



## Planning Commission Staff Report

Date: June 24, 2009

Application ID: Case 5.1025 - PD-307

Type: Minor Amendment to Planned Development District PD-307

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

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

Applicant: Sunquitz SWC, LLC

General Plan: RA, (Resort Attraction)

Zone: PD-307

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

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### **PROJECT DESCRIPTION**

The applicant is requesting a minor amendment to a condition of approval that would provide additional time to complete the undergrounding of on-site utilities. No other change is proposed to the project. The subject site is located on the northwest corner of North Sunrise Way and East Tahquitz Canyon Way.

### **RECOMMENDATION**

That the Planning Commission approve a minor amendment to Condition of Approval No. 64 for Case No. 5.1025 / PD 307 allowing the undergrounding of on-site utilities to be completed no later than September 2012. A draft resolution is attached to this memo.

## **PRIOR ACTION**

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

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

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

On March 15, 2006, the City Council approved the proposed project (Council Resolution No. 21535) as recommended by the Planning Commission.

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

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

On November 12, 2008, the Planning Commission denied a request for a one-year time extension on the project. The applicant appealed the decision.

On December 18, 2008, the City Council reviewed the appeal and granted one-year time extension to the project. The current expiration date is December 17, 2009.

## **ANALYSIS**

Following approval of the entitlement, including time extensions, the applicant has pursued the project. The site includes existing overhead utilities, which must be placed underground as part of development of the site, as required by the following Condition of the Planned Development:

64. *In accordance with Chapter 8.04.401 of the City of Palm Springs Municipal Code, all existing and proposed electrical lines of thirty-five thousand volts or less and overhead service drop conductors, and all gas, telephone, television cable service, and similar service wires or lines, which are on-site, abutting, and/or transecting, shall be installed underground unless specific restrictions are shown in General Orders 95 and 128 of the California Public Utilities Commission, and service requirements published by the utilities. The existing overhead utilities across the property shall be installed underground. Existing overhead utilities*

*shall be installed underground from the nearest offsite power pole, extending from the north side of Andreas Road to the south side of Tahquitz Canyon Way. A detailed plan approved by the owners of the affected utilities depicting all above ground facilities in the area of the project to be undergrounded, shall be submitted to the Engineering Division prior to approval of a grading plan. Undergrounding of applicable overhead utility lines shall be completed prior to issuance of a Certificate of Occupancy.*


The applicant has prepared plans for the undergrounding and submitted them for review by the Southern California Edison Company (SCE). Based on the responses from SCE, the applicant has concluded that the timing of the undergrounding of existing overhead lines is expected to extend beyond other aspects of the project's construction schedule.

The applicant has requested an amendment to the above condition of the Final Planned Development, seeking some additional flexibility in the timing of the undergrounding. Specifically, the request is to replace the last words of the condition ("...prior to issuance of a Certificate of Occupancy") with, "...prior to September 30, 2012".

Staff has reviewed the request and determined that it would constitute a Minor Amendment subject to Planning Commission approval (Palm Springs Zoning Code Section 94.03.00.G). Following a review with the Department of Public Works, staff has concluded that the request would not affect the intent of the Planned Development nor adversely impact the project's site plan or any public issue associated with the project.

