



CITY COUNCIL STAFF REPORT

DATE: July 6, 2011 NEW BUSINESS

SUBJECT: RESOLUTION OF PUBLIC CONVENIENCE OR NECESSITY (PCN) FOR THE WILLAMETTE CAPITAL MANAGEMENT LTD IN ORDER TO SELL BEER, WINE & DISTILLED SPIRITS FOR CONSUMPTION ON PREMISES AT THE HORIZON HOTEL LOCATED AT 1050 EAST PALM CANYON DRIVE (CASE 5.1039-PCN)

CASE: 5.1039 – PCN

FROM: David H. Ready, City Manager

BY: Craig Ewing, AICP, Director of Planning Services

SUMMARY

The applicant, Willamette Capital Management, Ltd. is requesting that the Council adopt a Resolution of Public Convenience or Necessity for the sale of beer, wine and distilled spirits for consumption on the premises at the Horizon Hotel pool bar located at 1050 East Palm Canyon Drive.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A RESOLUTION OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER, WINE & DISTILLED SPIRITS AT THE HORIZON HOTEL LOCATED AT 1050 EAST PALM CANYON DRIVE."

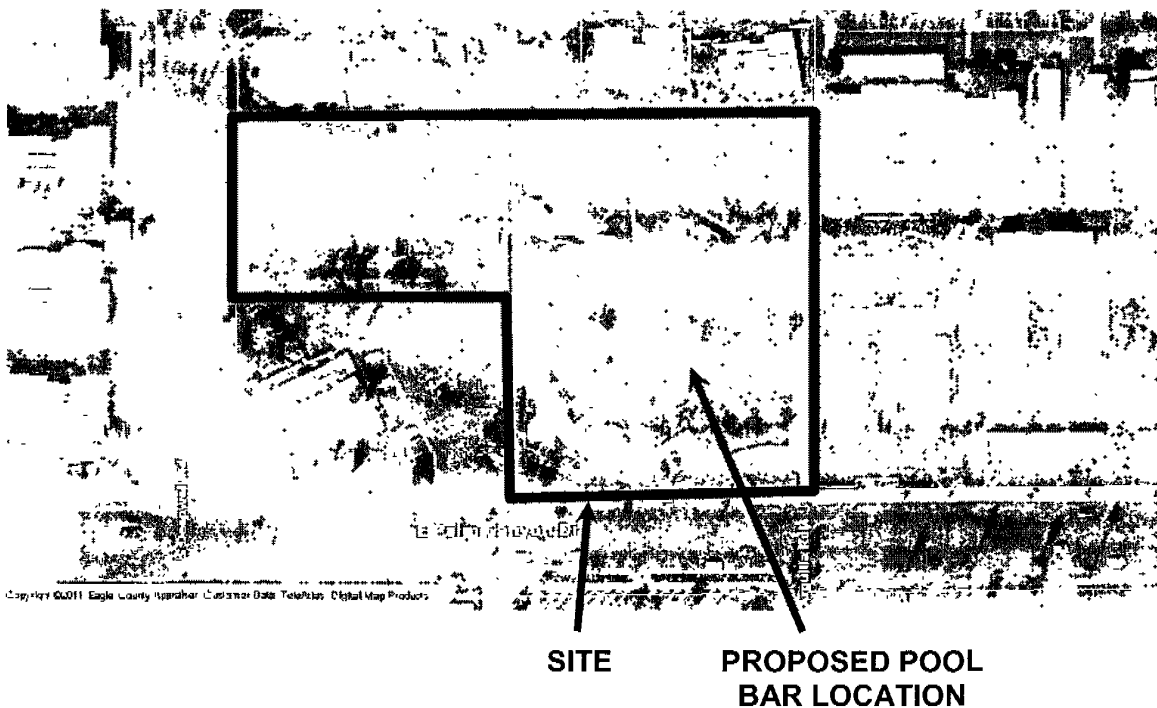
BACKGROUND:

The subject site is located on the north side of East Palm Canyon Drive near the Deepwell Road intersection. Approximately one acre of the site is vacant and abuts Deepwell Road. The parcel is L-shaped and totals approximately 3.55 acres in size.

