked and answered, ONLY of the Planning Director, only then was I, Appellant, "allowed" to speak. BUT FOR ONLY THREE MINUTES.

I didn't know which argument to tackle first, the "Continuance" or the Appeal (which I wasn't prepared for). Although, I had paid \$305. for an appeal, I was not allowed to argue my position. I was cut off after only three minutes, the same time as the general public who make their statements without having to pay. At no time during this process was I, Appellant, told that I would not be able to argue my case in a normal manner. For an Appellant to be cut off after three minutes when the Planning Director and the Planning Commission have held a full, uninterrupted, self serving, hearing between only them, without equal time for the appellant, or even one question to the Appellant, is not even an "appearance of justice".

Since, I was the only person in chambers who was actually present at the 1996 City Council hearing, I could have answered (if asked) what their ruling meant. The question had been asked of the Planning Director re the word "suitable" and his answer was vague. Why wasn't the 1996 Appellant asked even one question by the Commission? My opinion after experiencing this alleged "full" hearing, was that the Planning Commission process is geared only to uphold the Planning Director's decision, regardless of what the actual merits of Appellant's case might be. Hopefully, that will change as the public becomes more enlightened.

For the record, and to protect my rights, I am submitting my "formal" appeal argument, to be combined with the "abbreviated" appeal argument, which was submitted for the April 8th, 2009 "Continuance" hearing (which never took place).

## **APPEAL ARGUMENT TO OVERTURN THE PLANNING DIRECTOR'S JANUARY 27, 2009 DECISION:**

The following is an appeal of the Planning Director's January 27, 2009 decision which approved an "amendment" to the Twin Palm condominium Development and three subsequent amendments, which, in appellant's opinion, are inconsistent with the "original 1976 Landscape plan" and the 1996 City Council ruling which the Planning Director alleges to be following per his Staff Report

## **RECOMMENDATION:**

That the Planning Commission overturn the Planning Director's decision, or at the very least, modify it, after researching the issues independently. This should include each Commissioner making a visit to the Twin Palm site, to view the removed trees, and proposed tree site replacements, as well as the sites not



**Included for replacement.** There should be no "urgency" to push through the Planning Director's decision, prior to a careful investigation of ALL the facts. The only urgency noted by the HOA was that "one of the board members leaves the desert at the end of April for five to six months". That should not deter the Commission investigating the matter more thoroughly before making their decision, especially since it directly affects all the "other" homeowners who live here full time.

### **BACKGROUND:**

**February 14, 2008**, Appellant brought the issue of "15 trees removed from the Twin Palms HOA" WITHOUT PERMITS to the Planning Department. **The 1996 City Council ruling and the 1997 Supreme Court ruling was attached to the letter to the Planning Director.** The only issue at that time was to stop the removal of healthy trees, which were being removed, along with the trees that had fallen from the wind storm on February 3rd, 2008. **And to make certain any tree removed, whatever the cause, would be "replaced with suitable and fast growing trees" per the 1996 City Council ruling.**

### **PLANNING DIRECTOR IGNORED THE 1996 CITY COUNSEL RULING, AND THE 1997 SUPERIOR COURT RULING**

The Planning Director chose to ignore the 1996 ruling, in direct violation of the 1996 City Council ruling and refused to replace "all the 14 trees removed". \*\*\* **And he was in violation of the 1997 Superior Court agreement** ( also sent to him on February 14, 2008).

But, then, in an about face, on **August 20, 2008**, five months later, the Planning Director "suddenly" claimed he "just" discovered the 1996 City Counsel ruling and rescinded his January 12, 2008 decision. I had already appealed and filed all my formal appeal papers and was all ready for the July 23, 2008 Commission hearing. But, with the Planning Director's assurances, I agreed to withdraw my appeal.

### **NEW DECISION BY PLANNING DIRECTOR, NO REPLACEMENT OF 10 REMOVED TREES ON SIDE OF LAWRENCE HOME**

**The Planning Director's September 30, 2008 and January 12, 2009** decisions now replaced more of the 27 removed trees, but neglected to replace the ten, mature shade trees removed from the side of my home. He also "lumped" three more landscape proposals, onto the appeal hearing, after assuring me that he would not do that when I withdrew my July 23, 2008 appeal.

The Planning Director's new decision , "**all trees removed which are shown on the approved landscape plan be replaced with replacement trees consistent with those types and sizes represented on the original landscape plan**" is inconsistent with the trees **chosen** by the Planning Director for replacement. The

trees on the "original 1976 landscape plan" consisted of large shade trees. The replacement trees chosen by the Planning Director and HOA are 15 gallon "Silk Floss", " Chilean Mesquite and "Desert willow". These are not large shade trees "consistent with the types and sizes represented on the original 1976 landscape plan.

**\*\*\*1997 SUPERIOR COURT AGREEMENT, CASE NO. 65702-INDIO  
(LAWRENCE V. TPHOA)**

IN 1996, The Superior Court agreement was signed March 20, 1997. The agreement stated on pages 21-22, " ALL TREES IN THE COMPLEX WILL BE TRIMMED, THINNED OR TOPPED. CONCERNS OF HOMEOWNERS WILL BE CONSIDERED", "THE BOARD AND LANDSCAPING COMMITTEE WILL ABIDE BY ALL APPLICABLE LAW AND LOCAL ORDINANCES. TREE REMOVAL AND/OR REPLACEMENT OF TREES WILL BE CONSISTENT WITH THE CITY OF PALM SPRING'S RULES AND REGULATIONS, AND THE BOARD WILL ENDEAVOR TO CONSIDER AESTHETICS AND HOMEOWNERS 'RIGHT TO ENJOY THE PROPERTY', and "AS A COURTESY TO CONTIGUOUS HOMEOWNERS TO A MAJOR LANDSCAPE PROJECT, THE AFFECTED HOMEOWNER SHOULD BE GIVEN THE OPPORTUNITY TO EXPRESS THEIR OPINION", and "**THE BOARD AGREES NOT TO REMOVE ANY OF THE FOUR HEALTHY MATURE PINES, EUCALYPTUS, BOTTLE AND OLIVE TREES WHICH FACE THE WEST SIDE OF THE LAWRENCE UNIT** (included within the trees identified by the Palm Springs Planning Commission as trees 1 through 7). This agreement was signed by TPHOA BOARD AND IS ENFORCEABLE IN THE SUPERIOR COURT IN INDIO.

This agreement has been ignored by the Planning Director and HOA board. The four trees referenced in the agreement have been removed and should be replaced with "suitable" trees.

**REQUIRED FINDING:**

Staff Report states that according to the Zoning Code Section 94.04.00 (D) (1-9) the "guidelines provide for the architectural review of development projects to determine that the development will provide a desirable environment for its occupants as well as being compatible with the character of adjacent and surrounding developments". #1- **The Planning Director has not approved replacement of the 10 trees removed from the side of appellants home, in direct violation of his decision since these trees are on the "original landscape plan".**

**"QUALITY INN" PROTESTS CHOICE OF  
REPLACEMENT TREES**

#2. The Planning Director has not researched the "immediate neighborhood community re the Twin Palms HOA or "it's harmonious relationship to it". **In fact, the "Quality Inn" adjacent to Twin Palms HOA on Twin Palms Drive wrote a**

letter April 8, 2009, in protest to the proposed HOA replacement trees (see 4/8/09 letter attached).

# 7. The Planning Director claims, "The proposed landscaping is consistent with the other landscaping on the property in size and location." That is not true. The original trees were large, mature shade trees. The proposed landscaping consists of only "desert " trees which are not on the "original landscape plan" and do not provide shade, coolness, security or privacy. And, most importantly, they are not "energy tolerant".

### " DESERT" TREES NOT ENERGY TOLERANT

The Planning Director also claims, #7, " The proposed replacement types of landscaping are drought tolerant and well suited to the desert environment." That is true only in one respect. But it does not take into account, the huge increase of energy use that will be required to cool the HOA homes, especially in the increasing brutal heat of summer. Nor does it take into account, the increase of danger from the lack of large shade trees which provide security and prevent strangers from seeing into homeowners windows from the sidewalk and street. Nor does it take into account, the lack of privacy between homes and the street. And, most importantly, the proposed replacement plan ignores the original landscape plan , the 1996 City Council ruling and the 1997 Superior Court agreement.

### A. QUESTIONS ASKED OF CRAIG EWING, PLANNING DIRECTOR, AT THE APRIL 8TH,2009 COMMISSION HEARING:

1. What did the 1996 City Council ruling mean , "Any trees removed must be replaced with suitable and fast growing trees"?

#### APPELLANT ANSWER:

Lawrence was the appellant and present at 1996 City Council hearing and can attest to the meaning of that decision. The ruling was not ambiguous, it was clearly decided to **deter the removal of healthy trees.** By making the HOA replace "large, shade trees" with "suitable" trees, it stopped the HOA board removal of healthy, shade trees.

### 1996 CITY COUNCIL DECISION WAS TESTED

The 1996 City Council , in my opinion, meant, if not the EXACT species of tree, then one that was as CLOSE TO IT AS POSSIBLE.

The meaning was tested; The 1996 HOA board sent the 1996 Planning Director, a new proposal to replace the two pines removed from the west side of Lawrence

home, with "two pear trees". The 1996 Planning Director, Doug Evans, "rejected that plan". (See June 6, 1996 letter).

The 1996 board sent another proposal to replace, with two small, non shade trees. It was again rejected by Doug Evans. The board got the message. "Suitable" meant "large, shade trees". That stopped the board from removing five more healthy, shade trees from the side of Lawrence home. (The two 1996 pines removed were never replaced. They should be added to list of Planning Director's replacement trees per 1996 City Council ruling).

**A third test of the ruling:** The 4/17/ 1996 board proposal to replace the two removed pines, with more small trees, but move them to a "**new location**". That proposal also was rejected by the Planning Director, Doug Evans,. And, in fact, Mayer Kleindienst wrote on May 12, 1996, to assure Lawrence that the ruling did not state "new locations" as the board claimed. (See 5/12/96 letter). Finally, the board stopped removing healthy trees by the Lawrence home. That is, until February, 2008.

### **ORIGINAL 10 TREES REMOVED FROM SIDE OF LAWRENCE HOME**

**Now, all 10 "original" trees have been removed at the west side of the Lawrence home, leaving an empty wind tunnel. There is no shade, no security, and no privacy from the sidewalk, street and motel across the street. All Lawrence trees should be replaced per the original landscape plan (per the director's decision in Staff Report) including those 10 trees removed along the Lawrence home. But, the Planning Director's decision excludes the Lawrence trees, for some "unknown" reason.**

**2. How did Craig Ewing decide on the "desert" replacement trees for the original large shade trees, when the ruling called for "suitable and fast growing trees"?** The Planning Director answered, "it had been difficult". He also said, "I am following the original 1976 landscape plan".

#### **APPELLANT ANSWER:**

Perhaps, the difficulty would have been lessened if Director Ewing had called for a meeting with homeowners and gotten their views, not just two members of the board. Most importantly, if Craig Ewing is actually "following the original landscape plan", then he would replace with "SUITABLE" trees on that plan. **But the Planning Director is replacing large, shade trees with 15 gallon "desert trees" which is opposite to the original 1976 landscape plan.** In reality, the Planning Director is following the HOA board's agenda to remove all the large shade trees at TPHOA for "desert trees". But, these choices should not be made by a city agency and two board members with an agenda. Especially since the two board members do not spend their summers in Palm Springs. There are 33 homeowners at Twin Palms HOA and they should have a voice re tree choices that affect their quality of life in

Palm Springs, especially in the summer.

3. **Commissioner Conrad "doubted", at the April 8, 2009 hearing, "whether homeowners had any rights to object once they elect a board".**

**APPELLANT ANSWER:**

**The board does not have unlimited power. They cannot remove all the mature, shade trees and replace them with what ever they want, without homeowner knowledge or approval. And they cannot ignore past legal rulings.** The CC&R's and Bylaws dictate the exact rules by which we conduct our association business. But, the California Code (Davis Sterling Act) and Corporation Code take precedence. **Also, there was a 1997 Supreme Court agreement, signed and sealed, between the TPHO Association and Lorraine Lawrence which covers landscaping issues, among other things. That legal agreement was ignored by the board and Planning Director.** It specifically deals with **"stopping removal of trees near west side of Lawrence home".** ( See attached, Supreme Court ruling). Homeowners do have rights in spite of the boards they elect. If we lived in a total dictatorship, then, of course, Commissioner Conrad would be right.

4. **The Planning Director was questioned re his changed decision re "24 " box tree" v. "15 gallon tree replacements ", and his answer was unclear.**

**APPELLANT ANSWER:**

**The 1996 ruling "suitable and fast growing trees" rules. The size of any trees ultimately chosen must be "suitable" to the size of the tree it presumes to replace, and "fast growing", to quickly reach the size of the shade tree it replaces. The 24 " box tree should be the absolute minimum size considered.**

**B. QUESTIONS NOT ASKED (BUT SHOULD BE ) OF PLANNING DIRECTOR, CRAIG EWING AT THE 4/08/09 COMMISSION HEARING:**

1. **Why was the 1996 City Council ruling that was attached to Lorraine Lawrence's 3/06/08 letter to the Planning Director, Craig Ewing, not acknowledged or answered? Why did the Planning Director claim in his 8/20/ '08 letter to "just discover the 1996 City Council ruling", and use that excuse as his reason to "rescind" his April 23, 2008 decision?**

**APPELLANT ANSWER:**

There is no logical explanation. The Planning Director knew of the 1996 ruling



prior to February 14, 2008. This, in my opinion, creates a serious lack of credibility at his department. This should be investigated by the Planning Commission which is accountable for the Planning department.

**2. Why did Planning Director, Craig Ewing, advise Lorraine Lawrence at their July, 2008 meeting, that if she "withdrew her appeal" that he would not "lump any further proposals from the HOA into his next decision. But, then lumped three more proposals into it?**

**APPELLANT ANSWER:**

The Planning Director not only rescinded his 4/23/08 decision, he rescinded his July, '08 agreement not to "lump together any further proposals from the HOA". He lumped 3 more proposals to be part of the 4/08/09 Commission hearing. That assured that all the non-conforming maps, letters, map color codes (some in black and white and making no sense), different numbers and letters of trees (all different), would add to the confusion at any future appeal hearing. There is not one conforming document which combines all the various proposals and replacements from February '08 to April '09. The hodge podge presented at the April 8, 2009 Commission hearing was not questioned. . Not one Commissioner attempted to breakdown all the documents and question them.

**3. Did the Planning Director ever deal with, or question, the lack of proper maintenance of the over 27 trees removed at TPHOA, before making his April 23, January 12, January 27, and March 31, 2008 decisions for further removals and replacements?**

**APPELLANT ANSWER: (SEE ARBORIST, SUSAN SIMS, REPORT)**

There was no discussion and nothing documented in Planning Director decision (s) re the maintenance, or care of trees. And no attempt to diagnose why over 27 trees needed removal. And worse, **no attempt to save any of the trees.**

**NO ATTEMPT TO SAVE THE TREES AFTER WIND STORM**

In fact, the pines and eucalyptus trees had not been pruned or trimmed for several years, They were overly top heavy as a result. Their roots were soaked from recent rain storms. The lack of proper "deep" watering also caused the tree roots to surface as they sought water. The roots being so close to the surface caused them to topple over more easily in a wind storm. The gardeners weed whackers were particularly brutal to the tree trunks which left "equipment wounds" on almost every tree at Twin Palms. This constant neglect caused the trees to be susceptible to falling in a heavy wind storm. **The rush to judgement to further remove trees, rather than try to save them by proper pruning and deep watering and careful maintenance was not considered by the Planning Director or HOA board.**

**4. Why are the three HOA proposals all referenced as "Minor Architectural Application MAA" but the Staff Report refers to it as "Amendment to Landscape Plan for Twin Palm Condominiums"?**

**APPELLANT ANSWER:**

I have no idea when this shift in terminology took place and question it. It was most likely, when the Planning Director asked me, appellant, to "withdraw appeal" in July'08, when he also "rescinded his 4/23/08 decision". It was never discussed, or communicated by letter. The question should have been asked and answered at the Commission's 4/08/09 hearing.

**5. Why is the Planning Director replacing some trees which are not part of the original 1976 landscape plan, but not replacing trees that are part of the 1976 landscape plan?**

**APPELLANT ANSWER:**

The Planning Director, in my opinion, is allowing only the HOA board to direct these choices. Craig Ewing, and his planner, Scott Tachner, were advised by several letters, that the TWO HEALTHY LEMON TREES, six pines, one olive, two eucalyptus trees and one brachychiton removed from the west side of Lawrence home were all on the "original" landscape plan. Appellant Lawrence can testify to this as an "eye witness".

**Lawrence's aunt and uncle; Bert and Dave Ross, were the original 1976 owners of her TPHOA home.** My daughter and I, visited with our aunt and uncle almost yearly. We all viewed and discussed, first hand, all the trees in question. They were all planted by the developer as part of the master landscape plan. These facts were ignored by the Planning Director as he decided "not to replace any of the trees removed" at my home. Yet, arbitrarily, he's approved replacing a Tangerine tree on La Paloma which actually was not on the original landscape plan. But, I think it should be replaced anyway, per the 1996 City Council ruling, as should all the trees removed.

**6. Why wasn't the Planning Director asked to produce any documentation, or questioned re "appeal not being a public hearing"? It was accepted without question by the Commissioners. He used it as the alleged reason for appellant only having "three minutes" to argue complex Appeal and Continuance issues.**

**APPELLANT ANSWER:**

Since neither Appellant or Commissioners knew of this "appeal" rule, it should have been verified by the Planning Commission before the hearing continued.

