



City of La Quinta

COUNCIL/RDA MEETING DATE: March 20, 2007

ITEM TITLE: Continued Public Hearing to Consider Adoption of a Resolution of the City Council Certifying Environmental Assessment 2006-573, Approving Conditional Use Permit 2007-102 for the Use and Operation of the Signature Pool, and Site Development Permit 2006-865 for the Architectural and Landscaping Plans for a Signature Pool Facility for the Property Located on the West Side of Avenida Obregon, Approximately 150 Feet South of Avenida Fernando on the La Quinta Resort Grounds. Applicant: CNL Desert Resorts, LLP

AGENDA CATEGORY:

BUSINESS SESSION: _____

CONSENT CALENDAR: _____

STUDY SESSION: _____

PUBLIC HEARING: _____

_____:

RECOMMENDATION:

Adopt a Resolution of the City Council certifying an Addendum to the Environmental Impact Report and subsequent CEQA compliance documents and approving Site Development Permit 2006-865 and Conditional Use Permit 2007-102, subject to the Conditions of Approval.

The Planning Commission, at its meeting of February 13, 2007, voted 4-0 in favor of recommending certification of the Addendum. The Planning Commission then on a 2-2 vote (with Commissioner Daniels absent) failed to adopt a Resolution which would have recommended approval of Site Development Permit (SDP) 2006-865, subject to Conditions. The Community Development Department recommended approval of Site Development Permit 2006-865.

The Planning Commission, at its meeting of March 20, 2007, voted 5-0 to adopt Resolution 2007-011 recommending approval of Conditional Use Permit (CUP) 2007-102, subject to revised Conditions.

FISCAL IMPLICATIONS:

The applicant's stated purpose for seeking to make these modifications to the Resort is to increase occupancy levels in the off season. According to the applicant, occupancy levels in the summer average 48%, as opposed to the levels in the peak season, which average 75%. The City receives Transient Occupancy Tax ("TOT") when the hotel rooms are occupied. In addition, the City receives sales tax revenues from other expenditures by hotel visitors. The City staff has not estimated the expected increase in tax revenues associated with the Signature Pool proposal.

However, the applicant estimates the expected increase to be between \$350,000 and \$550,000 annually. In the 2005-2006 Fiscal Year, the City received \$4,118,768 in TOT revenue from the Resort.

CHARTER CITY IMPLICATIONS:

None.

BACKGROUND AND OVERVIEW:

Environmental Review

The La Quinta Community Development Department has caused to be prepared Environmental Assessment 2006-573 (An Addendum To Final Environmental Impact Report (EIR) Number 41 and to a series of subsequently approved environmental review documents) for this Site Development Permit and Conditional Use Permit in compliance with the requirements of the California Environmental Quality Act Of 1970, as Amended (Attachment 1).

The Community Development Department has determined that the proposed modifications to the La Quinta Resort do not require a Subsequent EIR, Supplemental EIR or a Negative Declaration/Mitigated Negative Declaration, since the circumstances described in Section 15162 of The California Environmental Quality Act Guidelines do not exist, in that there will be no new or more significant impacts than those disclosed in the prior EIR Number 41 and the CEQA compliance documents approved subsequently. The modifications proposed, and the circumstances under which the modifications would be carried out, do not require substantial changes to the previous EIR, or the subsequent environmental documents, due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects. In addition, there is no new information of substantial importance which would trigger the requirement of a Subsequent EIR, Supplemental EIR or Negative Declaration/Mitigated Negative Declaration in accordance with section 15162(a)(3). Therefore, the Community Development Department is recommending certification of Environmental Assessment 2006-573 if the project is approved.

Surrounding Land Uses

North: Tennis Villas and Date Palm grove
South: Tennis courts, Tennis Villas, Resort Homes and Spa La Quinta
East: Avenida Obregon with the Resort grounds beyond
West: Tennis courts and Tennis Villas

General Plan/Specific plan Designation

CT (Tourist Commercial)

Zoning Designation

TC (Tourist Commercial)

Previous City Council Review

The City Council considered EA 2006-573 and SDP 2006-865, at its meeting of February 20, 2007 (Attachment 2). It was at this hearing that the need for the CUP was discussed and the City Council directed staff to process a CUP in conjunction with the SDP. After a Motion to approve the EA and SDP failed to pass on a 3-2 vote, the City Council passed a Minute Motion to continue EA 2006-573 and SDP 2006-865 to this meeting to allow a CUP to be filed by the applicant and reviewed by the Planning Commission. The SDP application was not referred back to the Planning Commission and was not subject to additional Planning Commission review.