ITEM NO. 5A

The property was developed in 1952 as the L’Horizon Garden Hotel; William F. Cody is the architect of record. The site contains twenty-two rooms which surround a central pool area. Adjacent Zoning and Land Uses are described in the following table:

	General Plan	Zone	Land Use
North	Very Low Density Residential	R-1-C	Single Family Residential
South	Tourist Resort Commercial	R-3	Hotel (Ocotillo Lodge)
East	Very Low Density Residential	R-3	Multi-family Residential
West	Tourist Resort Commercial	R-3	Multi-family Residential



The applicant has applied for a Type 48 license through the Department of Alcoholic Beverage Control (ABC). According to the ABC, the “Type 48” license “*Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.*” The ABC will not issue the license unless the City Council adopts a resolution pursuant to state law, indicating that the premises will provide for the public convenience or necessity.

ANALYSIS:

The applicant is applying for a new liquor license to sell beer, wine and distilled spirits in the pool area at the existing Horizon Hotel. The subject property is split-zoned with an R-2 and R-3 designation. A Conditional Use Permit (CUP) is required to sell alcohol as an accessory use to the hotel in the R-3 Zone, and the Planning Commission approved the CUP on June 22, 2011. The Commission conditioned the project with limited hours of operation, noise mitigation measures and CUP review in one year. (A copy of the Commission's report and Resolution of Approval are attached to this report.)

In addition to the City's CUP requirements, the Department of Alcoholic Beverage Control is requiring a resolution from the City Council to approve a liquor license in an area that has an "undue concentration" of licenses. In accordance with Section 23958.4 of the Business and Professions Code which took effect on January 1, 1995, "undue concentration" means a property that is located in a census tract (or division) where the ratio of on-sale retail licenses to the population in that tract (or division) exceeds the ratio of licenses to the population in the subject county. When an undue concentration is determined to exist, the State Department of Alcoholic Beverage Control will not issue a license for the sale of alcohol without a letter or resolution from the City Council that indicates the premises will provide for the public convenience or necessity.

Currently, the State Department of Alcoholic Beverage Control considers the census tract that the proposed license is to be located has an "undue concentration" of liquor licenses. The subject property is located within Census Tract #0448.05. This tract has six active on-sale liquor licenses, which include the following:

1. Pizza Hut, 1180 S. Palm Canyon Drive
2. El Mirasol, 140 E. Palm Canyon Drive
3. Davy's Hideaway, 292 E. Palm Canyon Drive
4. Lyon's English Grille, 233 E. Palm Canyon Drive
5. Cipolline Osteria, 1260 S. Palm Canyon Drive
6. Villa Royale Inn & Europa Restaurant, 1620 S. Indian Trail

Three on-sale licenses are authorized for the tract. By making a finding of "Public Convenience or Necessity", the City Council may determine that the subject premises will provide for the convenient patronage of the public whereby the convenience does not already exist in the immediate area.

CONCLUSION:

The Planning Commission approved the CUP related to the subject request. Staff is recommending approval of Case 5.1039-PCN and adoption of a Resolution of Public Convenience for the issuance of a type 48 Liquor License for the Horizon Hotel located at 1050 East Palm Canyon Drive.

FISCAL IMPACT:


None.