Especially, since the Appellant has been waiting through an entire, full appeal hearing (without any hearing held on the "Continuance" )and then only allowed 3 minutes to object, request a Continuance, and attempt to argue the appeal. It is unfair that an Appellant has only three minutes to argue a complicated appeal and a "Continuance" , especially when the "Continuance" should be heard and decided first.

When the \$305. Appeal fee is collected by the Planning Department, they are obligated to advise the appellant of any and all rules pertaining to that proceeding. Especially the, so called, Appellant's "3 minute speaking rule". And, at the very least, hand out a printed procedure sheet. I was never advised of the severe time restriction by the Planning Director, or any of his staff. It seems odd that the Planning Director would keep this important information to himself, until the Commission hearing.

### **CONCLUSION:**

#### **ENERGY CONSERVATION VS. WATER CONSERVATION**

When deciding whether to overturn the Planning Director's decision, the argument re "water" v. "energy " should be carefully analyzed by the Planning Commission. The question of "energy conservation" is critically important, but that question was never raised or discussed by the Planning Director. Nor, was it raised during the April 8, 2009 Commission hearing. It is a serious question in light of Palm Spring's increasingly harsh summers.

To replace magnificent, large, mature shade trees with thin, wispy, "desert trees" in Palm Spring's increasingly hot summers, leaves the homeowners unprotected. The entire question of "ENERGY" is ignored in the Planning Director's decision. He ignores the increase of energy use necessary to cool our homes with the shade trees gone. The 1996 City Council ruling called for Replacement of trees with "suitable and fast growing trees" based on the original 1976 landscape plan which consisted of 31 pines, 36 eucalyptus, 30 olive, 28 bracychiton, 54 bottle brush, 17 lemon, grapefruit and orange trees. All selections based on "shade" and "coolness". That decision is being ignored by the Planning Director.

### **BOTTOM LINE:**

ALL TREES THAT HAVE BEEN REMOVED SHOULD BE REPLACED BY TREES THAT PROVIDE SHADE AND PROTECTION FROM PALM SPRING'S INCREASINGLY HARSH SUMMERS. THE PINES, EUCALYPTUS, BRACHYCHITON, OLIVE, AND FRUIT TREES, WERE A CAREFUL, ARCHITECTURAL CHOICE FOR GOOD REASON, TO PROVIDE SHADE, COOLNESS, SECURITY AND PRIVACY.

Any tree replacement plan which follows the "original" 1976 landscape plan must replace with large shade trees. And all the trees that have been removed, must be replaced per the 1996 City Council ruling. And that should mean no exceptions. The HOA and Planning Director can't pick and choose which homes get trees replaced depending on whom the person is. All trees removed should be replaced without exception.

**I, Appellant, Lorraine Lawrence, request in my appeal to the Planning Commission that they overturn, or modify, the Planning Director's decision to replace over 27 large, mature shade trees at Twin Palms Development, with small, wispy, 15 gallon "desert" trees. And further, request that the Commission overturn, the Planning Director's decision not to replace any of the 10 trees removed from the side of my home leaving it an empty wind tunnel without protection or security.**

Respectfully submitted,

**LORRAINE LAWRENCE,**  
APPELLANT, APRIL 22, 2009 PLANNING  
COMMISSION APPEAL HEARING

Encl(s):

- 4/14/09- Arborist Report by Susan Sims,
- 3/03/08- TPHOA Wind Damage "tree legend" # 1-17 # (# 17 references two lemon trees and is 2nd, of three contradictory reasons for removal)
- 3/06/08 -Lawrence letter to Craig Ewing
- 1997- Superior Court agreement (Lawrence v. TPHOA, pages 20-22)
- 2/06/09- Lawrence "**Notice** of appeal"
- 3/18/09- Lawrence letter to David Ready (problem(s) at Planning Dept.)
- 3/19/09- Lawrence letter to David Ready (Document that I have only filed a "Notice of Appeal" not my formal "Appeal")
- 3/20/09- Lawrence "Request for Continuance"
- 3/25/09- Lawrence letter to Doug Holland re "Continuance"
- 4/01/09- Lawrence Objection to, "TPHOA objection to request for Continuance"
- 4/06/09- Lawrence letter to David Ready & Doug Holland(Complaint re not getting my "abbreviated Appeal" into Staff Report although timely filed)
- 6/6/96 - Planning Dept., Doug Evans, letter to HOA
- 5/13/96- Mayor Kleindienst letter to Lawrence
- 4/08/09- Quality Inn letter to Commission
- 4/03/09- "Abbreviated Appeal" Position to Planning Commission (not in Planning Staff Report, or on City website)
- 4/9/09- Desert Sun article by Paul Ortega (Why trees fall in wind storms).
- April, '09 already - Photos- West of Lawrence home



*ARBORIST REPORT  
FOR  
Lorraine Lawrence  
1223 Twin Palms Drive  
Palm Springs, California 92264*

*April 14, 2009*

*Requested by  
Lorraine Lawrence*

*Prepared by  
Sims Tree Health Specialists, Inc.  
6111 Appaloosa Avenue  
Pedley, CA 92509  
(951) 685-6662 Fax (951) 685-2267*  
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PLANNING SERVICES





## *Sims Tree Health Specialists, Inc.*

*6111 Appaloosa Avenue, Pedley, CA 92509, (951) 685-6662 Fax (951) 685-2267*

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Lorraine Lawrence  
1223 Twin Palms Drive  
Palm Springs, CA 92264

April 14, 2009

### **Assignment:**

Sims was commissioned to inspect the trees at Twin Palms H.O.A. by Lorraine Lawrence. Sims inspected the property on the west side of Ms. Lawrence's home at 1223 Twin Palms Drive in Palm Springs, California, as well as the east and west areas of the H.O.A. property between Twin Palms Drive, Via Aguilla, La Paloma and La Jolla. Sims visited the site March 23, 2009, the day following a large windstorm.

### **Summary:**

Twenty two (22) trees have already been removed following four wind storms, and five (5) more are slated for removal by the H.O.A. and may be approved by the Palm Springs planning Department according to Ms. Lawrence. The history of the landscape at this site indicates loss both financial and esthetic to the H.O.A. and to Ms. Lawrence. The loss to Ms. Lawrence is the drastic reduction in privacy, shade and cooling effects the trees provided as well as esthetics and wind break. Ms. Lawrence stated that she felt exposed having lost her feeling of security.

Sims has included in this report criticism of some poor arboricultural practices as well as helpful information that can aid the H.O.A. in the future.

### **The failure of the H.O.A. pine trees is due to a combination of factors:**

Pine trees are evergreen trees, retaining their needles all year long. All evergreen trees are more prone to wind throw than deciduous trees (trees that lose their leaves in winter). In Southern California our worst winds are usually November through March.

Shallow roots were present because the irrigation was focused on turf. Trees need periodic deep irrigation; this did not appear to have been provided. The area Sims inspected had deep, sandy, dry soil. Sandy soil allows trees to have a deeper root system than the average tree in average soil which roots in the top eighteen (18) inches of soil.

they not only can sunburn, but in their weakened state can contract *Xylella fastidiosa*, the bacterial disease that killed much of the Southern California Oleander population. I have attached my article on *Xylella fastidiosa* for your information.

Pruning evergreen trees is best done during the coldest time of the year and absolutely kept to ANSI A-300 standards. Pruning evergreen trees such as *Eucalyptus*, pines, cedars or junipers heavily or off season attract boring insects that can quickly damage or destroy these trees.

For example, pine trees heavily pruned or topped are predisposed to Bark Beetles. Bark Beetles are very small insects that invade trees and lay their eggs beneath the bark. The hatching larvae feed on the cambium layer (reproductive, sugar and water carrying tissues). Damage can become critical before symptoms are visible and can quickly kill a heavily infested tree.

### Trees and Turf

Sims previously wrote an Arborist Report in December of 1995, for Lorraine Lawrence. At that time Sims pointed out the difficulties of trees with turf beneath their canopies.

- 1). Turf competes with trees for water and nutrients. In your HOA trees have to absorb turf water in the shallow turf area.
- 2). Turf maintenance equipment damages the tree trunk and in your case, roots. This is commonly referred to as weed whacker or lawn mower blight. The equipment may girdle the tree, killing it, or may only wound the trunk or roots allowing decay to enter the tree. It appears the H.O.A. is controlling the turf at the trunk now, but not in the past. Photos may be viewed on pages 22 and 23 that shows lawn equipment damage.
- 3). Water allowed against the tree's trunk - While necessary to water a young tree directly over the rootball, an older tree should have its trunk kept dry. Moisture kept at a trees trunk can allow disease organisms into the trunk and root crown.
- 4). Turf can cause allelopathy, a chemical inhibition of tree growth. Usually this is a factor in starting young trees.

Ms. Lawrence mentioned the H.O.A. may install synthetic turf and remove the grass. Synthetic turf when installed beneath the canopy can damage absorbtive roots forced to feed in the surface area where live turf lived. If care is taken not to damage the surface roots of remaining trees or if the synthetic turf is started at the dripline the synthetic turf should be no different to good tree care than properly placed living turf. In either case the trees on occasion should receive separate water applied deeply.

An irrigation schedule for the trees is an ongoing process. Winter irrigation will be less than summer. Drip irrigation is not good for trees in sand unless emitted from a drip line or soaker hose that has many areas for water to emanate from. In sand, water penetrates

very quickly and will attain depth quickly, but is in the form of a very narrow column spreading very little in width. Note the chart shown as an example below.

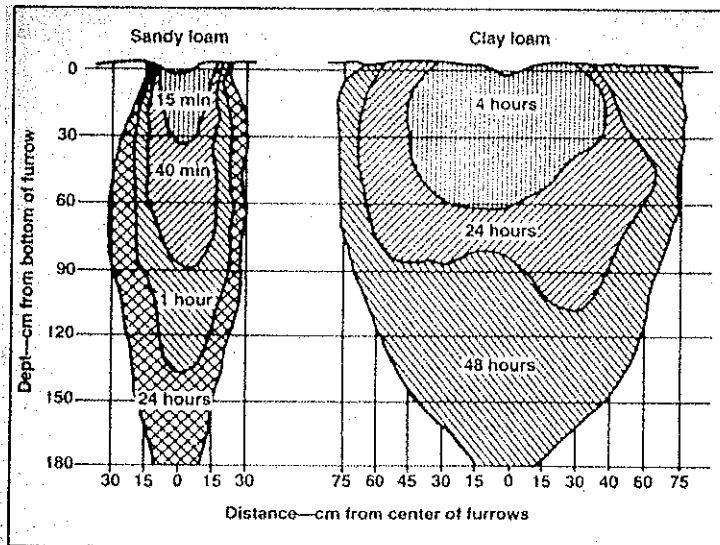


Fig. 4.2 A light irrigation wets soil to field capacity at a lesser depth than a heavy irrigation. Note the difference in wetting patterns for sandy and clay loam soils.

### Replacement trees:

The best shade trees for areas that are windy are deciduous trees. They will be void of leaves in most of your storms. Deciduous trees are excellent for energy savings since they allow the homes to be warmed by the winter sun, but shaded from the summer sun. There are many varieties of deciduous trees that may be of interest to your H.O.A. It should be noted that some of the desert trees appear to be environmentally friendly, but they do not produce as much oxygen or sequester as much carbon as trees with more foliage.

It is as important to choose the individual tree as it is the variety. An ISA impartial Certified Arborist qualified in tree structure should inspect the replacement trees at the grower's nursery. In so doing, this person should be able to choose trees of good structure without poor crotches, dual or competing leaders or wounds without girdling roots or being root bound. The poor or discounted tree will cost more in the long run than a tree with proper structure.

Sims has been informed the following three (3) trees are being considered for the H.O.A. and therefore we have provided pertinent information concerning these trees in order to be of assistance.

Silk floss or *Chorisia* trees -

Very nice, fast growing, large, deciduous, flowering trees. Being flowering trees they can be messy. Their trunks are studded with spines. Those available without spines Sims has found to grow slower. Beautiful shade tree.

Desert willow tree, *Chilopsis linearis* -

A drought tolerant, fast growing, flowering tree. Since it flowers it can be messy. It tends to self sow sending up volunteers in any undisturbed spot where there is water. This is a poor tree in turf since the frequent water will allow for fast and soft growth to occur. Beautiful tree that can provide screening or privacy.

Chilean mesquite tree, *Prosopis chilensis* -

Drought tolerant, most years evergreen, flowering, fast growing tree. Pods that follow flowers can be messy. This tree is a poor choice if treated in the manner as your H.O.A. has treated the balance of your trees. This tree requires training and deep water. If this tree is irrigated shallowly you will have invasive roots and this tree can also fail in winds without deep roots.

Other trees the H.O.A. might wish to consider are ash trees. If kept a respectable distance from hardscape and deeply watered, ash trees can be very beneficial shade trees.

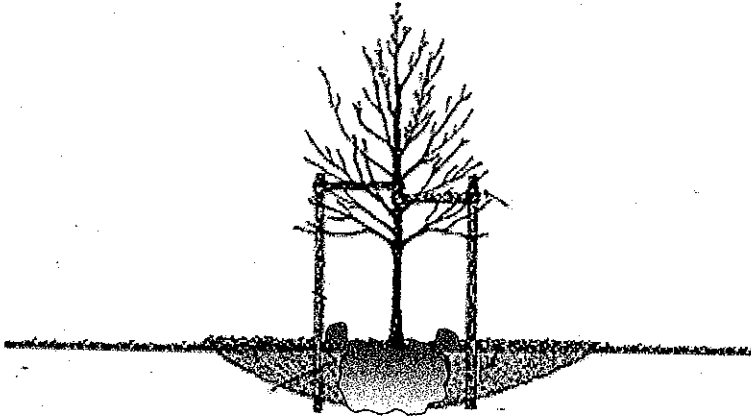
The H.O.A. may wish to look into *Fraxinus velutina* 'Rio Grande' and *F. angustifolia* 'Raywood'. Deciduous, fast growing, tough, and beautiful shade trees.

There are hundreds of palm varieties available. While not the greatest shade trees, they rarely cause damage with their roots, help reduce wind and they flex in the wind instead of failing. Palms can be an asset to the landscape both esthetically and as an aid in slowing the forces of the wind at the edges of the H.O.A. as well as inside the H.O.A.

You may also consider purchasing what could be a very helpful book titled "Street Trees Recommended for Southern California" published by Street Tree Seminars, Inc. You may purchase this book directly from Street Tree Seminars or Sims if you like.

ISA recommends a planting hole be three times the container size in width and no deeper than the soil in the pot. Do not over excavate then try to compact the soil again as it will settle and the tree will be too deep. Next be sure while planting that any circling roots are stretched out or cut. Back fill with the native soil that came out of the hole. Remove the nursery stake and place new stakes outside of the rootball, out of the way of the structural branching, and tied with flexible tie. These temporary stakes should only be present for a year. Some exceptions exist if the tree is weak. Install a temporary berm at the edge of the rootball to water in. Note the following diagram on page 6.

## Planting



### **Disclaimer:**

Arborists are tree specialists who use their education, knowledge, training and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of the Arborists, or seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that can fail in ways we do not fully understand.

Conditions are often hidden within trees and/or below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments, like any medicine cannot be guaranteed.

Treatment, pruning, and removal of trees may involve considerations beyond the scope of the arborist's services (such as property boundaries, property ownership, site lines, disputes between neighbors, landlord-tenant matters, etc.). Arborists cannot take such issues into account unless complete and accurate information has been provided to them.

The person hiring the Arborist accepts responsibility for authorizing the recommended treatment or remedial measures once it has been explained, and acknowledges that successful results cannot be guaranteed.

Trees can be managed, but they cannot be controlled. To live near a tree is to accept some degree of risk. The only way to eliminate all risks from trees is to eliminate all trees.

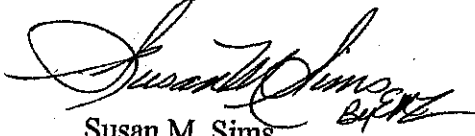


**Closing:**

This Arborist report was performed entirely at ground level. No climbing was performed and a bucket lift was not employed. No root crown excavations and no increment boring were performed.

Thank you for the opportunity to be of service. Choosing Sims as your Tree Health Care provider supports the Sims "Tree Learning Center". Sims is dedicated to preservation, education, improved health and safety of trees.