At that hearing, the City Council asked that the applicants meet with the surrounding Homeowners Associations (HOA) to discuss acquisition of the Tennis Villas or mitigation of their objections.

City staff attended a meeting between the four HOA's on March 1, 2007. The purpose of the meeting was to provide a forum for the HOA's directors to meet with Resort representatives to ask questions and discuss the proposal, site design and overall operation of the proposed Signature Pool. The meeting was informational and very candid and direct with regards to topics discussed. The Resort did not make any formal commitments to re-design or change the operation of the proposal. Both sides discussed a range of considerations that have been discussed at public hearings.

The applicants and Homeowners Associations representatives have held subsequent meeting(s) to discuss the CUP and SDP. Staff was not invited to those meetings.

General

The subject property is on the grounds of the La Quinta Resort and Club which opened in 1926 and is located on the west side of Eisenhower Drive, south of Avenida Fernando. The site proposed for the "Signature Pool" facility is on the west side of Avenida Obregon, south of Avenida Fernando, private streets within the 62 acre resort (Attachment 3).

The La Quinta Resort and Club (originally the La Quinta Hotel) opened in 1926 with 20 casitas, a lobby area and one restaurant. Over the years it has been expanded and modified to include 62 acres and over 800 rooms. Relevant Resort development modifications and additions over the years have included:

1926	Opened on December 26, 1926
1927	Installed nine-hole golf course, the second course built in the Coachella Valley
1937	Added the first swimming pool to the Resort

1940's	Constructed the Tennis Club offering 30 courts with a choice of hard, grass and clay surfaces (presently there are 23 tennis courts)
1980	Constructed two 18-hole golf courses
1984	Between 1980 and 1984, constructed 193 casitas and suites with swimming pools, the original Signature Pool (now replaced with sunken center tennis court), the Frank Capra Ballroom and two suites
1987	Constructed its third 18-hole golf course
1988	Constructed 371 casitas and a number of swimming pools, the retail area (The Plaza), and two restaurants (Morgan's and Adobe Grill)
1994	Constructed the Flores Ballroom
1998	Constructed the 23,000 square foot Spa La Quinta and Spa Villas bringing the guestroom total to a little over 800 guestrooms

The original Specific Plan for the La Quinta Resort was approved by the County of Riverside in 1975. Prior to 1982 when the City incorporated, development of the Resort was governed by the County of Riverside regulations. The 4.7 ± acre site of the proposed water feature presently is developed with resort recreational facilities, including ten tennis courts (of the total 23 courts), the main Resort swimming pool, landscaped grounds, a children's playground, the Morgan House, and several other buildings. Landscaping consists of a large number of mature Palm and Olive trees. Nine tennis courts, the tennis stadium (center court), a restroom building, the main outdoor swimming pool and playground area will all be removed to facilitate the new water feature.

Two of the three retained buildings will be used as part of the proposed pool facility. The remaining Morgan House which has been closed to Resort and public use for approximately one year due to seismic safety concerns will be retained "as is" with a safety fence installed around it.

Proposed Modifications to the Resort's Recreational Amenities:

General

The proposal is to construct a "Signature Pool" water feature on the 4.7 ± acre site, fronting on Avenida Obregon, a private 20 foot wide street. The proposal would include several water-related and pool amenities. Proposed amenities include two artificial rock formations, one of which will contain three enclosed slides leading to a splashdown pool and a wave pool, a lazy river that proceeds in a circular loop, a formal outdoor pool with terraces, private pool-side cabanas, an arrival plaza building, children's outdoor play area and pool, a game room with first aid center, indoor and outdoor dining areas, and chaise lounge deck areas. A description of the project which includes a background on the Resort has been submitted by the applicant (Attachment 4).