Craig A. Ewing, AICP,
Director of Planning Services



Thomas J. Wilson,
Assistant City Manager



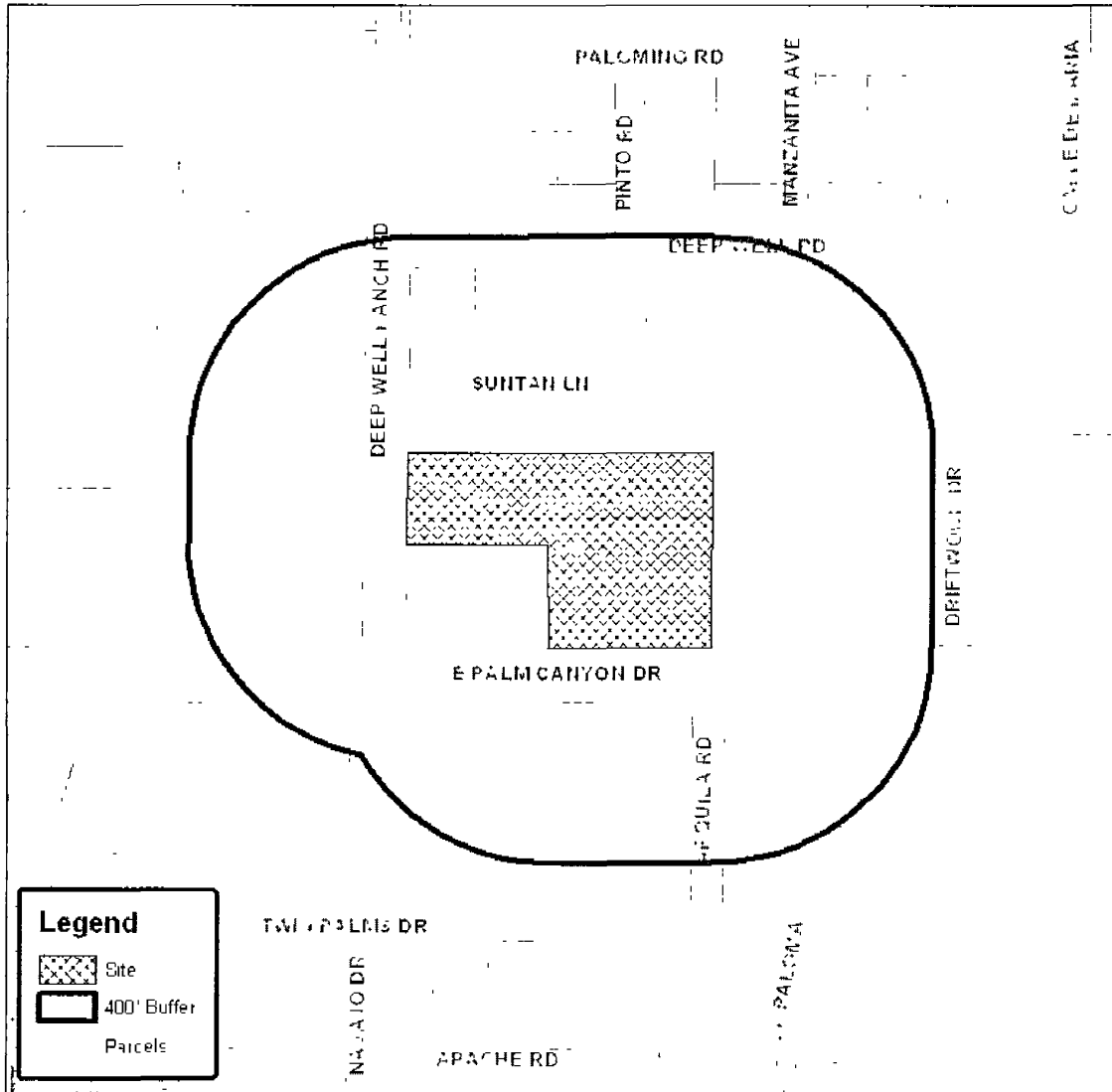
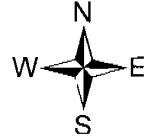
David H. Ready, City Manager

Attachments:

1. 400' Vicinity Map
2. Draft Resolution
3. Letter of Request
4. Planning Commission Staff Report, June 8, 2011
5. Planning Commission Memorandum, June 22, 2011
6. Planning Commission Resolution No. 6208
7. Census Tract Map



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.1039 PCN

APPLICANT: Willamette Capital Management, LTD
For the Horizon Hotel

DESCRIPTION: To consider a request by Willamette Capital Management, LTD, for a Resolution of Convenience or Necessity to sell beer, wine and distilled spirits at the pool area of the Horizon Hotel located at 1050 East Palm Canyon Drive, Zone R-2 / R-3, Section 23.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADOPTING A RESOLUTION OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER, WINE & DISTILLED SPIRITS FOR ON-SITE CONSUMPTION AT THE HORIZON HOTEL LOCATED 1050 EAST PALM CANYON DRIVE.

WHEREAS, Willamette Capital Management, Ltd. ("Applicant") has requested the adoption of a Resolution of Public Convenience or Necessity (Planning Case 5.1039 PCN) in order to sell beer, wine and distilled spirits in the pool area at the Horizon Hotel located at 1050 East Palm Canyon Drive, Zone R-2 & R-3, Section 23; and

WHEREAS, the Applicant agrees to sell beer, wine and distilled spirits as an incidental use to the existing hotel operation; and

WHEREAS, the City Council is being asked to adopt a Resolution of Public Convenience pursuant to the requirements of the California Department of Alcoholic Beverage Control; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the Resolution of Public Convenience, including but not limited to the staff report and oral and written public testimony; and

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a license to sell beer, wine and distilled spirits in accordance with the allowances of a license number 48 (On Sale General – Public Premises).

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

SECTION 1. The City Council finds that an additional site that sells alcohol for on-site consumption (an ABC Type 48 license type – On Sale General – Public Premises) at 1050 East Palm Canyon Drive, serves the Public Convenience.