Sincerely,



Susan M. Sims  
Agricultural Biologist  
CA Certified Urban Forester #122  
I.S.A. Board Certified Master Arborist #WE-0286B  
California Agricultural Adviser #1096  
California Agricultural Applicator #31179  
California Contractors License #905423

Encl:

*Xylella Fastidiosa* Article in Western Arborist Magazine  
Photos  
Curriculum vitae  
Brochure  
Business Card

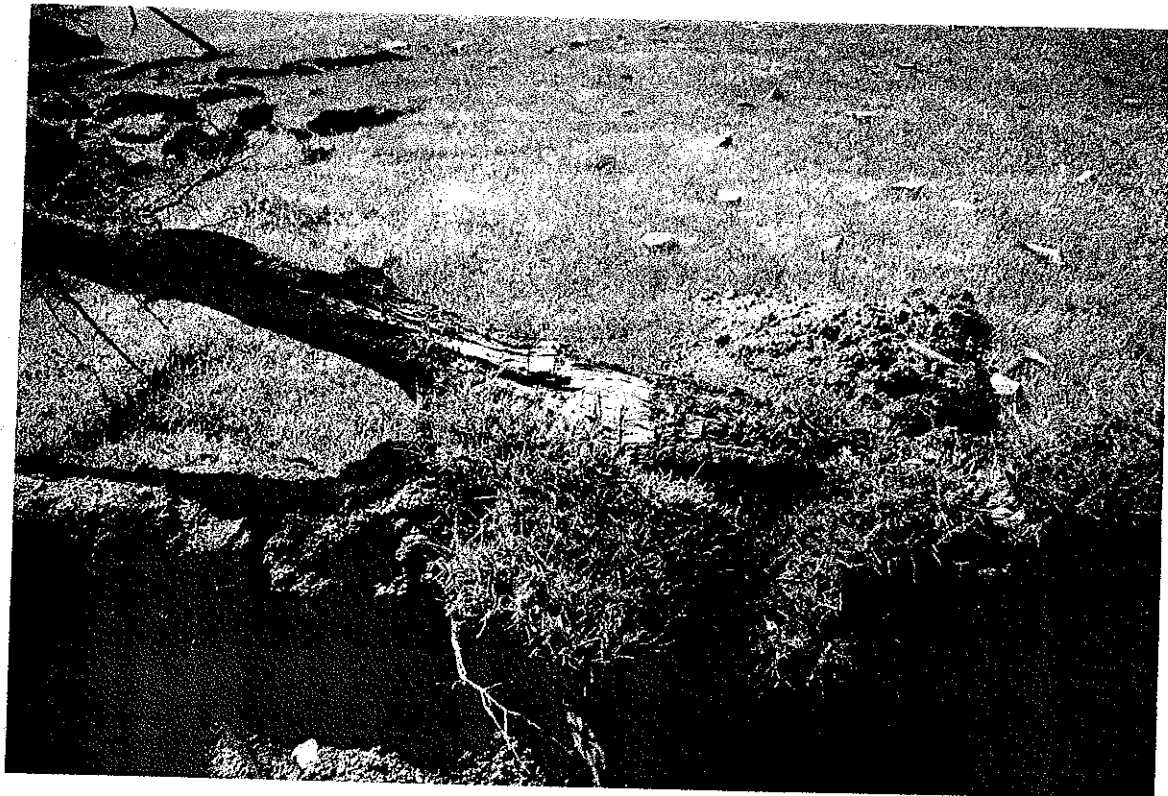


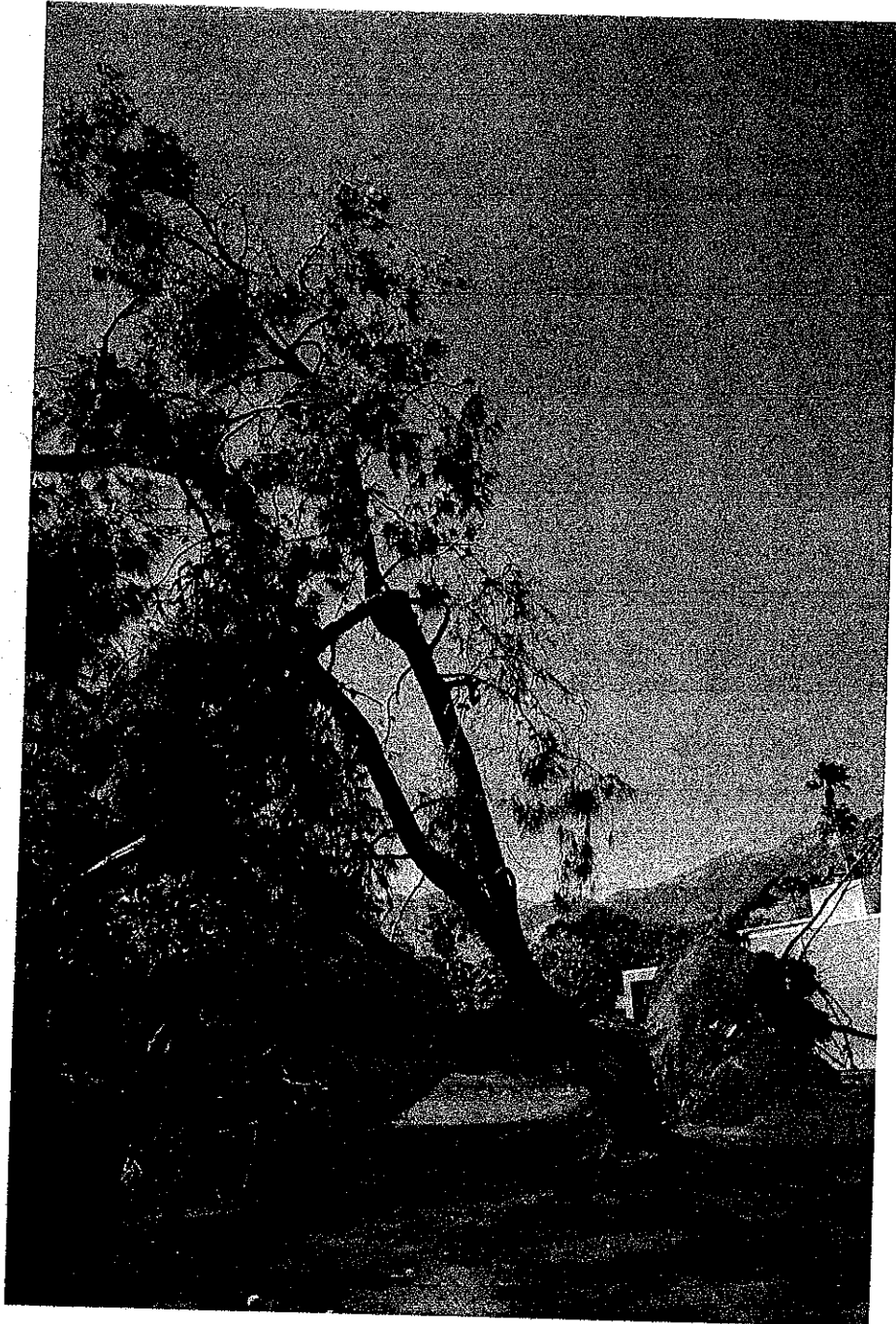
The *Brachychiton* tree above is behind the Lawrence home. It has sustained heavy canopy damage and should be replaced. The pine tree below was lost in the storm. The Lawrence home is to the right of this photo.





The above photo is of the Lawrence home. The storm loss has left this home exposed. The below photo shows a damaged surface root pulled from the soil when the tree blew over. Root damage from lawn equipment decays further; destabilizing the trees.





This pine tree is outside the Lawrence home. The crown sustained enough wind damage to require tree removal.



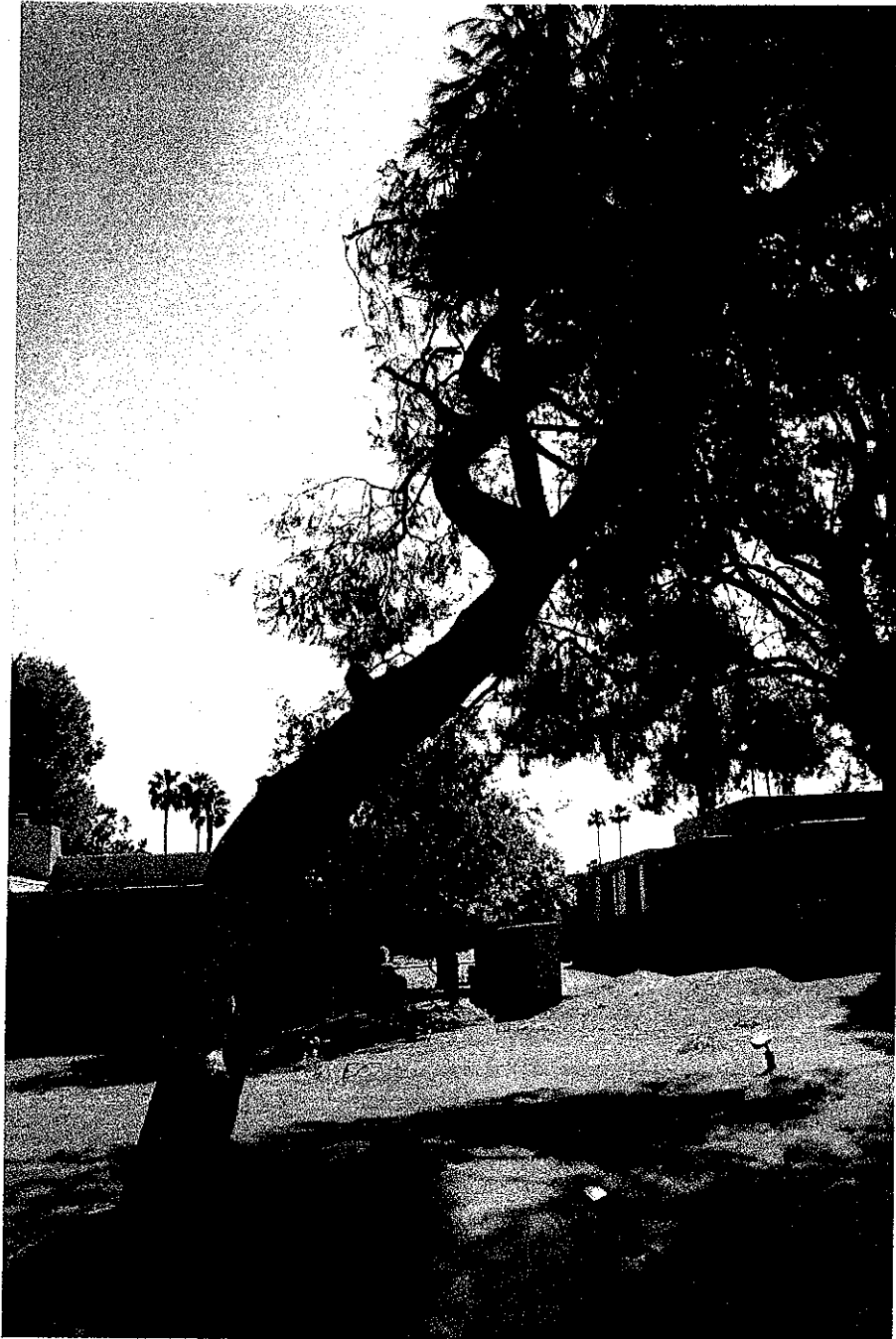
Both photos are of the fallen pine tree outside of the Lawrence home. Note the root plate of this tree is exceptionally shallow.





This pine tree is by the west pool and has fallen over. Perhaps this was the pine tree to be removed. Sims does not know.



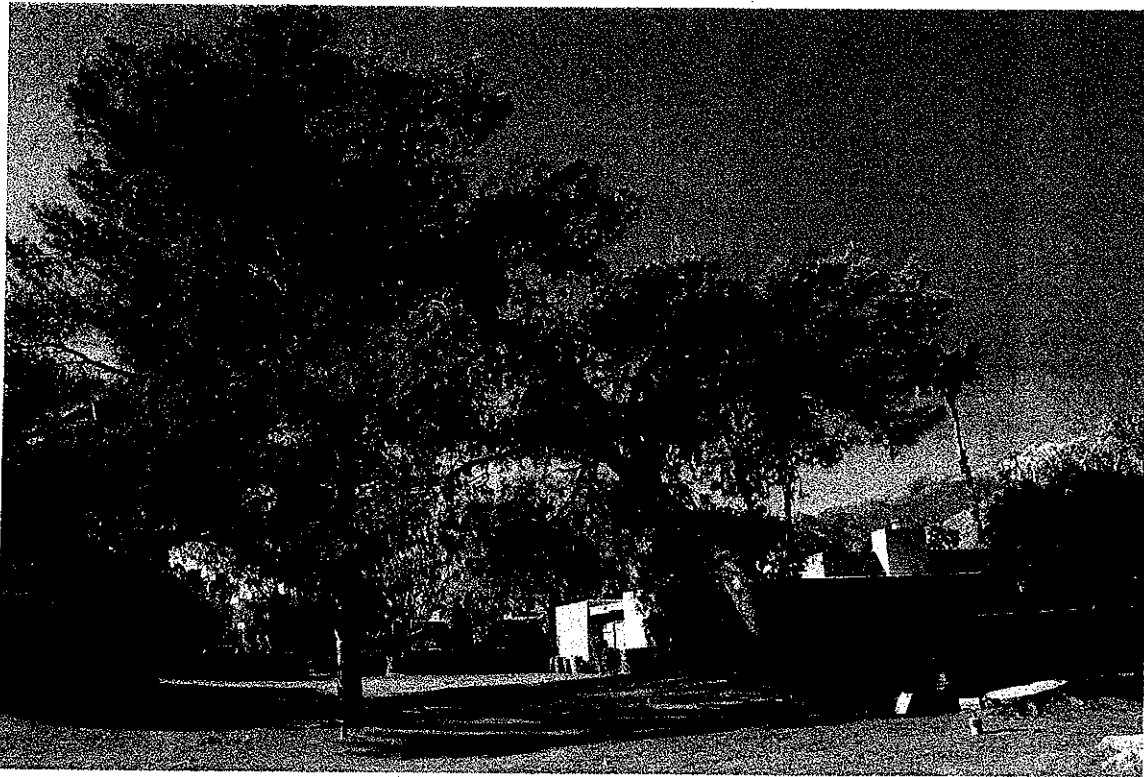


Pine tree behind #1846 La Paloma with lean and trunk wounding.

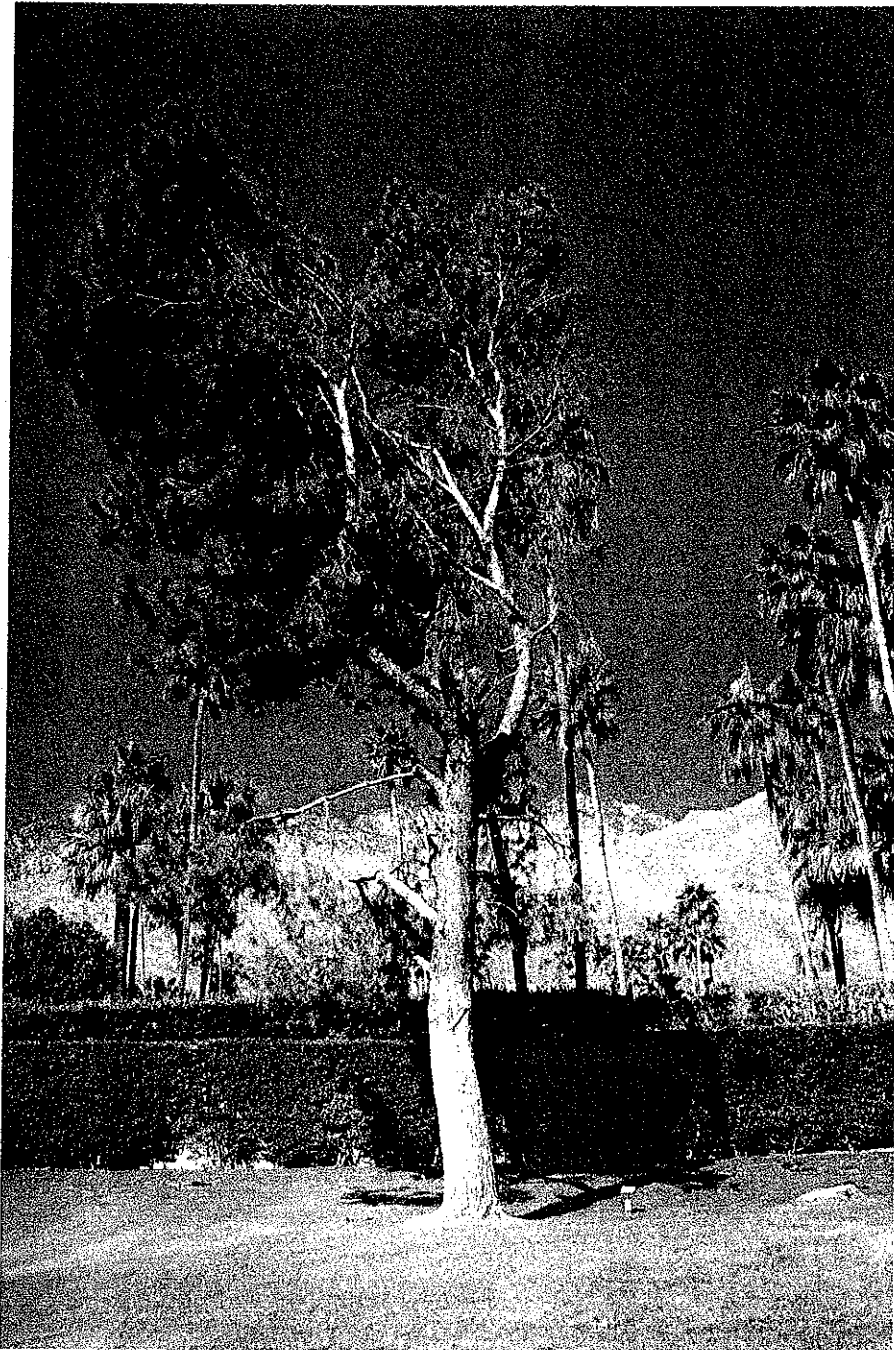


Close-up of the pine tree behind #1846 La Paloma with lean and trunk wounding.