Site Development Permit Request

A complete description of the design features of the project is contained in the February 20, 2007 City Council report on EA 2006-573 and SDP 2006-865 (Attachment 5). The site and landscape design as proposed by the applicants has not changed since the last City Council review (Attachment 6). Some aspects of the proposed operation of the facility have changed since the last review and are described below as part of the CUP request.

Conditional Use Permit Request

The La Quinta Resort is required to comply with all applicable development regulations including the provisions and standards set forth in the current La Quinta Resort Specific Plan 121-E, Amendment #5. Adopted in 2001, Amendment #5 of the La Quinta Resort Specific Plan identifies permitted and conditional land uses. The Specific Plan does have a provision which states "pool/spa and water park uses" and "theaters, live or motion picture-indoor or out" require a CUP. Therefore, the proposed signature pool facility must obtain a Conditional Use Permit in addition to a Site Development Permit.

A Conditional Use Permit application was not initially processed with EA 2006-573 (EA) and SDP 2006-865 (SDP) that the Commission considered on February 13, 2007. At that hearing the Commission took action to recommend approval of EA 2006-573 (on a 4-0 vote) and sent the SDP to City Council without recommendation because their motion to approve the SDP resulted in a tie vote. The Planning Commission did recommend approval of the Addendum and the CUP is consistent with the information considered in reviewing the SDP. The City Council is to address this CUP concurrently with the EA and SDP applications. Staff has prepared one Resolution for the Addendum, CUP and SDP.

The purpose of a CUP is to provide for individual approval, conditional approval, or denial of proposed land uses and operational conditions of approval. Uses requiring these permits have potential for adverse impacts to surrounding properties and/or residents. Therefore, when such uses are approved, conditions are placed on their establishment and operation to adjust the proposal to reduce or eliminate any effects on adjacent properties and neighborhoods. If the City Council approves this CUP, the action should include requirements that ensure it is established and operated in a manner that will not be detrimental to the surrounding properties.

The City Council has the discretion to consider the appropriateness of the proposed CUP, proposed conditions, and any other recommendations that it determines to be appropriate.

As part of the CUP application material, the applicant has prepared an application booklet (Attachment 7). In addition to a project exhibits, the application includes a project narrative, which identifies commitments being made by the Resort to address potential impacts relevant to parking, traffic control, construction management, road

and access improvements and security. See pages one to four for a description of the application's proposed operational criteria for the CUP. Many of these commitments come from the operational conditions of the SDP. All recommended operational related Conditions of Approval from the SDP have been transferred by staff to this CUP. The Planning Commission approved additional measures which, in the opinion of the Commission, added additional assurances that the project will not be detrimental to the surrounding properties and neighborhood.

Information provided in the application booklet identifies that the applicant has stated they will not show evening movies and not open the water slides, wave pool and lazy river from January 1 to March 15 of each year. As part of the Planning Commission action on March 13, 2007, the Planning Commission, with the applicant's concurrence, changed this time period to the Monday following Thanksgiving to the 2nd Thursday of March.

The applicant states open areas of the project site, such as the decks and open landscaped areas will continue to be used for special events such as receptions, dinners, and meetings in conjunction with conference guests.

Provisions for showing movies have been provided on the side of the rock formation facing the wave pool. As noted, the applicant has agreed to not showing movies from the Monday following Thanksgiving to the 2nd Thursday of March (previously proposed to be January 1 to March 15 of each year).

The applicant has also stated in their CUP application that after one year of operation they will review the previous year's security effectiveness to determine if any improvements should be made to the Resorts use of the pool facilities related to hours of operation. The CUP application also identifies that new safety and security employees will be retained to specifically help with traffic control, noise and general security of the Signature Pool and the surrounding areas.

The applicant states they will temporarily shut down operation of any active water features (wave pool, slides and lazy river) if the City notifies them that the City's Noise Ordinance maximums are exceeded or a public nuisance exists as a result of the facility's operation. The Commission expanded this restriction so it addresses all activities within the boundaries of the CUP. The applicant will then take whatever steps necessary to correct the problem before re-starting that facility or activity.