ADOPTED THIS 6th day of July, 2011.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

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

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

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

February 21, 2011

David Newell
Planning Department
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92262

RE: Willamette Capital Management, Ltd.
DBA The Horizon Hotel
1050 E. Palm Canyon Dr.
Palm Springs, CA 92264

Dear David:

We anticipate opening the bar area at the Horizon Hotel within the next few months and have submitted our application to the California Dept. of Alcohol and Beverage Control (ABC) for a Type 48 On-Sale General Public Premises. ABC in turn is requiring submission of a letter of Public Necessity and Convenience from the City. Accordingly, enclosed please find the following:

- Willamette Capital Management's Statement regarding Public Necessity and Convenience - The Horizon Hotel
- Check in the amount of \$877.00 payable to the City of Palm Springs

The Horizon Hotel bar area's normal operating hours will be from 4:30 PM – 6:30 PM weekdays and from 2:00 PM – 7:00 PM weekends. We intend to have one shift per day, one employee per shift.

Please contact me at (503) 546-4230 ext 106, or email at melinda@willamettecapital.com should you require additional information or documentation to issue the PCN letter.

Thank you for your attention to this request.

Sincerely,



Melinda Burnham
Loan Manager

Enclosures

RECEIVED

FEB 23 2011

**PLANNING SERVICES
DEPARTMENT**

5.1039 PCN

08



Willamette Capital Management's Statement Regarding Public Necessity and Convenience – The Horizon Hotel

Willamette Capital Management, Ltd., DBA The Horizon Hotel intends to make public the existing bar area located within the hotel grounds, located at 1050 East Palm Canyon Dr., Palm Springs, CA.

The Horizon Hotel, built in 1952 and designed by the renowned architect, William Cody, is a landmark property in the Palm Springs community. Its historical significance and quiet charm has been attracting tourists year-round from all over the world to the Desert Cities.

The Horizon Hotel's existing bar area is located within the property and has always been the social gathering area that has serviced thousands of guests over the years. A sense of community is formed in this area in which guests become friends and interact with each other for the duration of their stay. Most of our guests come to the Horizon to relax, and they remain on the property during their stay except to shop and eat.

The Horizon would like to continue to serve guests but also open the bar to an established local clientele, serving both public convenience and necessity. The hope at the Horizon is that our guests will be able to interact with local customers and other tourists, enjoying a true Palm Springs experience.

Consequently we respectfully request that the City of Palm Springs issue a letter of Public Convenience and Necessity to The Horizon Hotel.



Planning Commission Staff Report

Date: June 8, 2011

Case No.: 5.1039 – CUP AMEND

Type: Conditional Use Permit Amendment

Location: 1050 East Palm Canyon Drive

APN: 508-432-019

Applicant: Willamette Capital Management, LTD

General Plan: TRC (Tourist Resort Commercial)

Zone: R-3 (Multiple-family Residential and Hotel) & R-2 (Limited Multiple-family Residential)

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

Project Planner: David A. Newell, Associate Planner

PROJECT DESCRIPTION

The applicant is requesting an amendment to an existing Conditional Use Permit to allow the sale of alcohol in the pool area of the Horizon Hotel located at 1050 East Palm Canyon Drive. A Conditional Use Permit was approved for the site in 2005 allowing the sale of alcohol in the lobby area, pool area and hotel rooms for a period of twelve months. The new owner would like to allow the sale of alcohol only in the pool area, under a Type 48 State Alcoholic Beverage Control license.

RECOMMENDATION

That the Planning Commission approve the Conditional Use Permit application allowing the sale of alcohol as an accessory use to the hotel located at 1050 East Palm Canyon Drive.

PRIOR ACTIONS

On May 11, 2005, the Planning Commission approved a Conditional Use Permit for a one year term to allow accessory commercial uses, including spa services, alcohol sales and incidental retail sales at the subject property.