## **ENVIRONMENTAL DETERMINATION**

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

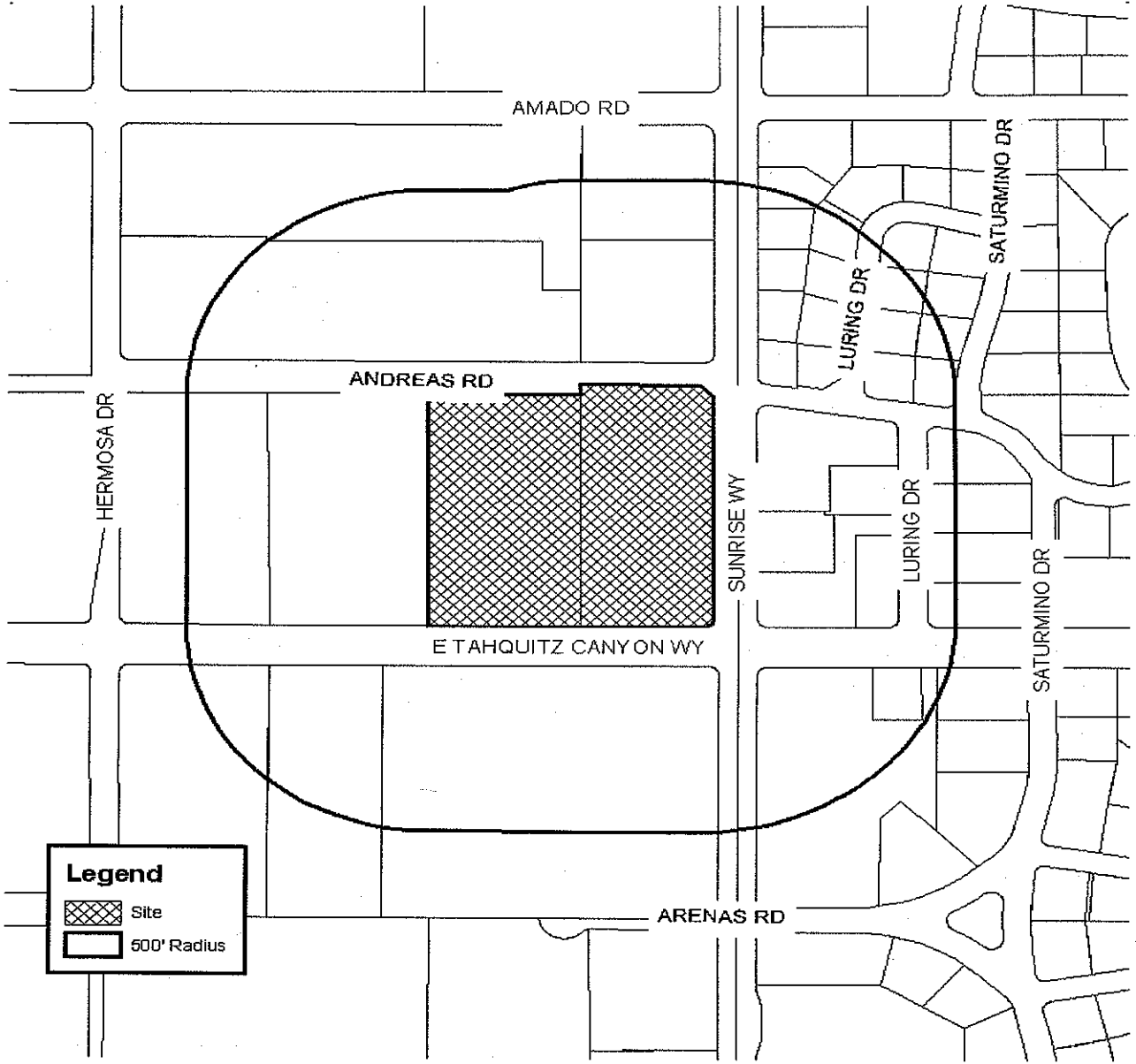
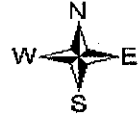
  
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Craig A. Ewing AICP  
Director of Planning Services

Attachments:



- 500' Radius Map
- Draft Resolution
- Letter Requesting Amendment of Condition No. 64



# Department of Planning Services Vicinity Map



**Legend**

-  Site
-  500' Radius

## CITY OF PALM SPRINGS

**CASE NO:** 5.1025 PD-307

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

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

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING A MINOR AMENDMENT RELATED TO THE UNDERGROUNDING OF UTILITIES FOR CASE NO. 5.1025-MAJ PD-307, A PREVIOUSLY ENTITLED COMMERCIAL PROJECT FOR THE CONSTRUCTION OF A 94,000 SQUARE FOOT COMMERCIAL RETAIL DESTINATION CENTER LOCATED AT THE NORTH WEST SIDE OF SUNRISE WAY AND EAST TAHQUITZ CANYON DRIVE., ZONE PD-307, SECTION 14.

WHEREAS, Sunquitz LLC ("Applicants") has filed a request for a minor amendment to Condition of Approval No. 64 related to the timing for placing existing overhead utility lines underground for Case No. 5.1025-MAJ, PD-307; and

WHEREAS, on June 24, 2009, a public meeting on the application was held by the Planning Commission in accordance with applicable law; and

WHEREAS, The Planning Department has reviewed this project under the provisions of the California Environmental Quality Act (CEQA), and has determined that the requested amendment is considered a "project" pursuant to the terms of the Environmental Quality Act (CEQA). A Mitigated Negative Declaration of environmental impact (Mig Neg Dec) was previously adopted by the Planning Commission on January 26, 2006 for the project. Further environmental documentation is not necessary because the requested amendment will not result in any new significant environmental effects beyond those already assessed in the Mitigated Negative Declaration.