Issues/Analysis on Conditional Use Permit 2007-102:

As previously stated, the purpose of a CUP is to provide for individual approval, conditional approval, or denial of proposed land uses and operational conditions. Conditions of Approval are typically imposed to specifically address potential adverse impacts to surrounding properties and/or residents. Thus, operational management/control is established with a CUP versus conditions specific site improvements, which are typically found with Site Development Permits. Conditions

of Approval for a CUP can include time sensitive criteria, operational criteria and consequences for failure to comply. Additionally, a Conditional Use Permit can be revoked should there be violations to the conditions set forth. Any consideration for revocation must be conducted in accordance with La Quinta Municipal Code Section 9.200.130.

Multiple issues have been identified as part of the analysis of the proposed CUP application. The following categories provide analysis of the major identified issues:

Parking

No additional parking facilities are proposed to be provided for this use to offset the lost of the nine spaces on Avenida Obregon. The applicant states there will not be an increased parking demand that will exceed the existing parking capacity because the pool feature is geared to increasing the Resorts occupancy during the 48% off-season summer month occupancy when parking spaces are readily available. Subsequent to the Planning Commission hearing, the Resort prepared a Traffic Volume and Parking Conditions Study dated February 12, 2007 (Attachment 6). This study showed that on February 9, 2007, the Resort had adequate parking available and the on-site private streets operated at an acceptable level of service. Also, based on their research relating to Resort facility usage, the applicant states Citrus Club members who potentially could use the proposed water feature, primarily use the Resort for golf and fitness and make very minimal use of the existing pools. Lastly, less than 20% of these members have qualified children who could potentially use the pool feature (Attachment 8).

The Planning Commission recommends that if the City determines insufficient parking exists, or that the Parking Management Program is not working, and/or that traffic flow is not operating adequately, up to three parking management studies over three years shall be completed to determine how to resolve any parking issues. Any improvements recommended by these studies are required to be implemented within one year of their requirement. The applicant has incorporated into the CUP packet language consistent with the previously recommended SDP conditions.

The Date Palm grove at the northwest corner of Avenida Obregon and Avenida Fernando presently is used for conference related activities on occasion. It is recommended that this grove be reserved for at least three years for future parking or loading and unloading if deemed necessary by the City.

A Parking Management Program is recommended to require parking permits and identify provisions for ticketing and/or towing of violators during high demand in-season periods.

The Resort presently operates an on-site shuttle service throughout the Resort that will continue when the project is operational. A Condition of Approval is recommended requiring the shuttle service be extended to serve the water feature. This should

minimize demand for parking in the signature pool area.

The CUP booklet also identifies the addition of Resort staff to assist with parking management and the establishment of a “parking/traffic hotline”. These efforts will help with directing Resort and club guests to the appropriate parking areas and should also help minimize any excessive demand for parking near the Signature Pool entrance.

Another important component to addressing parking is signage. Improvements to the Resorts sign program that direct Resort and club guests to the appropriate parking areas would also assist with minimizing the demand for parking near the signature pool entrance. Refer to proposed Condition Nos. 6-15 for parking and other operational control measures.

Traffic/Circulation

As a part of the Avenida Obregon entry median area south of Avenida Fernando, staff recommended during the SDP application process the Community Development Director has the right to require the gates be installed and operated during periods of increased parking demand due to high water feature attendance. The applicant has proposed similar language in the CUP application. Once the gates are required to be used and until the gates are installed, the Resort will provide a person to man the entry and control traffic allowed to enter the area. During operation of the gates or when it is manned, this entry area will also become the drop-off turnaround for water feature users.

Avenida Obregon is a 20 foot wide private street (curb to curb) that does not allow parallel parking on either side. It is red curbed and signed as a fire lane. There have been times when guests, employees, and service vehicles have parallel and double parked along the street violating the fire lane parking restriction as well as making use of the street difficult. The City’s Code Compliance Department has in the past, received complaints regarding parking on the street. As a result, monitoring of the area has resulted in the issuance of five citations in the last 11 months. Regular monitoring of the street for parking violations is done by the City’s Code Compliance Department. The gate operation requirement noted above will help to alleviate this problem. In addition, the previously noted “parking/traffic hotline” will provide opportunity for direct contact to and quick response from the Resort “traffic control officer” for any reported concerns.