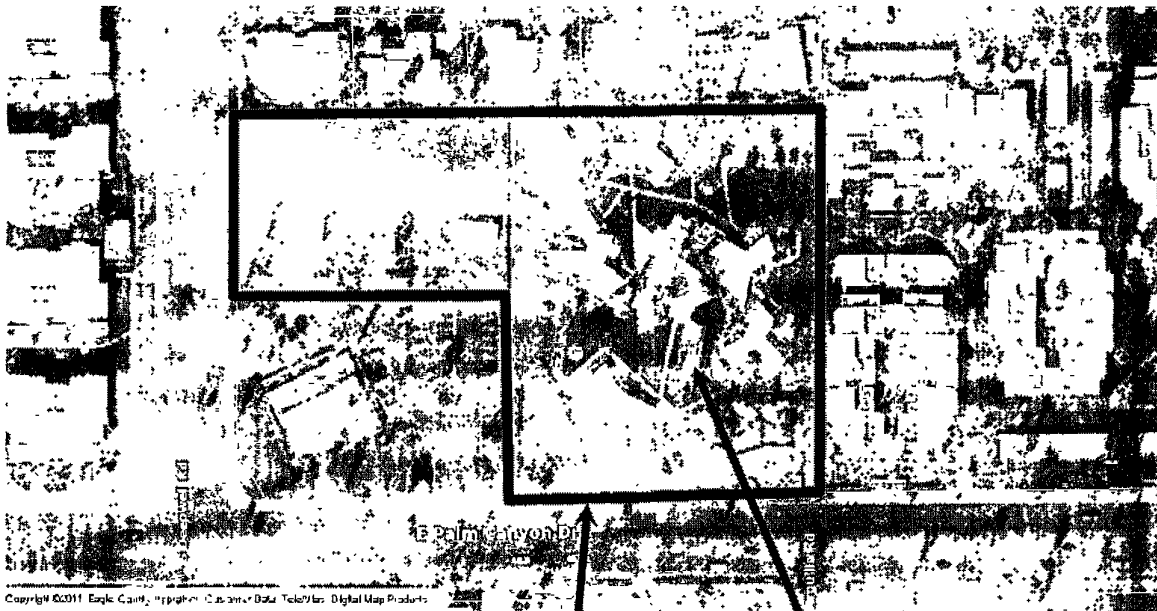
On July 6, 2005, the City Council upheld the decision of the Planning Commission to approve the Conditional Use Permit for the one year term to allow the accessory commercial uses at the subject property.

BACKGROUND AND SETTING

The subject site is located on the north side of East Palm Canyon Drive near the Deepwell Road intersection. Approximately one acre of the site is vacant and abuts Deepwell Road. The parcel is L-shaped and totals approximately 3.55 acres in size.

The property was developed in 1952 as the L'Horizon Garden Hotel; William F. Cody is the architect of record. The site contains twenty-two rooms which surround a central pool area. Adjacent Zoning and Land Uses are described in the following table:

	General Plan	Zone	Land Use
North	Very Low Density Residential	R-1-C	Single Family Residential
South	Tourist Resort Commercial	R-3	Hotel (Ocotillo Lodge)
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West	Tourist Resort Commercial	R-3	Multi-family Residential



SITE

PROPOSED POOL
 BAR LOCATION

The applicant is proposing the sale of alcohol in the pool area of the hotel. A Type 48 license request has been submitted by the applicant to the State Department of Alcoholic Beverage Control (ABC). The pool bar operating hours would be Monday through Friday from 4:30pm to 6:30pm and Saturday through Sunday 11:30am to 1:30pm and 4:30pm to 7:30pm.

ANALYSIS

General Plan

The General Plan designation of the subject site is TRC (Tourist Resort Commercial). This designation allows for "*large-scale resort hotels and timeshares including a broad range of convenience, fitness, spa, retail, and entertainment uses principally serving resort clientele.*" The subject property is an existing hotel and the incidental sale of alcohol would assist in providing a service to resort clientele. Therefore, the proposed use is consistent with the General Plan.

Zoning

The subject property is split-zoned. The northerly portion of the property is located within the R-2 Zone and the southerly portion of the property is located within the R-3 Zone. Pursuant to Section 92.04.01(D)(9) of the Palm Springs Zoning Code (PSZC), the sale of alcohol as an "*incidental or accessory commercial use to a hotel*" is permitted with the approval of a Conditional Use Permit. The PSZC requires that the use be "*operated primarily for the convenience of the hotel guests*", and "*not occupy more than twenty (20) percent of the gross floor area of the hotel buildings.*"

Parking

Pursuant to Section 93.06.00(D)(16) of the PSZC, no additional parking is required for the proposed use since the hotel has less than 100 guest rooms.

REQUIRED FINDINGS

The Planning Commission must make certain findings in order to approve this Conditional Use Permit pursuant to Section 94.02.00 of the Palm Springs Zoning Code; those findings are analyzed by staff below:

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

Section 92.04.01(D)(9) of the Palm Springs Zoning Code authorizes the sale of alcohol as an "*incidental or accessory commercial use to a hotel*" when approved under a Conditional Use Permit.