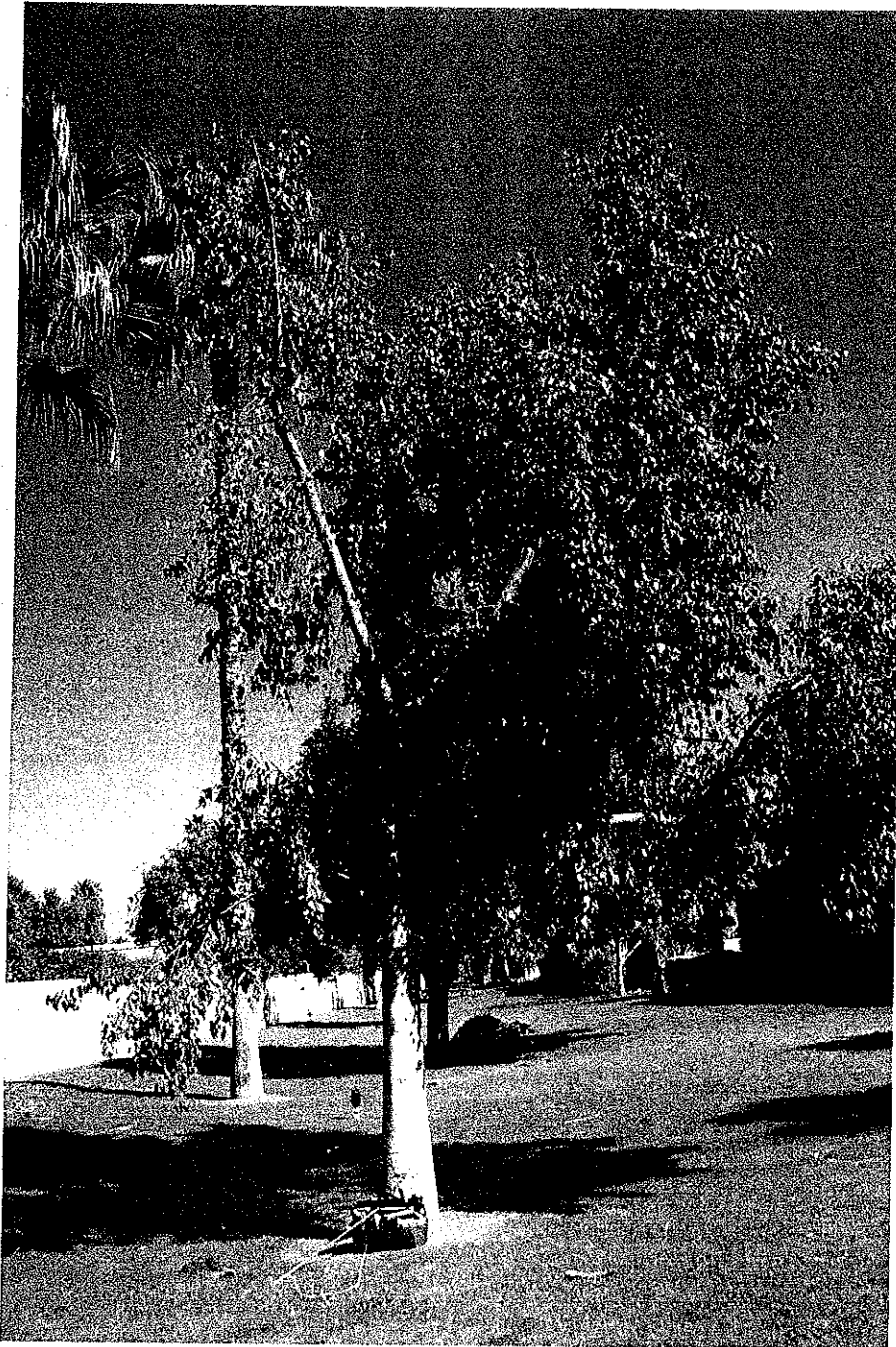




This pine tree is simply another view of the same pine tree as in the prior two photos above. It is Sims assumption this tree is on the list of trees to be removed. If not, Sims recommends removal of this tree.



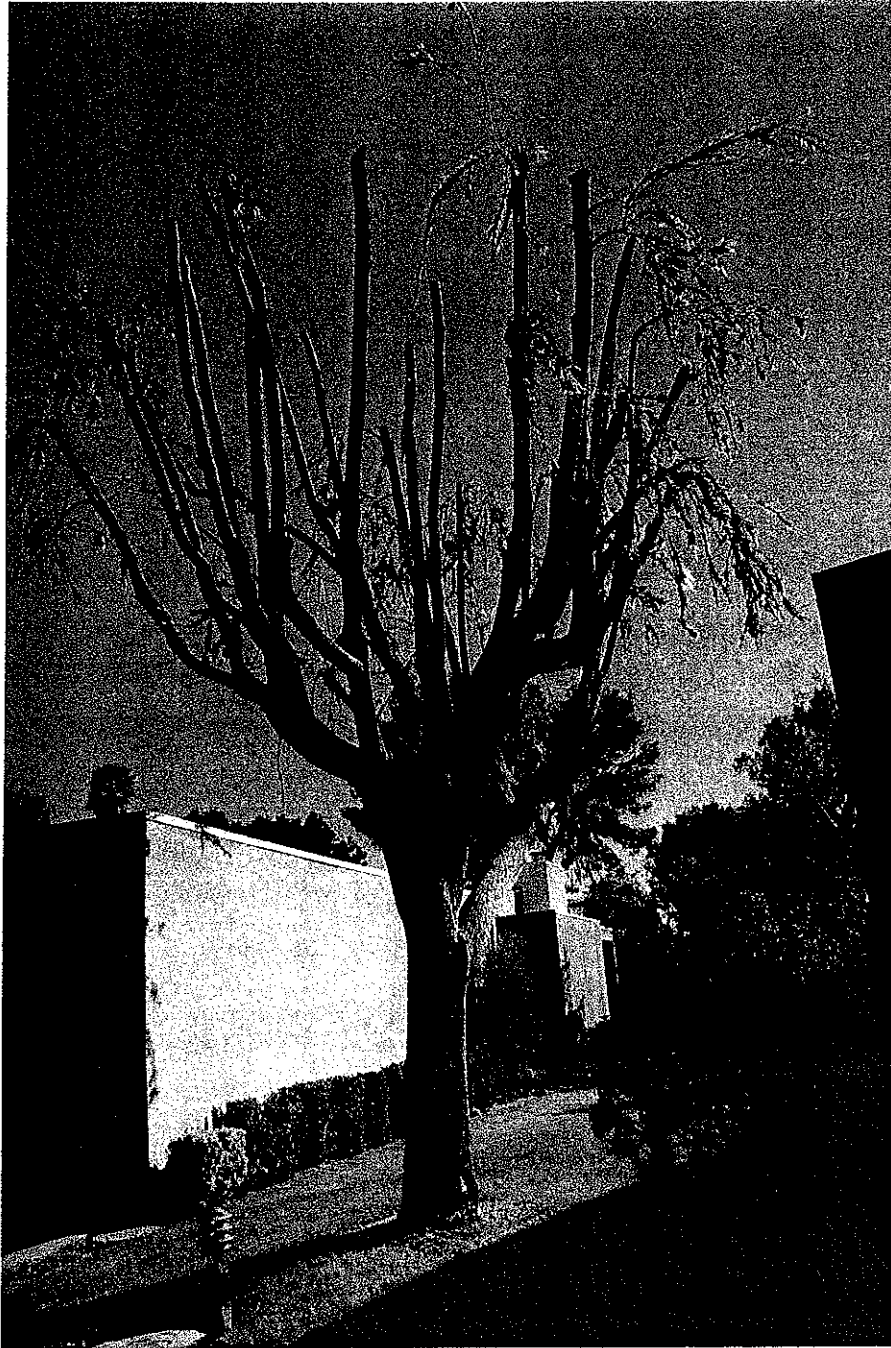
This pine tree is by the west pool. Sims is assuming this is one of the pine trees to be removed.



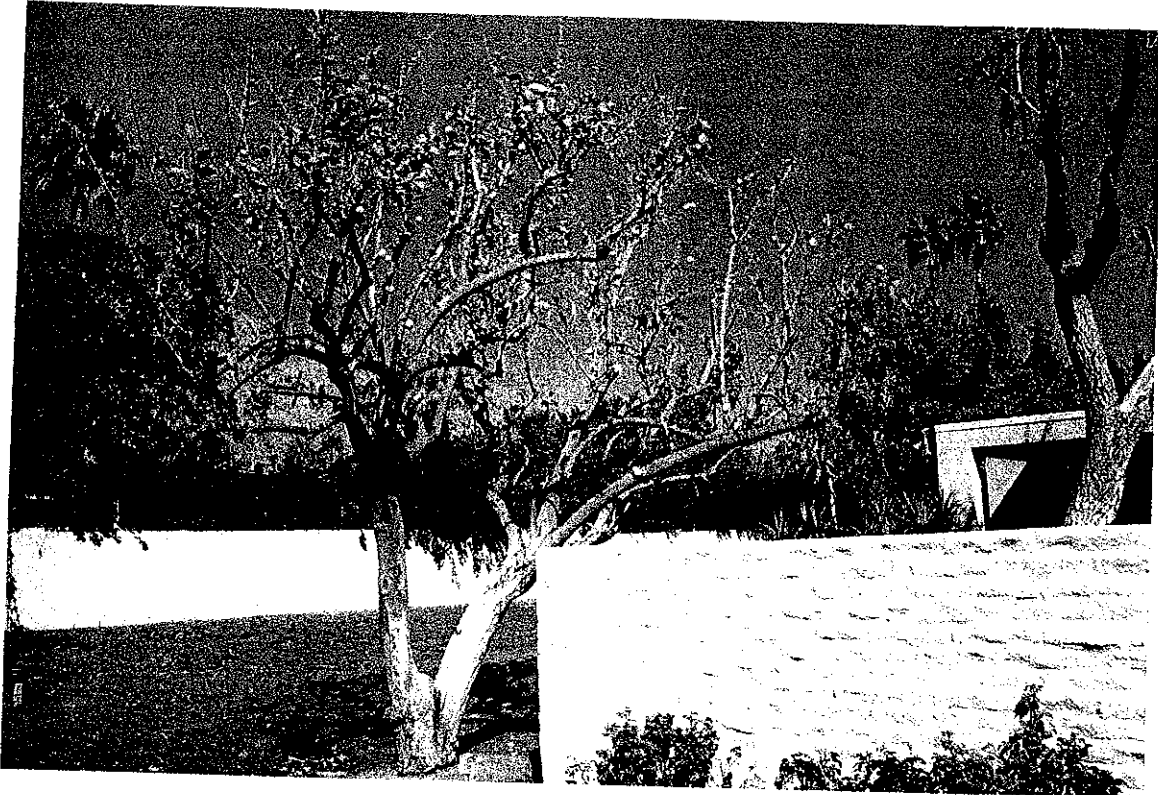
This *Brachychiton* tree by the west pool is thought to already be on the removal list. If not, Sims believes it should be.



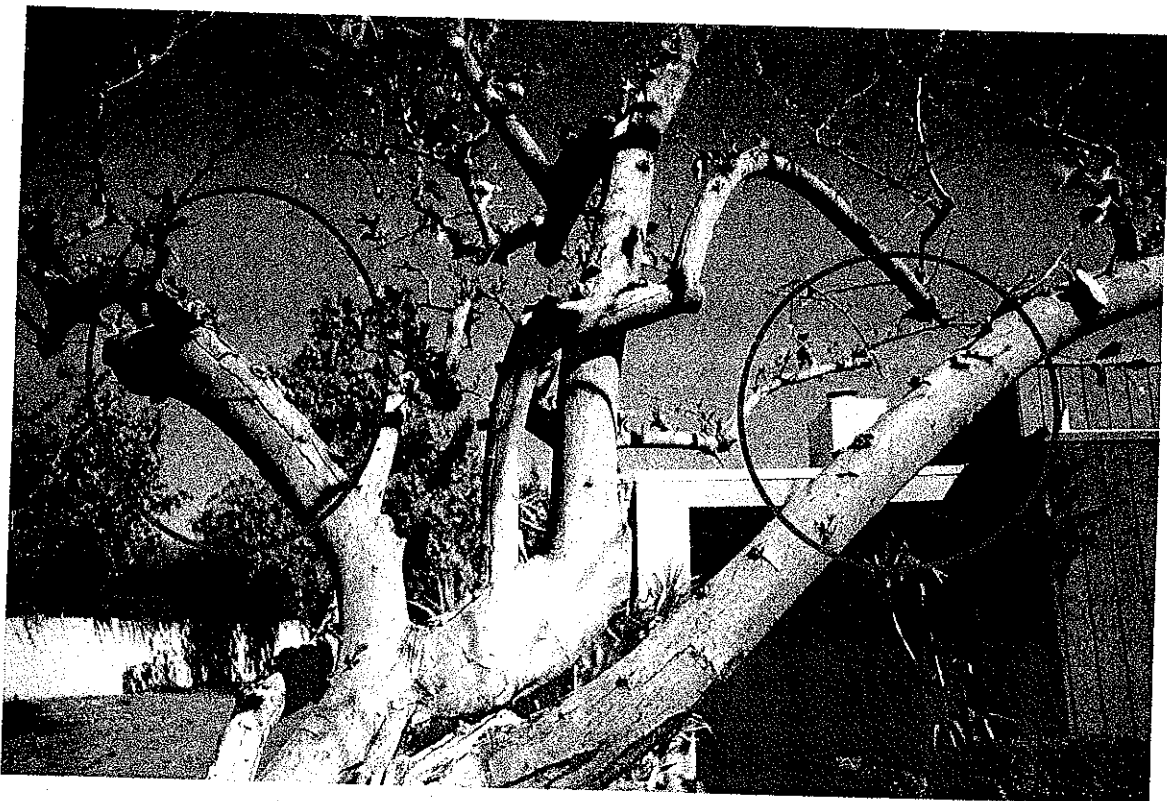
Close-up view of the *Brachychiton* tree by the west pool. This is damage from probable limb failure. To retrain this tree takes expertise and is in this arborist's opinion not worth the cost that would be incurred. Sims recommends tree replacement.



This is a bottlebrush tree that has been over pruned near #1846 to #1850 La Paloma.



Both photos show the over pruned citrus tree. The photo below and the photos on the following page show sunburn damage.







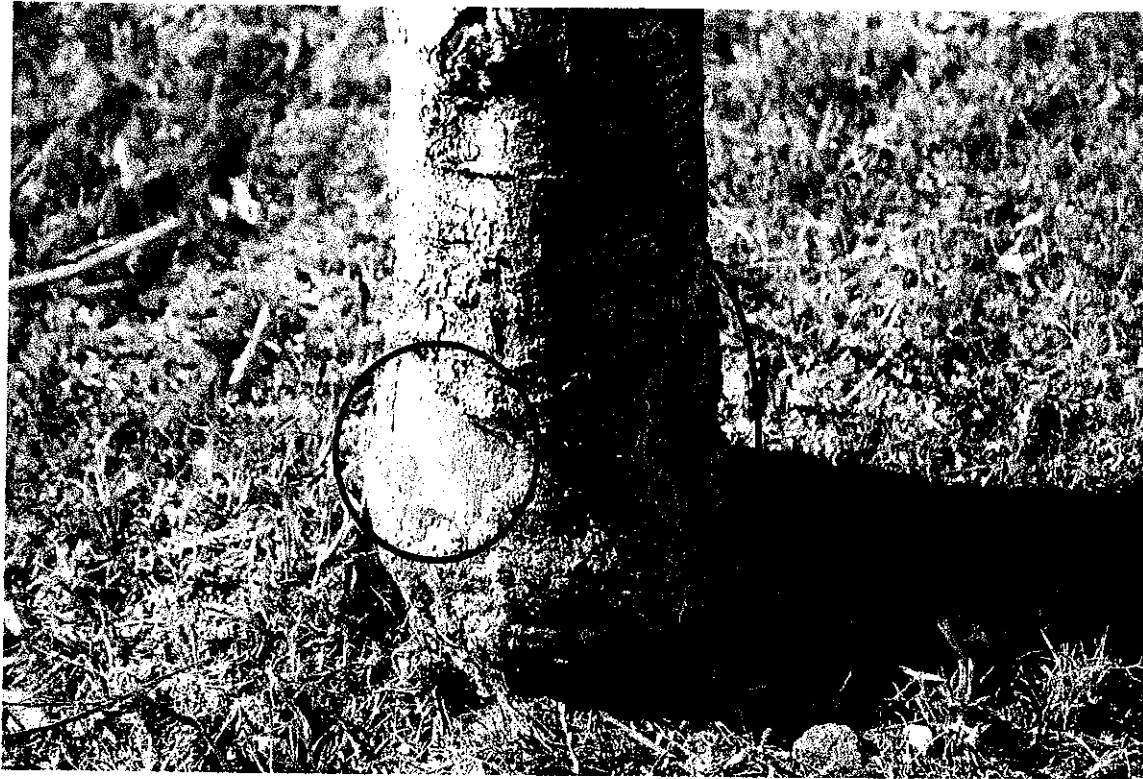
The citrus tree shows the presence of sunburn or scald as also cited on the previous page.





Small citrus tree near #1846 to #1850 La Paloma. Damage can be seen in the photos on the following page.





Both photos show both sides of the small citrus tree on the previous page. Note the damage from lawn equipment (weed whacker or mower). The red circles show areas of damage that have gone through the bark to the wood.



## *Xylella Fastidiosa*: a scorch disease in trees & ornamentals

Susan Sims

**O**LEANDER LEAF SCORCH, which has caused widespread mortality in oleanders, was first identified in Rancho Mirage, CA in September 1995. Dr. Stoner of Cal Poly Pomona knew that "something was going on with oleanders in the Palm Springs area" long before Sims Tree Health Specialists was called to inspect affected oleanders in Rancho Mirage. Remembering Dr. Stoner's words, I asked Marcia Greybus at that time a new pathologist at UC Riverside and Mike Henry (UC Cooperative Extension) to accompany me. Marcia, Mike and I teamed up to investigate the desert oleander problem. Marcia was able to culture the scorch bacteria *Xylella fastidiosa* from samples we collected. Dr. Fred Roth of Cal Poly Pomona, who sampled the symptomatic trees independently, also confirmed *Xylella fastidiosa*.

Shortly thereafter, the disease began to spread, affecting oleanders, most notably along the freeways in Palm Springs, San Bernardino, Riverside, Orange and Los Angeles counties. The primary vector is the glassy winged sharpshooter, *Homalodisca coagulata*, a xylem-feeding insect. This insect, which was introduced into California in 1990, has since become a serious pest, because it readily transmits the disease-causing pathogen. Incidentally, this pathogen has been in the state for many years. Researchers at UC Riverside have been releasing parasitic wasps in hopes of reducing populations of the glassy winged sharpshooter. Ultimately, this may help in reducing disease incidence.