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

WHEREAS, the Planning Commission has hereby determined that the request is a Minor Amendment under Palm Springs Zoning Code Section 94.03.00.G in that the proposed change would not affect the intent of the approved Planned Development to establish a multi-tenant commercial retail shopping center on the site.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves a minor amendment Case No. 5.1025, PD-307, and amends Condition of Approval No. 64 to read as follows:

64. *In accordance with Chapter 8.04.401 of the City of Palm Springs Municipal Code, all existing and proposed electrical lines of thirty-five thousand volts or less and overhead service drop conductors, and all gas, telephone, television cable service, and similar service wires or lines, which are on-site, abutting, and/or transecting, shall be installed underground unless specific restrictions are shown in General Orders 95 and 128 of the California Public Utilities Commission, and service requirements published by the utilities. The existing overhead utilities across the property shall be installed underground. Existing overhead utilities shall be installed underground from the nearest offsite power*

*pole, extending from the north side of Andreas Road to the south side of Tahquitz Canyon Way. A detailed plan approved by the owners of the affected utilities depicting all above ground facilities in the area of the project to be undergrounded, shall be submitted to the Engineering Division prior to approval of a grading plan. Undergrounding of applicable overhead utility lines shall be completed prior to September 30, 2012.*

ADOPTED this 24<sup>th</sup> day of June, 2009.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Craig Ewing, AICP  
Director of Planning Services



April 20, 2009

via email ([craig.ewing@palmsrpings-ca.gov](mailto:craig.ewing@palmsrpings-ca.gov))

Mr. Craig Ewing  
Planning Director  
**CITY OF PALM SPRINGS**  
3200 East Tahquitz Canyon Way  
Palm Springs, CA 92262

Re: **SWC Sunrise Way and Tahquitz Canyon Way**  
**Palm Springs, California**

Dear Mr. Ewing:

Condition number ~~128~~<sup>64</sup> of the Required Conditions for Approval by the City of Palm Springs required us to bury the electric and telephone lines now existing on the west side of the subject property. When we began the construction of the site work, our consultant and engineer estimated the costs of such work to be \$300,000.00. Although this was extremely high for a parcel of land that is 160,000 s.f., we accepted that amount and went forward with our work. We have been held up on our work due to the Southern California Edison Company ("SCE") advising us that they believe the cost will now be \$1,100,000. That estimate was based on time and materials and therefore could cost more since they will not fix the contract amount.

That amount of the SCE costs are so far out of line that our two tenants are ready to back away from the project. Therefore, if they do, we in turn will not be able to go forward and a total loss to us.

**The easement which the overhead lines lie within expires in June of 2010.**

On Friday, April 18, I met with Carol Templeton, on behalf of the City, two Tribal planners, one of my lessors and her attorney, Paul Loubet of Regency Centers and Ralph Hitchcock, our power consultant, to discuss the future of the electric lines that lie within the subject easement. The BIA was invited to attend but declined. This matter not only affects the subject property but all the properties along the west side of Sunrise from Ramon north.

Nobody at the meeting was aware of any action taken by SCE to resolve the potential loss of such easement by SCE.

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Mr. Craig Ewing  
April 20, 2009

In view of the above, I respectfully request the Planning Commission amend the date that the electric and telephone lines be placed under ground to September, 2012. This should give everybody a reasonable amount of time to find out what direction the SCE will take with the existing lines.

I am optimistic that the Tribal Planning Commission will concur with this request as this is a win/win for everybody.

If there is some City form that I need to fill out for this request, please advise me accordingly.

Awaiting your reply, I remain,

Very truly yours,

SUNQUITZ SWC, LLC  
a Nevada limited liability company

By: SUNQUITZ SWC Management, Co. Inc.,  
a Nevada corporation, Manager

By: Hank Gordon  
HANK GORDON  
President

HG/lfg

cc: Carol Templeton – [carol.templeton@palmssprings-ca.gov](mailto:carol.templeton@palmssprings-ca.gov)  
Cathy VanHorn - [cathy.vanhorn@palmssprings-ca.gov](mailto:cathy.vanhorn@palmssprings-ca.gov)  
Ernie Noia, Esquire [egn@noiainc.com](mailto:egn@noiainc.com)  
Paul Loubet [ploubet@regencycenters.com](mailto:ploubet@regencycenters.com)  
Michael Harris, Esquire [michael@mdharrislaw.com](mailto:michael@mdharrislaw.com)  
Kevin Novak [knovak@laurichproperties.com](mailto:knovak@laurichproperties.com)  
Ralph Hitchcock [rehitchcock@verizon.com](mailto:rehitchcock@verizon.com)  
Margaret Park - [mpark@aguacaliente.net](mailto:mpark@aguacaliente.net)  
Barbara Lyons – [blyons@dc.rr.com](mailto:blyons@dc.rr.com)  
Richard Boureston [rich@tbcos.com](mailto:rich@tbcos.com)  
Tracy Verastegui – Rite Aid Corporation – [tlverasteui@riteaid.com](mailto:tlverasteui@riteaid.com)  
Charles Duke, Esquire [charlesduke@cs.com](mailto:charlesduke@cs.com)