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

The incidental sale of alcohol is intended to be an amenity to guests at the hotel and therefore, will not be detrimental to existing or future uses permitted in the zone. The proposed spa is an accessory to the primary use of the site as a 22-room hotel. The General Plan designation for the site is Tourist Resort Commercial. This land use designation provides for large-scale resort hotels and timeshares including a broad range of convenience, fitness, spa, retail, and entertainment uses principally serving resort clientele. Therefore, the proposed use complies with the General Plan.

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

The overall site is approximately 3.55 acres in size. The proposed use will operate in the pool area only and will occupy floor space within an existing building. No additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.

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

No additional floor space is necessary to accommodate the proposed alcohol sale use. The use is accessory to the hotel and will only serve hotel guests. The site is located along East Palm Canyon Drive which is a designated as a Major Thoroughfare under the General Plan Circulation Element. Therefore, the site is adequately served by an improved street that will sufficiently carry the type and quantity of traffic generated by the proposed use.

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

The proposal is to operate a pool bar within an existing structure. Conditions of Approval have been included in the attached Exhibit A to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance and a specific requirement to direct outdoor speakers away from the adjacent residential properties

to the north and east. Other conditions include limitations on operating hours and other safety requirements.

CONCLUSION


The project is consistent with the land use policies of the General Plan and Zoning Code. Staff is able to recommend findings necessary for approval of the proposed use. On that basis, staff is recommending approval of the proposal.

ENVIRONMENTAL

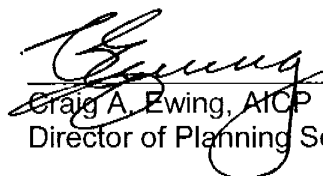
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project has been determined to be categorically exempt from further environmental review pursuant to Section 15301 (Existing Facilities).

NOTIFICATION

A public hearing notice was mailed to all property owners within 400 feet radius of the subject property. As of the writing of this report, staff has not received any public correspondence.



David A. Newell
Associate Planner



Craig A. Ewing, AICP
Director of Planning Services



ATTACHMENTS

1. Vicinity Map
2. Draft Resolution with Conditions of Approval
3. Letter of Request from Applicant



CITY OF PALM SPRINGS
DEPARTMENT OF PLANNING SERVICES

MEMORANDUM

Date: June 22, 2011
To: Planning Commission
From: Craig A. Ewing, AICP, Director of Planning Services 
Project Planner: David A. Newell, Associate Planner 
Subject: Case No. 5.1039 CUP – Horizon Hotel at 1050 E. Palm Canyon Drive

On June 8, 2011, the Planning Commission reviewed a request for a Conditional Use Permit to allow the sale of alcohol in the pool area of the existing hotel located at 1050 East Palm Canyon Drive. At that meeting, the Commission continued the item and requested additional information, including the property's compliance with the original CUP conditions related to noise mitigation and the number of police complaints on the property. The Commission also requested that the applicant pursue further dialogue with the neighbors on a noise mitigation plan.

Staff has attached the City Council staff report and final resolution of approval for the previous Conditional Use Permit at the Horizon Hotel in 2005. Staff notes that there are no specific conditions of approval that require the applicant to mitigate noise through additional landscaping or an increase in wall height. However, there is discussion in the first paragraph of the Council report that the applicant was willing to increase landscaping between the hotel and residential properties. Further research shows that the east property line wall was increased by the hotel to six feet in height for a length of 400 feet. The north property line wall does not appear to have been modified but it is approximately five feet and nine inches in height. Some landscape trees and shrubs were installed at the northeasterly corner of the property. The applicant / current owner has installed some shrubs on the northwesterly corner of the property and states that they intend to install additional shrubs near the north boundary wall.

The call history from the Police Department is attached to this report. The history shows two categories of data, Events and Case History. Events are all calls received for service dispatch. Case History includes all calls received for service which generated some type of written report. The applicant stated that they took ownership of the property on February 23, 2009, and since that time there have been ten disturbance-type calls and one police report filed related to a burglary.

The applicant states they intend to have a neighborhood meeting prior to the Commission meeting. Additional materials from the Horizon Hotel have been submitted on the background and current status of the hotel and efforts made to meet with neighbors.