The disease expresses itself in oleanders by first causing the leaf tips to scorch, then the margins are affected and finally infected branches

and entire plants dieback. The bacteria infest the xylem tissue (water transport system) restricting water flow. On days that are hot and dry, insufficient water reaches the leaves, causing scorch and dieback of affected leaf and stem tissue.

A different strain of *Xylella fastidiosa* is responsible for Pierce's disease in grapes. Currently, it can be found in backyard grapes in Riverside County. In 1892 more than 50,000 acres of grapes were lost in Orange County to "Anaheim's" disease. Later, *Xylella fastidiosa* would be discovered as the pathogen.

We've been following the spread of *Xylella* in Southern California



Disease symptoms on liquid ambar.

*"Predisposition such as poor condition is suspected as a major factor in marginal hosts becoming infected."*

since 1995. Dr. Don Ferrin and Sims' staff members have been testing symptomatic trees, finding *Xylella* in many common ornamentals. Liquidambar seems to be the hardest hit tree so far. Olive trees are also affected, but stress from excessive pruning or relocation appears to be an important factor in the incidence of *Xylella*. We found *Xylella* in avocado November 2003, but were unable to detect the pathogen the following spring. The table below lists the ornamentals found with *Xylella*.

Plant species and varieties vary greatly in their susceptibility to the pathogen. In grapes, for example, some varieties die within one season, while others are very resistant. Predisposition such as poor condition is suspected as a major factor in mar-

ginal hosts becoming infected.

Recently, we've heard that Thevitia and Cape Honeysuckle in Phoenix, AZ, had tested positive for *Xylella*.

Currently, there is no known cure. Bactericides applied at rates high enough to kill the pathogen also damage plant tissue. Our company has been investigating a holistic approach of applying improved horticultural practices and the injection of various materials. Disease prevention by improving health and stimulating the host's immune system appears promising.

Susan Sims, Sims Tree Health Specialists (951) 685-6662, FAX (951) 685-2267 or E-Mail Tree-RX@Simstlc.com

## Susan M. Sims

Sims Tree Health Specialists, Inc. dba: Sims Agriculture, Sims Tree Learning Center  
6111 Appaloosa Ave, Pedley, CA 92509, 951.685.6662

### Curriculum vitae

---

#### Agricultural Biologist

International Society of Arboriculture, ISA, Board Certified Master Arborist #WE-0286B (since June 22, 2005) ISA Certified Arborist (since August 30, 1986).

California Licensed Agricultural Adviser # 1096 (since 1986) Categories:

A-Insects, Mites, and other Invertebrates.

B-Plant Pathogens

D-Vertebrates

E-Weeds

G-Plant Growth Regulators

California Licensed Agricultural Applicator #QL-31179 (since 1983), Categories:

A-Residential, Industrial, and Institutional

B-Landscape Maintenance

C-Right of Way

D-Plant Agriculture

E-Forest

F-Aquatic

G-Regulatory

H-Seed Treatment

I-Animal Agriculture

J-Demonstration and Research

K-Health Related

L-Wood Preservation

California Certified Urban Forester #122 (since 2004).

California State Licensed Landscape Contractor #905423 (since 2007)

### Professional Experience

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#### Sims Tree Learning Center

*Dedicated to research, education and preservation of trees, nature and history. TLC presently has a Palm collection with over 100 varieties, Sims conservatory houses over 30 varieties of tropical Palms including Orchids, Bromeliads, Alocasia... The TLC collection includes Iris (a Historic iris collection with the oldest species dating from 1612), Roses, Fruit orchards, Geraniums, Oak... Sims preserves history by maintaining Percheron Draft horses, antique tractors, farm equipment and historic vehicles. Sims museum displays insects, fungi, wood, skulls... The "Tree Learning Center" was awarded the 2003 Durrell Maughn founders award for education by the CA Urban Foresters.*

#### Sims Tree Health Specialists Inc.

*Consulting, diagnosis, planning, Arborist reports, Integrated pest management and recommendations for Estates, Golf Courses, Cities, Schools, Right of ways, Commercial and Residential clients. Training for professionals and hobbyists. December 1972 to Present.*

#### Inland Empire Urban Forest Council

*IEUFC Board of Directors, Toolkit committee, 2004 to present.*

#### Friends of the University of California, Riverside, Botanic gardens

*Board of Director, Education committee. July 2004 to 2008.*

#### Kenyon Manufacturing, Inc.

*Board of Directors. Kenyon manufactures tools for Horticulture, Landscape, and the Animal industry. 1979 to 1995.*

#### Burpee Seeds

*Sales; Retail, Wholesale, and Grower 1971*

## Education

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Cal Poly University, Pomona, CA

Agricultural Biology major, Plant Pathology, and Ornamental Horticulture minor.

University of California, Riverside, CA

Plant and Animal Biology, Natural History.

The Arboricultural Consulting Academy, Nebraska City, Nebraska

Historic Landscape Preservation Institute, Monticello & UVA, Virginia

## Training, Speaking and Writing

---

### Speaker & Trainer

Beverly Hills Hotel  
Boy Scouts – *Insect ID & collection, environmental badge*  
California Association of Nurserymen  
California Draft horse and mule Association  
California Landscape Contractors Association  
California Urban Foresters – *Xylella fastidiosa*, Arboricultural horrors  
Friends of the UCR Botanic Gardens- *Tree selection, planting & care, State Trees, Pests & Beneficials in the garden*  
Four H – Poisonous plants & horses.  
Jurupa Community Parks & Recreation “*Week of the Horse*”- *Toxic plants*  
Home Owner Associations – *Tree care, Selection*  
Lands Expo, Las Vegas, NV – *Assessing plant stress, Tree health*  
Lands Expo, Louisville, KY – *Decay in trees, Soil issues impacting trees, Hortigenomics.*  
Malool Foundation – *Tree care & Trimming.*  
Management companies – *Tree care*  
Master Gardeners – *insects, Tree health.*  
Pest Control Operators of California- *Insect ID*  
Plant Societies & Clubs – *Beneficial insects, Tree care, Native trees...*  
Schools – *insects, trees*  
Southern California Turf grass Council – *Plant Health Care*  
Spring Horticultural Trade Show – *Basic insect ID, Beneficial insects*  
Street Tree Seminar- *Pests on trees, Beneficial insects, Xylella fastidiosa*  
Ted Stamen & Associates *Arborists' and Tree Workers ISA Certification Preparation Course*  
*Class 1). Problem Diagnosis and Management (taught annually).*  
*Class 2). Tree Health Care (taught annually)*  
*Palm pests & Diseases.*  
UCR – *Turf Management in Parks, Golf Courses, & other Large Turf Areas*  
Western Turf show – *Palm disorders, Insect ID in trees.*

### Published

*Xylella fastidiosa*

Article in *Landsmagazine, STS Newsletter, CA Urban Forestry newsletter, and Western Arborist*  
December 2003, May 2005, Summer 2005, 2007

*Xylella in Liquidambar, Master Gardeners, Winter 2008*

*Lerp psyllids “Their Baaack”*

Article in *Inland Empire Urban Forester Newsletter and Master Gardener Newsletter*  
Fall 2008

*Historic Iris*

Article in *Landsmagazine*

July 2004

*Toxic Trees, plants & weeds, Trees & horses, Fiddleneck...*  
Articles in *California Draft Horse newsletter, 2002 & 2004.*

*Horticultural Spray Oils: Winter-Safe Cleanup*

Feature Article in *Arbor Age Magazine*

Volume 14, Number 12, December 1994

Master Gardener column in 10 newspapers for 18 months.  
1984, Riverside, CA

## Organization Affiliations

---

- American Association of Botanical Gardens and Arboreta, *Member, Wilmington, DE*
- American Horticultural Society, *Member, Alexandria, VA*
- American Iris Society, *Member, Hannibal, NY*
- American Society of Consulting Arborists, ASCA, *Past Member & Graduate January 1996 - 2002.*
- ARCPACS, American Registry of Certified Professionals, *Certified in Agronomy, Crops, and Soils, Past Adviser #10507 (1995 - 2002).*
- California Oak Foundation, *Member, 1212 Broadway, Suite 810, Oakland, CA 94612*
- California Rare Fruit Growers, *Member, Historic fruit tree committee, Inland Empire Chapter, Riverside, CA*
- California Urban Foresters, *Member & Certified Urban Forester, CA*
- Farm Bureau, *Member, Riverside, CA*
- Gamma Sigma Delta, *The Honor Society of Agriculture, Member Cal Poly, Pomona*
- Gates Cactus and Succulent Society, *Member, San Bernardino, CA*
- Golden Key National Honor Society, *Member, Cal Poly, Pomona*
- Historical Iris Preservation Society, *Member, Argyle, TX*
- Inland Empire Begonia Society, *Member, Riverside, CA*
- Inland Empire Bromeliad Society, *Past President, San Bernardino, CA*
- Inland Empire Geranium Society, *Past President, San Bernardino, CA*
- Inland Empire Iris Society, *Member, Riverside, CA*
- Inland Empire Urban Forestry Council, *Member, Riverside, CA*
- International Society of Arboriculture, *Member and Board Certified Master Arborist, Savoy, IL*
- Los Angeles Mycological Society, *Member, Los Angeles, CA*
- National Arbor Day Foundation, *Member, Nebraska City, Nebraska*
- Riverside County Sheriffs Underwater Search & Recovery Team, *Past member & diver, Riverside, CA*
- Wall Bearded Iris Society, *Member, Oklahoma City, OK*
- The International Palm Society, *Member, Lawrence, KS*
- The Percheron Horse Assn. of America, *Member, Fredericktown, OH*
- University of California, Riverside, *Friends of the Botanic Gardens, Past Board of Directors, Riverside, CA*
- University of California Master Gardeners, *"Honorary Master Gardener" Speaker bureau and training staff for new Master Gardeners. Formerly wrote Master Gardener column in 10 newspapers for 18 months. Riverside, CA*



April 9, 2009

## Trees not properly pruned

*Readers  
The Desert Sun*

The recent series of wind storms and subsequent damage to trees in area neighborhoods, country clubs and public parks is a testament to decades of poor arboricultural practices observed throughout the Coachella Valley.

Two primary culprits are improper pruning techniques and inadequate irrigation. I live close to Ruth Hardy Park in Palm Springs, where according to the city's Parks and Recreation Department, 26 trees were lost last Friday. Many of them are lying on their sides, uprooted. They are planted in turf and being irrigated as turf, therefore never growing the kind of deep-root systems that they need to stay upright.

Regularly, I witness the most egregious of pruning techniques that make me cringe, including the indiscriminate cutting of branches to stubs often referred to as "topping." This creates unsafe conditions, affects the health of the tree and is just plain ugly.

The solution is to hire certified arborists who understand how to prune trees and not untrained, unskilled "gardeners."

This holds for homeowners, homeowner associations and public agencies.

Paul Ortega  
Palm Springs

**RECEIVED**

APR 16 2009

11:50 AM



BY CHOICE HOTELS

April 8th, 2009

**TO: PALM SPRING'S PLANNING COMMISSION**

**FROM: ANTHONY PAGTALUNAN, GENERAL MANAGER, QUALITY INN, PALM SPRINGS**

**RE: REMOVAL AND REPLACEMENT OF TREES AT TWIN PALMS HOMEOWNER ASSOCIATION**

Recently, I've noticed that several trees have been removed from the Twin Palms Drive area directly opposite our property at the Quality Inn on 2369 East Palm Canyon Drive, which affects many of our rooms, and our pool that face Twin Palms Drive. Our guests enjoy looking at the large, shade trees, and some return for that view, including our mountain view.

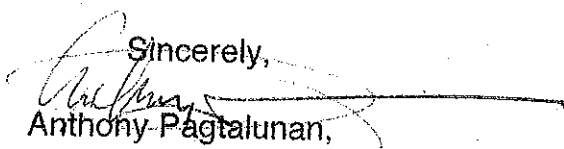
The most important advantage being that the shade trees help with the energy conservation of our property. Especially in the ever increasingly hot summers.

It has come to my attention that the trees that have been removed may be replaced by "desert friendly trees" rather than large shade trees. I would strongly object to that choice.

Ironically, the president of the Twin Palms Homeowner Association spoke with me recently, to suggest that I replace the pines and Eucalyptus trees that fell at Quality Inn, with large, shade trees because of "too much light". I have replaced the fallen trees with pines and a variety of shade trees as requested.

Now, I am requesting that the Twin Palms Homeowner Association replace their Pines and other large shade trees with the same shade trees, so as to preserve our views, shade and energy conservation.

Sincerely,

  
Anthony Pagtalunan,  
General Manager,  
Quality Inn, by Choice Hotels

**RECEIVED**

11:50 AM

APR 16 2009

**PLANNING SERVICES**

LORRAINE LAWRENCE

Rec'd. 4/9/09  
by Jan Ruscott

Hand Delivered 4/06/09

David Ready, City Manager  
Doug Holland, Esq., City Attorney  
3200 E. Tahquitz Canyon Way,  
Palm Springs, CA 92262



LL ASSOCIATES

RECEIVED  
CITY OF PALM SPRINGS  
2009 APR -6 PM 12: 25  
JAMES THOMPSON  
CITY CLERK

**RE: APRIL 8TH, 2009 PLANNING DEPARTMENT STAFF REPORT**

Dear Mr Ready & Mr Holland,

Please be advised, that although I delivered my "appeal statement" on Friday, 4/03/09, at 12:00 noon, and was assured by "staff" it would be "attached to the Staff report", **it was not attached.**

**Also, not included, was the letter from homeowner, "James Myers", who hand delivered his letter ( stamped at City Hall ) Friday, 4/03/09.**

I spoke with Doug Holland on Friday, 4/03/09, who said my" appeal statement would be attached at the end of the staff report". (Even though it should have been in the report as it was timely filed).

I spoke with Scott Tachner on Wednesday, 3/01/09, who said he would "walk the grounds with me on Thursday, to view more tree damage and my almost treeless view, before signing off on the Staff Report".

I advised him I was writing an "Appeal statement" in case the continuance was not granted. I asked him for my "deadline". He said he "didn't know exactly". He did not show up Wednesday for the property inspection. He said he would do it on Thursday 4/02/09, and he still "waffled" on "deadline" for my statement. Again, he did not show up or call. I left a message it was not returned. On Friday, concerned about the deadline to have my statement made part of the Staff Report, I called Doug Holland and he said he would try to contact Craig Ewing. I finally got thru to Scott approximately 11:00 A.M. on Friday and he said my report would "not make it into report" but would be "attached" to Staff Report if I "brought it right over to Planning". He said it wasn't going to be printed until later in day but he was in "process of writing it and needed my statement within an hour". I delivered it at 12:00 Noon and was told by "David" who stamped all my documents, it would not be "part of staff report" but would be "attached at end of it".

**But, the Staff report I received, post marked 4/03/09 did not have my "appeal statement" attached. Nor the homeowner's letter. The 2/06/09 letter attached by Scott Tachner and Craig Ewing as my formal "Appeal" position, was, in fact, merely my Appeal Filing Notice, which I made clear was not my "Appeal Argument". This was well documented in several letters to both, David Ready and Doug Holland, as well as Craig Ewing. Planning's misuse of it as my formal**

RECEIVED

11:50 AM  
APR 16 2009

PLANNING SERVICES



"Appeal" is, in my opinion, a deliberate misrepresentation of the facts.

Also, be advised that the Staff Report doesn't include my **3/20/09 request for a continuance**. Doug Holland had me send my request to Craig Ewing. Nowhere, in Staff Report is it documented that Craig Ewing advised that he had "no problem with the request for continuance". **Why would that be deliberately omitted from the Staff Report?**

On Friday, 4/03/09, Doug Holland advised that my Appeal documents would be attached on the Staff Report, so the "Commission could study it over the weekend prior to the hearing". The Planning Department made that impossible.

Please advise prior to the Planning Commission Hearing 4/08/09, why my "Appeal Statement" and "HOA homeowner letter" was not "attached" to the Planning Department Staff Report.

I believe an investigation of this matter should take place immediately, as my civil rights in Palm Springs have been seriously violated.

Sincerely,

  
LORRAINE LAWRENCE

LORRAINE LAWRENCE RECEIVED

APR 01 2009

SENT VIA FAX & CERTIFIED LETTER  
4/01/09

PLANNING SERVICES  
DEPARTMENT

Craig Ewing, Director, Palm Springs  
Planning Services Dept.  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

LL ASSOCIATES

**RE: TPHOA OBJECTION TO REQUEST FOR CONTINUANCE**

Dear Mr Ewing,

This letter will document my objection to the TPHOA Board's March 31st, 2009 request " that the continuance requested by Lorraine Lawrence in her letter to you dated March 20,2009 not be granted at the Planning commission hearing April 08,2009."

The first reason cited in # 1 is false. They claim, that my first appeal of the Planning Director's decision had **"little or no significant supporting documentation"**.

In fact, the Planning Commission Staff Report included my completed July 23, 2008 appeal papers in which **I cited the City Council ruling of 1995 and a copy of the Supreme Court ruling of 1997, as well as letters documenting these facts.**

And, as a result of these" facts", I was called by your department in July of 2008 requesting **" that I withdraw my appeal as you were rescinding your decision"**. (See July 22, 2008 letter to Lorraine Lawrence, and August 20, 2008 letter to Todd White, President, Twin Palms HOA). **Your exact words in the August 20th letter to the HOA president,**

**" After further review of the request by the Home Owners Association to remove and replace trees at the Twin Palms condominium development staff has discovered a decision made by the City Council in 1996 regarding a similar request. The City Council decision recorded as Resolution 18787 was approved "subject to replacing all trees removed with trees of suitable and rapid growth characteristic". In light of this earlier decision by the Palm Springs city Council staff must rescind it's conditional approval of Case No. 3.1142 MAA, dated April 23, 2008".**

Due to the clear misrepresentation by the HOA Board, their request to deny me a continuance should be denied. It would be in any court of law. The deliberate misrepresentation nullifies their argument.