Noise

As a part of the Addendum, an acoustical analysis of mechanical equipment use and expected operational conditions was prepared (Attachment 1). In summary, the findings of the study show that the proposed project will operate in compliance with City noise standards. Furthermore, the amount of noise increase over existing noise levels near the proposed Signature Pool project will not be significant.

As previously noted, the applicant has proposed with this CUP application a condition specific to addressing noise abatement. The applicant references the City's Municipal Code Section 9.100.210(c) as the governing standard to identify any potential violations. In addition to this provision La Quinta Municipal Code Section 11.08.040 is recommended to be included, which provides the ability to address noise related to specific nuisance occurrences which may not necessarily exceed noise limits but do impact the neighbors quality of life.

Recorded and possibly live music, is proposed to be played through a ground-mounted speaker system throughout the facility. This can be expected to be played during hours the facility is opened. In order to not impact the adjacent residential owners, Limited live music or amplified entertainment, broadcasting is recommended to be allowed in the lazy river, slide, wave pool areas and children's area.

Movies will be played in evening hours on limited occasions. Showing of these movies could impact the adjacent residential owners, and therefore, it is recommended that they not be shown from the Monday following Thanksgiving and the 2nd Thursday of March of each year and end no later than 10 p.m.

Most of the private residential Tennis Villas units adjacent to the site have small outdoor patios adjacent to the water feature's property line. Presently there are chain link tennis fences (with green mesh cloth) adjacent to block retaining walls at the tennis court/Tennis Villas boundary. Most of the area between the fencing and retaining walls is planted with citrus trees that help provide a visual screen between the uses. With this water feature, depending on where the property line is, the fences and possibly the trees ,will be removed. Staff is recommending the Resort be required to work with Tennis Villas homeowners immediately adjacent to the Signature Pool to construct a five to six foot garden wall or enclosure to create an outdoor patio within the turf areas located between the Signature Pool property line and the Tennis Villas. If a homeowner chooses not to have this wall constructed, the Resort may construct a six foot high screen wall on its northerly or southerly property line. See Condition No. 34 of the CUP for additional details. In addition, the applicant will be required to design and construct property line walls in accordance with La Quinta Municipal Code Section 9.60.030, which requires a stepped wall design for any walls over 8-feet in height.

Construction Parking

The applicant has included in the CUP booklet conditions specific to the construction parking. These conditions are generally consistent with staff's recommended conditions identified during the SDP application process. These conditions, along with staff's recommended modifications, should minimize the impact of construction vehicles upon the existing private streets and prevent large construction vehicles from parking adjacent to residential properties.

Operations

An issue raised has been the number of patrons using the facility at any one time. Opponents stated up to 3,000+ persons could use the facility at one time. It is recommended the maximum number of water feature patrons shall not exceed 1,950 at any one time. Furthermore, outdoor meetings, dinners, receptions, etc. held within the water feature area shall not exceed 1,500 persons and shall end no later than 10 p.m. No amplified music shall be permitted within the active pool area from 6 p.m. to 10 p.m. during the period between the Monday following Thanksgiving and the 2nd Thursday of March.

Site Design

In order to reduce nuisance impacts to adjacent residential properties, the lazy river shall have no guest access to the lazy river (emergency access is permitted) in the area between the lazy river and north property line.

Issues/Analysis on Site Development Permit 2006-865:

Some of the CUP's operational issues apply to the SDP that deals with the design of the project. Those issues include parking, traffic, and noise and are discussed above.

The Morgan House is located within the area near the northeast corner of the site. As noted above, the house will remain in place but be fenced off in order to protect both the public and Resort employees from a seismic induced collapse. The setback of the fencing from the house will be determined by the type of fencing. An open decorative fence will require a slightly bigger setback while a solid engineered fence will allow the fence to be closer to the building. Staff has recommended Condition of Approval No. 81 requiring an attractive safety/security fence be installed as a temporary measure (until the structures seismic instability is corrected or it is demolished) with the design and location submitted to the Community Development and Building and Safety Directors for approval. Additionally, a historic resources monitor or structural engineer is recommended to be on-site whenever demolition or construction vibration or noise is occurring within 100 feet of the building to ensure its safety (Condition Nos. 74-76 of the SDP).