With the information above, staff believes an additional condition may be necessary to recommend approval of the CUP. A landscape plan, subject to City approval, should be prepared and implemented within ninety days of the effective date of the CUP. Since the hours of the bar operation are limited and the applicant will mitigate noise disturbances, staff recommends that the Commission approve the project and adopt the draft resolution, as conditioned.

Attachments:

1. Vicinity Map
2. Draft Resolution
3. City Council Staff Report, July 6, 2005
4. City Council Resolution 21331
5. Planning Commission Staff Report, June 8, 2011
6. P.S. Police Dept. Address History Detail
7. Letter from Applicant
8. Progress and Status Report from Horizon Hotel
9. Email and Photographs from Horizon Hotel

RESOLUTION NO. 6208

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT AMENDMENT TO ALLOW THE SALE OF ALCOHOL AT THE POOL BAR AT THE EXISTING HORIZON HOTEL LOCATED AT 1050 EAST PALM CANYON DRIVE.

WHEREAS, Willamette Capital Management, LTD. ("Applicant") has filed a Conditional Use Permit Amendment application (Case 5.1039 CUP AMEND) with the City pursuant to Section 94.02.00 of the Zoning Code to allow the sale of alcohol in the pool area for the hotel located at 1050 East Palm Canyon Drive, Zone R-3 & R-2, Section 23, APN: 508-432-019; and

WHEREAS, incidental or accessory commercial uses to a hotel may be permitted in the R-3 Zone with the approval of a Conditional Use Permit, pursuant to Section 92.04.01(D)(9) of the Zoning Code; and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider Case No. 5.1039 – CUP AMEND was given in accordance with applicable law; and

WHEREAS, on June 22, 2011, a public hearing on the application was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed project is considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and has been determined to be Categorically Exempt as a Class III exemption (Existing Facilities) pursuant to Section 15301 of the CEQA Guidelines; and

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

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: Section 94.02.00(B)(6) of the Zoning Code requires the Planning Commission not approve a Conditional Use Permit unless it finds as follows:

- 1. That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*
- 2. That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*

3. *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*
4. *That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*
5. *That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards. Such conditions may include:*
 - a. *Regulation of use*
 - b. *Special yards, space and buffers*
 - c. *Fences and walls*
 - d. *Surfacing of parking areas subject to city specifications*
 - e. *Requiring street, service road, or alley dedications and improvements or appropriate bonds*
 - f. *Regulation of points of vehicular ingress and egress*
 - g. *Regulation of signs*
 - h. *Requiring landscaping and maintenance thereof*
 - i. *Requiring maintenance of grounds*
 - j. *Regulation of noise, vibrations, odors, etc.*
 - k. *Regulation of time for certain activities*
 - l. *Time period within which the proposed use shall be developed*
 - m. *Duration of use*
 - n. *Dedication of property for public use*
 - o. *Any such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this Zoning Code, including but not limited to mitigation measures outlined in an environmental assessment.*

Section 2: Based upon the foregoing, the Planning Commission finds as follows:

1. Section 92.04.01(D)(9) of the Palm Springs Zoning Code authorizes the sale of alcohol as an "incidental or accessory commercial use to a hotel" when approved under a Conditional Use Permit.
2. The incidental sale of alcohol is intended to be an amenity to guests at the hotel and therefore, will not be detrimental to existing or future uses permitted in the zone. The proposed spa is an accessory to the primary use of the site as a 22-room hotel. The General Plan designation for the site is Tourist Resort Commercial. This land use designation provides for large-scale resort hotels and

timeshares including a broad range of convenience, fitness, spa, retail, and entertainment uses principally serving resort clientele. Therefore, the proposed use complies with the General Plan.

3. The overall site is approximately 3.55 acres in size. The proposed use will operate in the pool area only and will occupy floor space within an existing building. No additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.
4. No additional floor space is necessary to accommodate the proposed alcohol sale use. The use is accessory to the hotel and will only serve hotel guests. The site is located along East Palm Canyon Drive which is a designated as a Major Thoroughfare under the General Plan Circulation Element. Therefore, the site is adequately served by an improved street that will sufficiently carry the type and quantity of traffic generated by the proposed use.
5. The proposal is to operate a pool bar within an existing structure. Conditions of Approval have been included in the attached Exhibit A to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance and a specific requirement to direct outdoor speakers away from the adjacent residential properties to the north and east. Other conditions include limitations on operating hours and other safety requirements.