My right to complete my appeal documentation before the Commission hearing, has been prevented by all the last minute proposals, including the 4th one March 31, 2009 hand delivered by your planner. The fact that some of the HOA Board will be " leaving Palm Springs for the summer" should not be a reason to deny continuance. The HOA employs a management company and has an attorney.

RECEIVED

11:50 AM  
APR 01 2009

Due process and fair play do not go on vacation for the summer.

And most importantly, the arborist who was commissioned by me, will not have the written report completed before two to three weeks. It is imperative that the Planning Commission have "another", professional arborist report to compare against the HOA full time landscaper/ arborist report. That's only fair.

I again request, that a continuance be granted by the Planning commission at their April 08, 2009 hearing, so I may complete my appeal documentation, and include my arborist report. There should be no rush to judgement when it comes to due process.

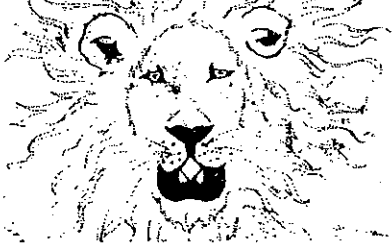
Sincerely,

  
LORRAINE LAWRENCE

CC: Elisha Herbst, Esq.  
David Ready, City Manager  
Doug Holland, City Attorney

Encl(s)

LORRAINE LAWRENCE



LL ASSOCIATES

*Received by  
Sen Russell  
2/25/09 - 3:00p*

SENT VIA FAX  
3/25/09

Doug Holland, Esq. C/O  
David Ready, Palm Spring  
City Manager  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

**RE: CONTINUANCE OF APRIL 08, 2009 PLANNING COMM. APPEAL**

Dear Mr Holland:

Per our conversation on 3/20/09, I immediately hand delivered to Craig Ewing, a written "request for continuance" of the April 08, 2009 appeal hearing. Scott Tachner delivered it to him and came back with the "stamped" copy for my records. He, as you had, also stated that "Craig has no problem continuing the matter to any future date". But, he also added, "Craig says that you should attend the April 8th hearing". That worries me, as it deviates from the norm. The last two requests for continuances (when Craig was rescinding his approval and wanted time to think about it, and the last continuance request on February 25th), I was told by Craig, on both instances, "It's not necessary for you to attend as we both are in agreement re the continuance, and , it's just a formality".

There have been so many twists and turns in this matter, that I am concerned about this latest deviation from the norm. And also, I've not received the "Planning Commission Staff Report" requesting that the Commission continue this item to a future meeting, etc., with my letter attached. Per the February 25, 2009 request for continuance.

And most importantly, Craig has not documented that the (undocumented) deadline of February 27, 2009 for appeal papers, must also be "continued". The new date for the appeal hearing should determine when the written appeal must be filed. This needs to be documented prior to 3/27/09.

Also, to make things even more complicated, there was a 3rd wind storm on Sunday, March 22nd, 2009, with three huge Pine trees falling at our association. They will need replacing which will entail a new proposal and decision.

Please have Craig Ewing provide something in writing re the "continuance of the 3/27/09 written appeal deadline". And include some explanation as to why I'm being asked to attend the April 08, 2009 appeal hearing, where he will request a continuance, as he has twice before, advising that my attending "wasn't necessary".

Sincerely,

*CC: Elisha Herbst, ESQ.  
DANIEL D*

**RECEIVED**

*11:50 AM*

APR 16 2009

PLANNING SERVICES  
DEPARTMENT

# LORRAINE LAWRENCE



RECEIVED  
CITY OF PALM SPRING

2009 MAR 20 PM 4: 23

JAMES THOMPSON  
CITY CLERK

SENT VIA FAX & CERTIFIED MAIL  
3/20/09

LL ASSOCIATES

Craig Ewing,  
Director, Palm Spring's Planning  
Service Department  
3200 E. Tahquitz Cyn. Way  
Palm Springs, CA 92262

Dear Mr Ewing,

This letter is my formal request for a continuance of the Planning Commission appeal hearing scheduled for April 8th, 2009.

The reason for this request is that I have only just received your March 18, 2009 letter advising that there is a third landscaping proposal from the TPHOA which you intend to bring before the Commission appeal hearing on April 8th, along with the other two proposals, one of which I had been advised "would not be part of the appeal hearing". *Due* to all the late additions, I do not have adequate time to prepare my appeal.

I also must have adequate time to allow my arborist to prepare a professional detailed report, along with photos, which takes from two to three weeks.

Thanking you in advance for this consideration,

  
LORRAINE LAWRENCE

cc: Doug Holland, Esq.

RECEIVED

*11:50 AM*  
APR 16 2009

PLANNING SERVICES

LORRAINE LAWRENCE

SENT VIA FAX & CERTIFIED MAIL  
3/19/09

David Ready,  
P.S. City Manager  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

LL ASSOCIATES

RECEIVED  
CITY OF PALM SPRING

2009 MAR 19 PM 4:14

JAMES THOMPSON  
CITY CLERK

**RE: APPEAL TO PLANNING COMMISSION**

Dear Mr Ready,

I have not received a reply to my 3/18/09 hand delivered letter to your office yesterday.

Since that letter, I received a hand delivered letter 3/18/09 from Craig Ewing referencing a conversation of March 04th,2009. He admits that he has "received another application from the HOA for additional changes to the landscape plan". He claims "reviewed your appeal and the new application and schedule both items for the Planning Commission hearing on April 8, 2009".

Please be advised that he has not received my "appeal" argument yet , only the "notice of appeal within the 10 day deadline". The " written appeal argument deadline (which he doesn't include in this 3/18/09 letter and which he decided on ) is **March 27,2009. Why wasn't that documented ?**

Then he references "**receiving on March 13, 2009 a modified plan from TPHOA**". Be advised I just received it yesterday, 3/18/09. Also be advised that the new "modified" plan had no cover letter , nor did it show any comparisons to the old plan, and no addresses to identify where the trees were actually being removed or replaced. Again, every attempt to "confuse and obfuscate", rather than make clear.

As I stated in my 3/18/09 letter, the lumping together of three different landscaping proposals, at the same appeal hearing while I'm writing my appeal is unfair .

There are several homeowners who are equally alarmed with what is going on ( In my 3/18/09 letter to you, I attached a report from our HOA landscaping committee to the Board, and another homeowner's petition, which I signed.)

Please reply to my request for a continuance. Also please help in unraveling these non-stop proposals which the HOA has been allowed to introduce at this late stage of the appeal.

Sincerely

  
LORRAINE LAWRENCE

RECEIVED

11:50AM  
APR 16 2009

PLANNING SERVICES  
DEPARTMENT

LORRAINE LAWRENCE



LL ASSOCIATES

SENT VIA FAX & CERTIFIED MAIL  
3/18/09

David Ready,  
P.S. City Manager  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

Rec'd 3/18/09  
@ 4:00p.m.

Jan Ruscott

**RE: APPEAL TO PLANNING COMMISSION**

Dear Mr Ready,

I am once again, having a problem with the Planning Services Department.

After Craig Ewing rescinded his last decision July '08, and I was asked to withdraw my appeal, I hoped that the matter would now proceed in a legal manner. Unfortunately, without any forewarning, although the decision by Craig Ewing had been made months before, I received a call from Craig advising that he had made "another decision" to grant the a new TPHOA proposal (which now had more tree replacements than the first proposal but not trees that would be deemed "appropriate" according to the 1995 City Counsel ruling for replacing 40 ft. Pines or Eucalyptus). He also said there was a "second TPHOA proposal to remove more trees and that he had decided to have that heard also at the same appeal (this after having said at the July'08 meeting that he would not hear any new proposals until the first had been heard by the Commission). After reading the new decision, I told Craig Ewing I would appeal it. But I needed proper time to write my appeal. He fought me on that and did everything possible to thwart my getting more time. Finally, with lots of effort on my part, the hearing was continued to April 08, 2009. Craig Ewing called to advise of the continued date and to advise he was sending a letter that day (Feb.09) to document the continuance, and the fact that he was lumping "two proposals for the Commission to hear". The letter was never sent.

But, this morning, at approximately 8:30 A.M. there was a message left on my answering machine by Scott Tachner, advising that there was now a "third proposal" by TPHOA (without benefit of a public board meeting which is required by our CC&R's and CA Civic Code) which I could pick up. Each proposal is different and needs careful research and preparation for the appeal. I do not have the proper time to effectuate this given the short, undocumented notice by Craig Ewing.

I called Craig Ewing to object to his lumping, yet another, proposal into my appeal, without explanation or advance warning. He claims this is "not unusual". His reasoning was that "last minute changes are always made on proposals". I advised that that may be true of proposals being decided by the Planning Services Department but not at the last minute of an appeal hearing before the Planning Commission. He refused to budge (as usual). I then asked about the "letter" which he had said

RECEIVED  
CITY OF PALM SPRINGS  
2009 MAR 18 PM 4:00  
JAMES THOMAS  
CITY CLERK

RECEIVED

11:50AM  
APR 16 2009

PLANNING SERVICES  
DEPARTMENT

was going out that February'08 day? He said he "hadn't sent it and now it wouldn't do any good as I had made up my mind anyway". I have no idea what he is talking about and insist that he send what he had promised to send. Why all the secrecy and duplicity in that department?

I object to having three different proposals all lumped together, which add even more layers of confusion to the Commission appeal hearing. I assume the "confusion" is the point, but as City Manager of a public agency working for the people of Palm Springs, I hope that you can "manage" to mitigate the damage to due process they are causing.

It is disgusting to find such behavior going on at City Hall. Everything, in my opinion, since I first brought this matter to the attention of the Planning Services Dept, has been done with an effort to thwart due process. Craig Ewing rescinded his last decision on my appeal and had me attend a private meeting to assure me that this wasn't a "trick" as I didn't, and don't, trust him. **He also assured me he would not lump the 2nd TPHOA proposal with my appeal of his first decision.** He promised one thing and then did the direct opposite. Then tried to jamb through the hearing for February 25th. Every step of the process has been a nightmare. My question to you; **WHY IS THE PLANNING SERVICES DEPT. SO HEAVILY VESTED IN TWO TPHOA BOARD MEMBERS ? THEY ARE IN ALMOST DAILY CONTACT WITH SCOTT TACHNER. THEY BEND OVER BACKWARDS TO ACCOMODATE THEM AT THE EXPENSE OF DUE PROCESS. WHY?** The rush to judgement seems to coincide with one of these two board members having to leave town the end of April. Why should my appeal be penalized to accommodate his schedule?

I have given up on getting a fair deal with Scott or Craig. His "new" decision doesn't follow the 1995 City Council ruling which he alleges to follow. He changed Council's ruling "appropriate trees" to "original landscape". But even so, most of the trees being removed are very much **ON THE ORIGINAL LANDSCAPE PLAN.**

Since you are the City Manager, and presumably, this department answers to you, I am requesting that the appeal date be continued until these three proposals are straightened out, and **the three proposed removal and replacement plans have uniform and specific addresses for each tree proposed to be removed, replaced, etc.** And that each proposal is conformed using the tree and address numbers referenced by **TPHOA landscaping reports.**

Please help get this hearing continued and the documents conformed so both the Commission and I can make sense of it at the appeal. Thank you.

Sincerely,

LORRAINE LAWRENCE

CC: Elisha Herbst, Esq.  
Tribal Planning Commission  
Sierra Club of California  
*Desert Sun, Editor*  
*L.A. Times, Editor*



LORRAINE LAWRENCE

3/19/08 called  
said "looking for  
orig. landscape  
plan".

SENT VIA CERTIFIED MAIL & FAX  
3/06/08

Craig Ewing, Director Planning Services  
Palm Springs Planning Dept.  
P.O. 2743  
Palm Springs, CA 92263-2743

LL ASSOCIATES

RE: VIOLATION OF 3/06/1996 CITY COUNCIL ORDER

Dear Mr Ewing,

This letter will serve to document the complaint registered at your office on February 14, 2008. Although, we had set an appointment for 11:00 a.m. on that day, when I arrived I was advised that both you and Ed Robertson "had gone to lunch".

Because, in my opinion, the matter was urgent, I agreed to have Brian Fernandez, an assistant planner, take the information and pass it on to you for your immediate attention. The master file was pulled, but, oddly, several key documents were "missing": **The March 6, 1996 "City Council "Order", decisions by the Planning Commission, and several key letters from Doug Evans, the past Director of Planning.** Luckily, I had brought my own file and provided those "missing" documents. I also provided a cite from the **March 20, 1997, "Supreme Court" Order, Case No. 65702-Indio.** I also provided several photos of the trees which were removed this past February '08. I was advised that you would take immediate action.

Since that date, I have never heard back from you or anyone from your office. I called several times and left messages but to no avail. I finally spoke with Brian Fernandez, a week or so ago, who advised that "nothing had been done re my complaint", and when I reminded him that "trees had been removed without permits and with no replacement plans, a direct violation of the 1996 City Council order, Brian replied, "Craig Ewing doesn't have the same interpretation of the order as you do". Whatever that means. I asked that you call to explain, and also put it in writing to me, but to date, no letter and no explanation. Has the concept of the public's right to "Due Process" died at your department?

TPHOA removed over six trees between February 5th to 12th, 2008, without permits, or allowing homeowners an opportunity to voice their objections prior to this action being taken, per the Supreme Court order referenced above, or Palm Spring's 94.04.00 Architectural review. (E. 1. a.).

RECEIVED

11:50 AM

APR 16 2009

PLANNING SERVICES

I understand that Palm Spring's had a wind storm February 03,2008 which affected many trees in the area. And of course, I believe that any tree which poses a danger to the community should be removed. But, conversely, I object to any "excuse" of the wind storm to be used as a "cover" to remove healthy trees, and without a permit. The TPHOA removed a huge Pine tree with some branches damaged. The question I would have raised, if given the opportunity, would be whether the tree could have been saved with proper trimming and care. That same question would be appropriate for the over six other trees removed (Two "healthy" lemon trees on the side of my unit.) . The philosophy here seems to be to "destroy first and ask questions later when it's too late". Pulling permits acts as a defense against that kind of irresponsible action. But, only if the various city departments stand behind their own ordinances and codes. The associations seem to know that they can get away with these actions without consequences. That is why I am calling it to your attention in hopes that your department still respects "due process".

The butchering of trees here was once a hotly contested matter in 1996-1997. After several months of hearings before the Planning Dept., Planning Commission and the City Council ,and after three appeals, the City Council issued their final order. And because of that fair and wise decision the board stopped their indiscriminate destruction of healthy trees. Since the association knew they would have to "replace the trees they removed with "trees of suitable size and rapid growth" , cutting them down when they were healthy made no sense. But they still tried to test the order. The board's last attempt to thwart the council's decision was when they sought approval of their " tree replacement" plan by trying to substitute "**Pear trees**" for the two 20 ft. Pines they had removed , and for the seven (7) mature trees they were still intending to remove. Their plan was rejected twice by Doug Evans, Director of Planning. He made it clear in his August 5,1996 letter (see enclosed) that the "order" was replacement by "**TREES OF SUITABLE SIZE AND RAPID GROWTH**". After being rejected twice by the Planning Dept., the association finally understood they would have to replace trees with "another tree" of "suitable size and rapid growth" and they stopped removing healthy trees.

That is until just this February of 2008, when they used the wind storms to justify their actions.

LORRAINE LAWRENCE



LL ASSOCIATES

SENT VIA FAX & CERTIFIED MAIL  
2/06/09

Craig Ewing  
Dept. of Planning Services  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

RECEIVED  
CITY OF PALM SPRINGS  
JAMES THOMPSON  
CITY CLERK  
2009 FEB -6 PM 4:51

RE: NOTICE OF APPEAL

Dear Mr Ewing,

This will document the fact that I intend to file an appeal re your decision letter dated January 27, 2009. This is my 2nd notice.

*forward to  
Craig Ewing;  
P.C. Appeal  
J*

When I last spoke to you re your "same" decision letter of January 12, 2009 which was addressed to the wrong president of our association and, also, not received by me until January 17, 2009, you said that you would notice my intent to "appeal" and "send out a corrected 2nd letter". I understood that to mean I would have adequate time to file my "formal" appeal with proper notice from you.

When I received the 2nd letter January 27th, the exact appeal direction was: " You may appeal this decision by submitting your REQUEST in writing within 10 working days from the date of this letter (by February 10, 2009). Since I had already indicated to you my decision to appeal. When we spoke today, you stated that I must immediately send a "written" request for an appeal. I asked several times for you to make clear whether we were talking about a "notice of appeal" or the actual written appeal. You never answered that critical question and neither would Scott.

There is a disconnect when it comes to my dealings with your department. It seems everyone goes out of their way to thwart my every attempt to get "equal" treatment versus the TPHOA Association Board. Case in point being, the December 10, 2009 request/ letter from the Association Board re the tree replacement plan. You promised to send that to me (months after the fact) so I could write my appeal. But, it was left out of the January 27th mailing. How can I appeal something intelligently that I haven't seen? Your decision letter showed that all the trees earmarked for replacement were the SAME trees as the original plan which excluded the healthy trees removed without reason on the side of my property. This, in my opinion, nullifies your Sept.30,2008 decision to "rescind" your last decision which also included returning my appeal fee . I believe that this was a ruse to "appear" to comply with the 1995 City Council ruling (which I had informed you about with all documentation right from my beginning complaint letters) claiming that you "just discovered the Council ruling." You then rescinded your decision and asked me to withdraw my appeal, at a special meeting with me and several planners. I haven't heard from you and considered the matter closed.