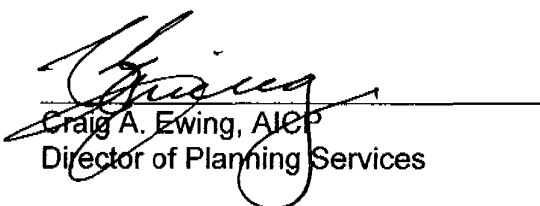
NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves Case No. 5.1039 – CUP AMEND, a Conditional Use Permit to allow the sale of alcohol at the pool bar at the existing Horizon Hotel located at 1050 East Palm Canyon Drive, subject to the conditions set forth in the attached Exhibit A.

ADOPTED this 22nd day of June 2011.

AYES: 5, Donenfeld, Chair Caffery, Conrad, Klatchko and Roberts
NOES: None
ABSENT: 1, Hudson
ABSTAIN: 1, Munger

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA


Craig A. Ewing, AICP
Director of Planning Services

RESOLUTION NO. 6208

EXHIBIT A

Case 5.1039 CUP
Willamette Capital Management, LTD

1050 East Palm Canyon Drive

June 22, 2011

CONDITIONS OF APPROVAL

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

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

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case 5.1039 CUP, except as modified the conditions below.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans on file in the Planning Division except as modified by the conditions below.
- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 5.1039 CUP. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the

matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

- ADM 6. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 7. Time Limit on Approval. Approval of this Conditional Use Permit (CUP) shall be valid for a period of two (2) years from the effective date of the approval. Once the use is implemented, the Conditional Use Permit does not have a time limit, provided the project has remained in compliance with all conditions of approval.
- ADM 8. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 9. Cause No Disturbance. The owner shall monitor outdoor parking areas, walkways, and adjoining properties and shall take all necessary measures to ensure that customers do not loiter, create noise, litter, or cause any disturbances while on-site. The owner and operator shall ensure that at closing time, all customers leave the property promptly and that the property is clean and secure before the owner/operator leaves the premises. The Police Chief, based upon complaints and/or other cause, may require on-site security officers to ensure compliance with all City, State, and Federal laws and conditions of approval. Failure to comply with these conditions may result in revocation of this permit, temporary business closure or criminal prosecution.
- ADM 10. Grounds for Revocation. Non-compliance with any of the conditions of this approval or with City codes and ordinances, State laws; any valid citizen complaints or policing and safety problems (not limited to excessive alcohol consumption, noise, disturbances, signs, etc) regarding the operation of the establishment; as determined by the Chief of Police or the Director of Building and Safety, may result in proceedings to revoke the Conditional Use Permit. In

addition, violations of the City Codes and Ordinances will result in enforcement actions which may include citations, arrest, temporary business closure, or revocation of this permit in accordance with law.

- ADM 11. Comply with City Noise Ordinance. This use and property shall comply with the provisions of Section 11.74 Noise Ordinance of the Palm Springs Municipal Code. Any outdoor speakers shall be directed away from the residential properties to the north and east. Violations may result in revocation of this Conditional Use Permit.
- ADM 12. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers.

PLANNING DEPARTMENT CONDITIONS

- PLN 1. Hours of Operation. The operating hours for the sales of alcohol at the pool bar shall be Monday through Friday 4:30 P.M. to 6:30 P.M. and Saturday through Sunday 11:30 A.M. to 1:30 P.M. and 4:30 P.M. to 7:30 P.M. These hours shall be posted in a conspicuous location at the pool bar. Any future modifications to the hours of operation shall require an amendment to this Conditional Use Permit.
- PLN 2. Letter of Convenience or Necessity. The applicant shall obtain a Letter of Convenience or Necessity from the City Council prior to commencement of the cocktail lounge use. If the Resolution of Convenience and Necessity is not approved, this CUP application will not be valid.
- PLN 3. Sign Applications Required. No signs are approved by this action. Separate approval and permits shall be required for all signs in accordance with Zoning Ordinance Section 93.20.00.
- PLN 4. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned.
- PLN 5. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 6. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 7. Noise Mitigation. Within ninety (90) days of the effective date of the CUP, the applicant shall install landscaping along the north property line, based on a plan that is submitted by the applicant and approved by the Planning Department.

PLN 8. Added by Planning Commission on June 22, 2011. The Planning Commission shall review the status of the CUP one year from the effective date of the permit.

POLICE DEPARTMENT CONDITIONS

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

BUILDING DEPARTMENT CONDITIONS

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

END OF CONDITIONS