3-1142

Now I must appeal for the 2nd time as you have complied completely with the Association Board and their mass removal of healthy trees with replacement

RECEIVED

11:54 AM  
APR 16 2009

FEB 06 2009

PLANNING SERVICES

Now I must appeal for the 2nd time as you have complied completely with the Association Board and their mass removal of healthy Pine trees, with replacement trees of Silk floss and Mesquite trees. Hardly what the original architectural plan indicated. Talk about seeing the forest for the trees!!!!!!!

To preserve my right to appeal (yet again) I am requesting, in writing, my intention to appeal your January 27, 2009 decision. I will submit my formal appeal papers when I am given a formal deadline to do so. I have not received anything in writing to that purpose. Is there no "printed" guideline from your department? I will wait for written instructions re filing my formal appeal. I will give Scott Tachner my appeal check (yet again) for \$305.00 today, in person (Friday, 2/06/09).

Sincerely,

  
**LORRAINE LAWRENCE**

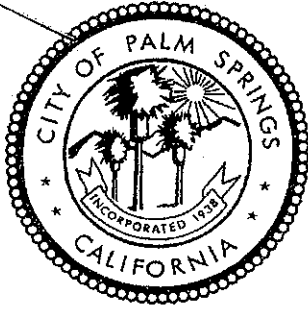
CC: Doug Holland, City Attorney  
David Ready, City Manager  
Desert Sun, Publisher/editor  
L.A. Times  
Elisha Herbst, Esq.

3.1142

**RECEIVED**

FEB 06 2009

**PLANNING SERVICES  
DEPARTMENT**



# City of Palm Springs

Department of Planning & Building  
Planning Division  
TEL: 619-323-8245  
FAX: 619-322-8360  
TDD: 619-864-9527

June 6, 1996

Thomas F. Ris  
Twin Palms Homeowners Association, Inc.  
Post Office Box 4472  
Palm Springs, CA. 92263

Re: Case 3.1142-Letter dated May 20, 1996.

Dear Mr. Ris:

I am in receipt of your letter dated May 20, 1996, in which you inquire about the status of the tree removal and replacement proposal by the Twin Palms Homeowners Association (TPHOA). Your letter dated April 17, 1996, proposes to replace the already removed eucalyptus tree, with two flowering pear trees. Furthermore, it is indicated in your letter that three additional trees will be removed some of which are compromising existing slabs in the area.

The Planning Commission decision allowed for the removal of any or all trees as long as they are replaced with trees of suitable size and rapid growth. I have disapproved your proposal on the basis that it does not meet the intent of the Planning Commission decision. Additionally, I am in receipt of correspondence from Ms. Lorraine Lawrence in which she expresses her discontent with the TPHOA tree proposal. It appears that neither party has made the effort to meet and resolve this matter.

**RECEIVED**

10:50 AM

APR 16 2009

PLANNING SERVICES  
DEPARTMENT



# City of Palm Springs

Office of the Mayor  
TEL: (619) 323-8200  
FAX: (619) 323-8207  
TDD: (619) 864-9527

May 13, 1996

Lorraine Lawrence  
1800 No. Highland Ave.  
Suite 500  
Hollywood CA 90028

Re: Case 3.1142 - Letters dated April 23, March 11 and March 6, 1996

Dear Mrs. Lawrence:

I appreciate your concern in this matter and hope that this letter will address your concerns regarding the Planning Commission and City Council rulings.

The Planning Commission, at its regular meeting of January 10, 1996, approved the removal of any or all trees, however, the trees would have to be replaced with trees of suitable size and rapid growth.

The City Council, at its regular meeting of March 6, 1996, upheld the Planning Commission's decision as stated above. The staff report to the City Council did contain the words "in new locations". The Council decision accurately reflected the Planning Commission decision without adding the reference to new locations in the staff report.

On April 17, 1996 Planning staff faxed you a copy of the Twin Palms Homeowners Association (HOA) proposal for tree relocation. This revised proposal included revised tree locations and tree types. As noted in the fax transmittal, Planning staff has not approved this change and has asked that the HOA work with the homeowners to resolve the tree issue. City staff has offered to assist in this and, as an alternative, the HOA and homeowners should consider outside mediation.

**RECEIVED**

11:50 AM

APR 16 2009

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

**PLANNING SERVICES**

## Twin Palms Home Owners Association

Wind Storm Damage – February 3, 2008 – Map/Photo Legend

14 Removed TREES

Map No.	Picture Numbers	Description
(1)	1, 2, 3, 4, 5	1841 Via Aguila – Large Eucalyptus tree in Street had to be removed entirely.
(2)	6, 7, 8	1827 Via Aguila – Large insect damaged Pine tree in Street – tree had to be removed entirely.
3	No Picture	Olive tree north of tennis court trimmed.
4	9	Large limbs of Brachychiton in street at corner of Twin Palms/Via Aguila - limbs removed from street and tree trimmed.
(5)	10, 11, 12	1255 Twin Palms – Eucalyptus tree blocking street; tree so damaged it had to be removed.
6	13, 14, 15, 16	West of 1223 Twin Palms – Large Eucalyptus limbs removed from side walk and street – tree trimmed
(7)	17, 18, 19 20, 21	Large infested pine with split crown removed this tree crushed Olive tree in Item # 8. – 1223 TP
(8)	22, 23, 24	Olive tree crushed under limbs from Item #7. <u>Removed</u>
(9)	25, 26, 27, 28, 29	1800 S La Paloma – Large Eucalyptus completely toppled by winds. <u>Removed</u>
10	30, 31, 32, 33	Limbs of several large Pines near East Pool had to be removed from walkways and trees trimmed. No trees removed.
(11)	34	1840 S La Paloma – Tangerine split and had to be removed from walkway.
(12)	No Picture	1148 La Jolla – Tall Mexican Palm damaged and had to be removed as a safety hazard.
(13)	35, 36, 37	Near West Pool – Large Pine which was insect infested split and damaged - had to be removed as a safety hazard.
(14)	38, 39, 40	Near West Pool – Large Pine which was insect infested split and damaged - had to be removed as a safety hazard.
(15)	41	1807 S La Paloma – Apricot tree damaged and beyond saving - had to be removed.
16	42	1680 S La Paloma – Grapefruit tree with split and leaning branches - had to be removed from wall but tree saved.
(17)	43	Two Lemon trees west of 1223 Twin Palms removed. These trees only had slight wind damage but were removed upon consultation with landscaper as further trimming would not be in our best interest nor be good for the trees in the long run.

No will  
No will

(B) "Replace" PER 4/25/09 Letter please

(C) 19 40 L Replace

(D) La Jolla & Via Aguila

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LORRAINE LAWRENCE

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4/03/09

PLANNING SERVICES  
DEPARTMENT



**APPEAL POSITION TO PLANNING COMMISSION:**

Although, I have requested a continuance of my appeal to the Planning Commission for the April 8, 2009 hearing, the fact that it may not be granted, and the commission might make a ruling without my full documentation presented, and without the newly commissioned arborist's report that is still being written, I must protect my rights, and submit a limited argument in spite of the handicap of incomplete information, last minute proposals by the HOA, and not having the completed arborist's landscape report which is being prepared by a well known and respected authority on trees.

If the continuance is granted, I will submit my complete appeal documentation at the continued date. Until such time, please accept this "abbreviated" appeal.

**BACKGROUND:**

I appealed the **FIRST, April 25, 2008 decision** of the Planning Director, Craig Ewing, to remove fifteen (15) trees and replace only (2) trees at the Twin Palms HOA. The Planning Commission Staff Report was dated July 23, 2008 (See 5/15/08 appeal attached, and 1995 Arborist report). **I withdrew my appeal after Craig Ewing, advised that he was going to "rescind his decision"** (See August 20, 2008 letter to HOA President, Todd White, and July 22, 2008 letter to Lorraine Lawrence). The reason he gave in the August 20, 2008 letter, was that he had **"discovered a decision made by the City Council in 1996 regarding a similar request. The City Council decision recorded as Resolution 18787 was approved "subject to replacing all trees removed with trees of suitable and rapid growth characteristic".**

In fact, I had documented the 1996 City Council decision in my first letter to Craig Ewing (see **March 6, 2008 letter with the 1996 decision attached.**) I was advised by his planner, March '08, "Mr Ewing doesn't agree with your interpretation of the City Council ruling". And, he refused to document his reasons.

Yet, in July '08, after I prepared my appeal (see attached) and presentation that took months of time and energy, and which was made part of the Planning Commission Staff Report, the Planning Director suddenly claimed to have **"discovered the City Council ruling", and asked me to withdraw my appeal.** Keep in mind that that was over five months past when I first alerted him re that fact in February, 8, 2008, and in my 3/06/08 letter to him.

When I was asked to withdraw my appeal in July, I was assured by Craig Ewing, at my July meeting with him, that he "would not lump any subsequent HOA proposals together if I again appealed any later decision". That promise has been rescinded as well. There are three proposals now before the commission; submitted March 18th, and the last one being sent to me on March 31st, 2009. With all the various

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PLANNING SERVICES



there were "none" (when in fact there was one scheduled the next day). From the beginning there seemed to be a barrier set up at the Planning Department to exclude my participation in the process. Only after many letters of protest to Craig Ewing, David Ready and Doug Holland, were documents provided, which should have been made readily available months prior. It seemed to me that there was a too close relationship formed between the Planning Department and some members of the TPHOA board. There were meetings held at HOA homes at night, etc. (see daily e-mails in public file). It was always my understanding that a public agency should be impartial, and equally fair to all dissenting parties of a dispute. In my opinion, that was not the case in this matter. I have had to jump over every unfair roadblock imaginable in my pursuit of justice and fair play at the Planning Department.

**AFTER 1996 CITY COUNCIL RULING:**

The 1996 City Council ruled that any trees removed should be replaced with , " suitable trees that are fast growing". (when the 1996 HOA Board attempted to replace the seven mature trees they were planning to remove, with "pear trees" the Planning Department Director, Doug Evans, refused to approve it. Again, the Board tried to thwart the City Council ruling with small, inappropriate trees, and again, Doug Evans refused their plan. The Board finally gave up and let the trees remain.

**BOTTOM LINE:**

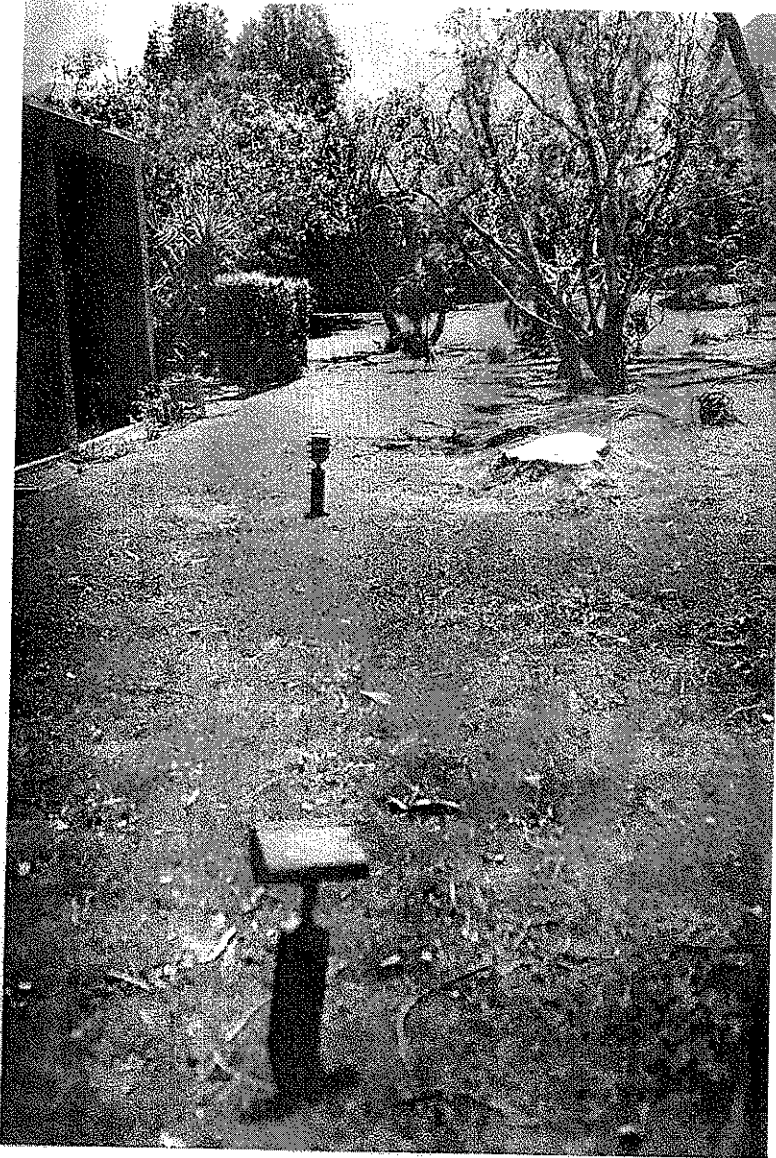
**ALL TREES THAT HAVE BEEN REMOVED SHOULD BE REPLACED BY THE SAME TREES. THEY SHOULD BE LARGE ENOUGH TO QUICKLY PROVIDE SHADE AND PROTECTION FROM PALM SPRING'S INCREASINGLY HARSH SUMMERS. THE ARGUMENT RE "DESERT FRIENDLY" TREES DOES NOT STAND UP TO THE EQUALLY CRITICAL ARGUMENT FOR "ENERGY CONSERVATION". THE PINES, EUCALYPTUS, BRACHYCHITON AND OLIVE TREES WERE A CAREFUL, ARCHITECTURAL CHOICE FOR GOOD REASON. IT SHOULD NOT BE THROWN OUT NOW BECAUSE A NEW HOA BOARD HAS AN AGENDA, CONTRARY TO THE ORIGINAL ARCHITECTURAL LANDSCAPE PLAN AND THE 1996 CITY COUNCIL RULING. AND WAS NEVER VOTED ON BY THE ENTIRE ASSOCIATION.**

If the Planning Commission does not grant my request for a continuance at the April 8, 2009 hearing, I ask that they please overturn the Planning Director's decision to replace 21 mature 40 to 50 ft. shade trees with small, wispy "desert friendly" trees that are not energy tolerant and will leave our homes unprotected against the harsh, summer weather in Palm Springs.

Sincerely,  
**LORRAINE LAWRENCE**

Encl(s)

West of 1223 Twin Palms DR.



April, 2009

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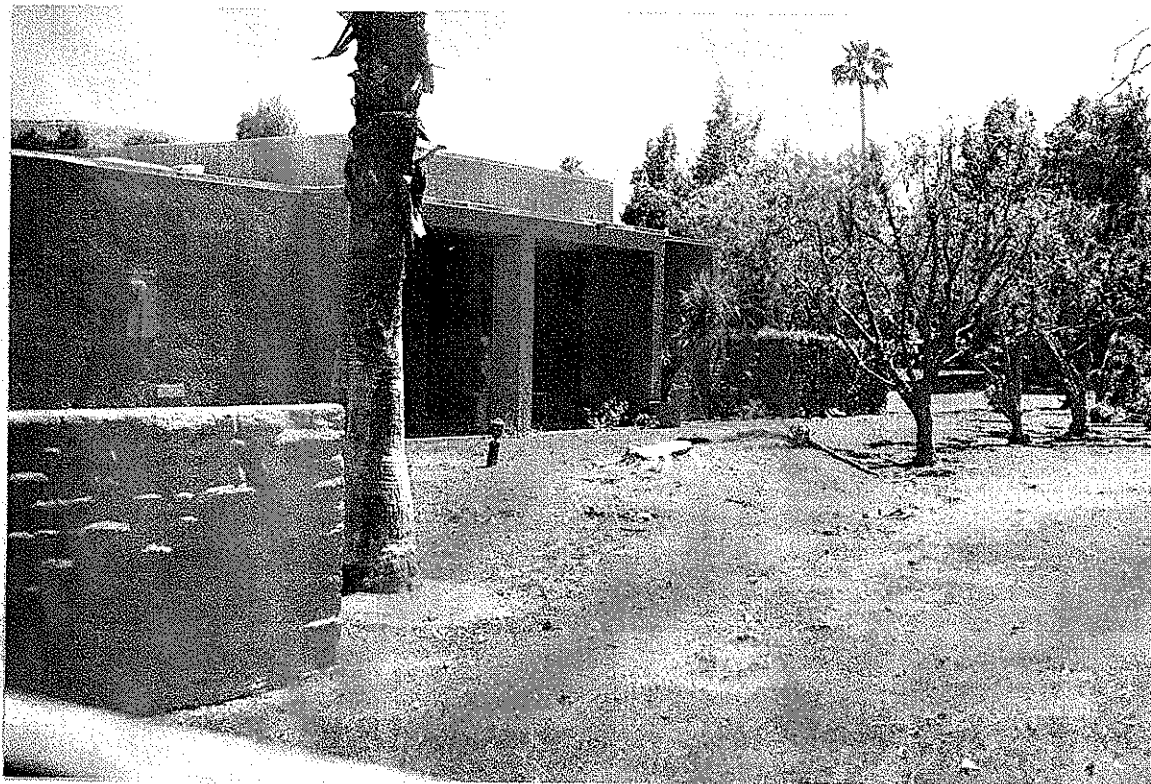
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**PLANNING SERVICES  
DEPARTMENT**

West of 1223 Twin Palms DR.



April, 2009



April, 2009



## Planning Commission Staff Report

Date: April 8, 2009

Case No.: 3.1142 APL / 3.1142 AMND (landscape)

Type: Appeal of Director's Decision/  
Amendment to Approved Landscape Plan

Applicant: Lorraine Lawrence/  
Twin Palms Home Owner's Association

Location: The Twin Palms Condominium Development, on the  
south side of Twin Palms Drive approximately 1400 feet  
west of Sunrise Way

APN: 504-111-007

General Plan: Very Low Density Residential

Zone: R-1-C (Single Family Residential)

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

Project Planner: Scott Taschner, Assistant Planner

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### **PROJECT DESCRIPTION:**

This item is comprised of two elements:

1. An appeal of a decision by the Director of Planning Services to approve an amendment to a landscape plan for the Twin Palm Condominium Development, and
2. A subsequent and additional amendment to the same landscape plan at Twin Palms.

The appellant, Ms. Lorraine Lawrence, has filed an appeal of the Planning Director's decision of January 27, 2009, approving a request for removal and replacement of trees, for the property known as the Twin Palms Condominium Development (HOA).

Ms. Lawrence is a resident of the Twin Palms Condominium Development. According to Ms. Lawrence's letter dated February 6, 2009 (attached), she is appealing staff's decision based on the following statements:

*"Your decision letter showed that all the trees earmarked for replacement were the SAME trees as the original plan which excluded the healthy trees removed without reason on the side of my property. This, in my opinion nullifies your September 30, 2008 decision to rescind your last decision"*

*"You have complied completely with the Association Board and their mass removal of healthy Pine trees, with replacement trees of Silk Floss and Mesquite trees. Hardly what the original architectural plan indicated. Talk about seeing the forest for the trees!!!!"*

The Home Owner's Association (HOA) has also filed a subsequent request, on February 6, 2009, for additional amendments to the approved landscape plan for the Twin Palms Condominium Development.

#### **RECOMMENDATION:**

That the Planning Commission:

1. Uphold the decision of the Planning Director, Case No. 3.1142 MAA, amending the approved landscape plan by allowing for tree removal and replacement for the property known as the Twin Palms Condominium Development (HOA),
2. Approve the subsequent amendment, Case No. 3.1142 MAA, to modify and amend the approved landscape plan for the development, subject to the conditions outlined herein.

#### **BACKGROUND:**

On April 7, 2008 the Architectural Advisory Committee (AAC) recommended that a subcommittee, of planning staff and Paul Ortega (from the AAC), be formed to evaluate the proposal.

On April 23, 2008 the request for tree replacement and removal was approved by Planning Staff (Director's Designee).

On May 16, 2008 Lorraine Lawrence filed an appeal of the director's decision to the Planning Commission.

On July 23, 2008 the Planning Commission continued the item to a date uncertain.

On August 20, 2008 staff rescinded its April 23, 2008 decision and directed the Home Owners Association to come in with a new landscape plan which proposed replacement of all trees removed (which are on the original plan) with trees of suitable size and type.

On September 30, 2008 the director of planning issued a new decision based on the 1996 City Council decision (City Council Resolution No.18787)

On December 10, 2008 the Home Owners Association submitted a revised plan which included replacement of the trees that were removed.

On January 12, 2009 the Director of Planning issued a new decision based on the revised plan.

On January 27, 2009 the Director of Planning confirmed the January 12, 2009 decision by re-issuing the decision.

On February 6, 2009 Lorraine Lawrence, appellant, submitted a request to appeal the decision of the Planning Director to the Planning Commission.

Staff would like to note that an additional request for tree removal and replacement has been submitted, but no action has been taken to date. Staff is bringing both the appeal and the current request before the planning commission.

#### **SETTING:**

The subject property is bounded by residential uses to the North, East, and South, and West. Surrounding Land uses, Zoning, and General Plan designations are detailed below:

	<b>Land Use</b>	<b>Zone</b>	<b>General Plan</b>
North	R Residential	R-3	T RC
South	Residential	R-1-C	V LDR
East	Residential	R-1-C	V LDR
West	Residential	R-1-C	V LDR

#### **INITIAL DECISION**

On March 17, 2008 staff received an application for tree removal and replacement for the property known as the Twin Palms Condominium Development (HOA). At this time, staff also became aware that a Courtesy Notice had been issued by Code Enforcement for removal of trees without permits.

In evaluating the request for tree removal and replacement, staff reviewed the submitted materials which included an arborist report, a site plan, and site photographs. In reviewing the photographs staff determined that much of the tree removal appeared to be the result of wind damage. Staff also accessed that the fallen trees could pose a danger to the public if left in the streets or on the sidewalks and asked the client(s) to make sure all trees were removed from the streets and sidewalks immediately.

The proposal included removal of a total of 13 trees in various locations on the property and also included a request for the removal of three trees that were still standing, but that the HOA board wanted to remove. Staff met with several of the HOA board members and walked the property to determine the condition of the existing trees in question and to determine where replacement trees would be required (from the trees that were removed).

The project was presented to the AAC on April 7, 2008, and the AAC recommended deferring approval to a sub-committee made up of staff and Paul Ortega (of the AAC). On April 16, staff met with two of the HOA board members, and Paul Ortega to evaluate the request. In evaluating the request staff, reviewed the submitted materials which included an arborist report, a site plan, and site photographs, and consulted a resource published by the Coachella Valley Water District entitled "Lush and Efficient, Gardening in the Coachella Valley". This is a publication that staff frequently uses in determining what types of landscaping are appropriate for a project. The result of that meeting was as follows:

- Trees B & C, as indicated on the site plan, would need to be replaced with Silk Floss Trees with a minimum 24 inch box size.
- Trees D would have to remain (because they're well established, deep rooted trees providing a good deal of shading).
- Tree A would be allowed to be removed (due to the arborist report and the proximity to other existing trees providing adequate shade for the general area).
- An additional Tree (Silk Floss in 24 inch box) labeled "E" on the site plan would be allowed to be installed.

#### RESCINDING OF DECISION

In reviewing the appeal which was filed on May 16, 2008 staff conducted additional research on the property and discovered a decision of the City Council in 1996 which was directly related to this case and specifically referred to tree removal at the Twin Palms Condominium Development. Resolution No.18787 dated March 6, 1996, states...*"the City Council hereby upholds the decision of the Planning Commission approval of Case 3.1142 subject to replacing all trees removed with trees of suitable and rapid growth characteristic."*

In light of the 1996 City Council decision, the Director of Planning, rescinded the decision of April 23, 2008, and issued a new decision.

#### ISSUANCE OF NEW DECISION

On September 30, 2008 the director of planning issued a new decision stating that "all trees removed which are shown on the approved landscape plan shall be replaced"

and that the "replacement trees shall be consistent with those types and sizes represented on the original landscape plan".

On December 10, 2008 the Home Owners Association submitted a revised plan which included replacement of the trees that were removed (which are shown on the approved plan). The submittal included a request to change the types of trees from the original trees (Eucalyptus and Pine) to trees which are better suited to the desert environment (Silk Floss and Chilean Mesquite).

Staff reviewed the request, and on January 12, 2009 the Director of Planning issued a revised decision for tree replacement which is outlined below. A confirmation on the decision was re-issued on January 27, 2009.

Table 1: Trees on original landscape plan which were removed.

TREE NUMBER	PROPOSED REPLACEMENT	PLANNING DEPT. ACTION
1	15 Gal. Silk Floss Tree	Approved for same general location
2	15 Gal. Silk Floss Tree	Approved for same general location
5	15 Gal. Chilean Mesquite Tree	Approved for same general location
7	15 Gal. Chilean Mesquite Tree	Approved for same general location
9	15 Gal. Chilean Mesquite Tree	Approved for same general location
13	15 Gal. Chilean Mesquite Tree	Approved for same general location
14	None Proposed	Approved, subject to condition that an appropriate replacement is installed in the same general location

Table 1: Trees on original landscape plan which were not removed (were only trimmed).

TREE NUMBER	PROPOSED REPLACEMENT	PLANNING DEPT. ACTION
3	Tree not removed	No action required
4	Tree not removed	No action required
6	Tree not removed	No action required
10	Tree not removed	No action required
16	Tree not removed	No action required

Table 2: Trees that were removed which are not on the original landscape plan.

TREE NUMBER	PROPOSED REPLACEMENT	PLANNING DEPT. ACTION
8	None Proposed	No replacement required, no action taken
11	15 Gal. Silk Floss Tree	Approved
12	None Proposed	No replacement required, no action taken
15	None Proposed	No replacement required, no action taken
17	None Proposed	No replacement required, no action taken



## APPEAL

On March 20, 2009 Lorraine Lawrence filed an appeal of the Planning Director's decision to the Planning Commission. Staff has reviewed the appellant's letter and identified the following reasons by which the applicant seeks to overturn the Planning Commission's approval. Staff's response is provided immediately following.

*"Your decision letter showed that all the trees earmarked for replacement were the SAME trees as the original plan which excluded the healthy trees removed without reason on the side of my property. This, in my opinion nullifies your September 30, 2008 decision to rescind your last decision"*

The two Lemon trees in question were not part of the original approved landscape plan for the development and staff can only require that the Home Owners Association comply with the approved landscape plan. Staff has required that all trees which have been, or are proposed to be replaced which are shown on the approved landscape plan for the development are replaced with a suitable type of tree in the same general location as the original tree's location.

*"You have complied completely with the Association Board and their mass removal of healthy Pine trees, with replacement trees of Silk Floss and Mesquite trees. Hardly what the original architectural plan indicated. Talk about seeing the forest for the trees!!!!"*

After meeting with staff to evaluate the request to replace the damaged Pine & Eucalyptus trees with Silk Floss and Chilean Mesquite trees, the director of Planning issued a new decision that allowed replacement of the original trees (Pine & Eucalyptus trees) with trees that are more suitable to the desert environment (Silk Floss & Chilean Mesquite trees). This decision also required a one-for-one replacement of trees (based on the original landscape plan).

In reviewing the request for the tree removal and replacement, staff carefully considered all the materials and walked the site evaluating the trees that were removed and their location in relation to other trees, structures, pathways, and entryways to residences. Based on the 1996 City Council decision, staff determined that all trees removed which are shown on the original landscape plan must be replaced. Staff determined that the request to replace the original trees (Pine & Eucalyptus) with trees which are more suitable to the desert environment was reasonable.

Staff would like to note that since the original windstorm and subsequent decision of the Planning Director (January 27, 2009), the property has suffered more wind storm damage on two separate occasions.

AMENDMENT

On February 6, 2009, a new amendment request was received by the Planning Department. An application of this type would typically be reviewed and approved at staff level. However, due to the circumstances and background of the case, the Director of Planning has opted to refer this case to the Planning Commission.

The application includes additional tree removal and tree replacement. Staff has determined that the request to replace the original trees (Pine, Brachychiton, and Eucalyptus) with trees which are more suitable to the desert environment was reasonable. Based on the 1996 City Council decision, the request to remove and not replace trees which are on the approved landscape plan should not be granted. An outline of the trees which have been, or are proposed to be, removed is presented below. Please refer to the letter submitted by the HOA on February 6, 2009.

Part A (referenced in the letter provided by the HOA)

TREE(S)	REMOVED	REPLACEMENT	RECOMMENDATION
Three Pine Trees (by west pool)	Yes	Three 15 Gal. Chilean Mesquites	To Approve
Two Pine Trees (near east pool)	Yes	Two 15 Gal. Desert Willow	To Approve
One Brachychiton (near 1807 S. La Paloma)	Yes	One 15 gal. Brachychiton	To Approve
One Pine Tree (west of 1223 Twin Palms Drive)	Yes	None Proposed	To Approve, as determined by the Planning Commission
One Eucalyptus Tree (1229 Twin Palms)	Yes	None Proposed	To Approve, as determined by the Planning Commission

Part B (referenced in the letter provided by the HOA)

TREE(S)	REMOVED	REPLACEMENT	RECOMMENDATION
Two Pine Trees (near west pool)	No	Two 15 Gal. Chilean Mesquite, Desert Willows, or Silk Floss Trees	To Approve
One Brachychiton Tree (near west pool)	No	One 15 Gal. Chilean Mesquite, Desert Willows, or Silk Floss Trees	To Approve
Near 1846 La Paloma	No	One 15 Gal. Desert Willow	To Approve

Third Wind Storm (March 22, 2009) (referenced on the plan submitted on 3/31/09)

TREE(S)	REMOVED	REPLACEMENT	RECOMMENDATION
Three Trees (various locations)	Yes	Three 15 Gal. Chilean Mesquite, Desert Willows, or Silk Floss Trees	To Approve

**REQUIRED FINDINGS:**

Although there are no required findings for applications for architectural approval which do not require environmental assessments, the Zoning Code Section 94.04.00(D)(1-9) provide guidelines for the architectural review of development projects to determine that the proposed development will provide a desirable environment for its occupants as well as being compatible with the character of adjacent and surrounding developments, and whether aesthetically it is of good composition, materials, textures and colors. Conformance is evaluated, based on consideration of the following:

1. *Site layout, orientation, location of structures and relationship to one another and to open spaces and topography. Definition of pedestrian and vehicular areas; i.e., sidewalks as distinct from parking areas;*

The request is for tree removal and replacement. No structures are part of the approval. The tree removal is a result of wind storms and disease and is dispersed throughout the property. Staff is requiring that all trees that have been or are proposed to be removed, which are on the approved landscape plan, be replaced with a tree of suitable size, type and rapid growth characteristic.

2. *Harmonious relationship with existing and proposed adjoining developments and in the context of the immediate neighborhood community, avoiding both excessive variety and monotonous repetition, but allowing similarity of style, if warranted;*

Staff is requiring that all trees that have been or are proposed to be removed, which are on the approved landscape plan, be replaced with a tree of suitable size, type and rapid growth characteristic.

3. *Maximum height, area, setbacks and overall mass, as well as parts of any structure (buildings, walls, screens towers or signs) and effective concealment of all mechanical equipment;*

The request did not include any new structures or mechanical equipment. Height, area, and setback requirements do not need to be considered for this request.

4. *Building design, materials and colors to be sympathetic with desert surroundings;*  
AND

5. *Harmony of materials, colors and composition of those elements of a structure,*

*including overhangs, roofs, and substructures which are visible simultaneously,  
AND*

6. *Consistency of composition and treatment,*

The proposal does not include and changes to existing structures and does not propose any new structures.

7. *Location and type of planting, with regard for desert climate conditions. Preservation of specimen and landmark trees upon a site, with proper irrigation to insure maintenance of all plant materials;*


The proposed landscaping is consistent with the other landscaping on the property in size and location. The proposed replacement types of landscaping are drought tolerant and well suited to the desert environment. The placement, type and sizes will be harmonious with both onsite landscaping and landscaping in the vicinity. Drip irrigation will be provided for each new tree.

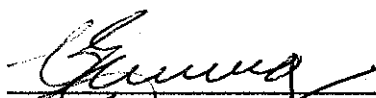
#### **CONCLUSION:**

Considering all the information contained herein, staff is recommending that the Planning Commission uphold the Planning Director's decision, to approve the request for tree removal and replacement, Case No. 3.1142 APL, for the Twin Palms Condominium Development, as well as approve the current request, Case No. 3.1142 MAA, to amend the approved landscape plan, subject to the conditions outlined herein.

#### **NOTIFICATION:**

Notification is not required.

  
\_\_\_\_\_  
Scott Taschner  
Assistant Planner

  
\_\_\_\_\_  
Craig A. Ewing, AICP  
Director of Planning Services

#### **ATTACHMENTS:**

- 1) 400' radius map
- 2) Appeal, Draft Resolution
- 3) Amendment, Draft Resolution
- 4) Letter requesting appeal to Planning Commission, dated February 6, 2009
- 5) Original approved Landscape plan, dated October 27, 1976
- 6) Arborist report, cover letter, received March 17, 2008
- 7) Arborist report, spreadsheet, received March 17, 2008
- 8) Legend for site photos and map, dated March 17, 2008
- 9) Landscaping replacement site plan, dated March 17, 2008
- 10) Site Photographs, dated March 17, 2009

- 11) April 25, 2008 approval letter to HOA President (superseded)
- 12) Letter requesting appeal to Planning Commission, dated May 15, 2008 (case withdrawn)
- 13) Appeal, supporting documents, dated May 20, 2008 (case withdrawn)
- 14) Letter to Ms. Lawrence (confirming continuance of item), dated July 22, 2008 (case withdrawn)
- 15) City Council Resolution 18787, March 6, 1996
- 16) City Council Meeting Minutes, March 6, 1996
- 17) August 20, 2008, letter to HOA president (preparing new decision)
- 18) Letter rescinding the previous approval, dated September 30, 2008
- 19) Letter from the HOA, outlining replacement plan, dated December 10, 2008
- 20) Letter from the HOA, dated December 31, 2009, on wind damage incurred on December 24, 2008 (Part of 2009 amendment. See additional materials submitted February 6, 2009 and March 31, 2009)
- 21) Approval letter, dated January 12, 2009
- 22) Approval Letter, dated January 27, 2009
- 23) Request, from the HOA, for a new amendment to the approved landscape plan, received February 6, 2009
- 24) Arborist Report, cover letter, received February 6, 2009
- 25) Arborist Report, revised plan, received February 6, 2009
- 26) Arborist Report, spreadsheet, received February 6, 2009
- 27) Site Photographs, received February 6, 2009
- 28) Letter from Ms. Lawrence, dated February 10, 2009, to continue the item at the February, 25, 2009 Planning Commission meeting
- 29) Staff Memo to the Planning Commission, dated February 25, 2009, requesting continuance of the item to April 8, 2009
- 30) Letter from Ms. Lawrence, dated March 30, 2009, requesting the item be continued at the April 8, 2009 Planning Commissions meeting
- 31) Letter from HOA requesting that the item not be continued on 4/8/09
- 32) Letter from HOA, requesting revision to open application, dated March 31, 2009
- 33) Site Photographs, received March 31, 2009
- 34) Revised Landscape Plan (for requested amendment), received March 13, 2009 and supplemented March 31, 2009.
- 35) Letter from Ms. Lawrence, dated April 1, 2009, objecting to HOA's request for continuance of item at 4/8/09 meeting