With regard to the safety fencing location, the applicant has submitted an engineering report prepared by an adobe specialist with recommendations on where fencing should be placed to ensure that a collapse of the building will not endanger nearby persons. The fence location varies depending on whether the fence is structurally engineered and constructed of a solid material or not. In either case, the location of the safety fence will easily fit within the site plan of the applicant's proposal.

As noted above, the historic context of the Morgan House on the Resort grounds will not be degraded beyond that which presently exists. When the house was originally constructed, the area surrounding it was to a great extent undeveloped. Over the years, development of the Resort and surrounding residential development has encroached upon the house. The house is essentially surrounded by fences and walls

that either keep persons in nearby areas there or away from the house. Therefore, the installation of these safety fences will not affect the historic context of the house and its surroundings.

The area proposed for the Signature Pool is presently used almost exclusively for Resort recreation and with the installation of the proposed water features, the area will continue to be used for that purpose.

In order to provide fire protection access to the two artificial rock structures on the west side of the site, the Fire Department is recommending as a condition of approval that a fire truck gate and access to the west side of the site be provided on Calle Mazatlan where the tennis court is adjacent to the street (Condition No. 105). The gates will allow Fire Department vehicles and personnel access to the artificial rock structures from the west. This would require a 20 foot wide portion of the existing fences between the three courts be removed or hinged. The net for the fourth court (No. 12) adjacent to the water feature will need to be removed to provide a fire vehicle turnaround, unless an alternative (i.e. removable net poles, access through adjacent Villa Drive, etc.) is agreed upon by the Fire Department. The fire access from Avenida Obregon that exists will remain.

Planning Commission Action on Environmental Assessment 2006-573 and Site Development Permit 2006-865

The Planning Commission held a Public Hearing to consider the Environmental Assessment and Site Development Permit at its meeting of February 13, 2007 (Attachment 9). The applicant's presentation included a brief history of the Resort and its development as well as a description of the proposed Signature Pool facility. The applicant noted that they have approximately 1,600 employees. With the increased summer and shoulder month's occupancy, they predict the new facilities will help retain those employees during the Resort's traditionally slow period. Also, they noted the facilities will allow them to compete with other regional resorts that now have or will soon have these types of amenities. They noted that they made numerous changes to their design to address concerns they had previously heard from surrounding property owners, such as: enclosing all of the water slides; lowering the grades; lowering the water surface in the lazy river and the splash pool to help retain sound; and reducing the height of the rock formations.

During that hearing, approximately 33 people spoke, nearly all in opposition to the request. The speakers and the letters noted concerns such as: increased traffic in an area that is already at times congested; noise from the water feature users; construction noise and inconveniences; blocking of views by the taller rock formation; loss of tennis facilities; and loss of the Resort's charm.

The adjoining Homeowners' Associations have hired the law firm of Guralnick & Gilliland, LLP who has prepared a letter in opposition to the proposal. This letter also

includes technical reports addressing traffic, parking and noise (Attachment 10). In response to this letter and reports, the City's traffic and noise consultants have submitted written responses (Attachment 11).

The City Attorney has noted that the Guralnick letter is based upon the erroneous assumption that the City is proposing to adopt a Negative Declaration in connection with this application. This is incorrect. The environmental documentation which has been prepared for this proposal is an "Addendum." This was prepared in accordance with California Environmental Quality Act (CEQA) Guideline 15164. The Addendum builds on the analysis completed in EIR No. 41 and the subsequent environmental documents. This is appropriate because what is proposed is a modification to a 4.7-acre portion of an existing 62-acre project (the La Quinta Resort), which project has already undergone extensive and voluminous environmental review under the California Environmental Quality Act. The question isn't whether or not there will be any impacts from the Signature Pool facilities. Instead, the question is whether the replacement of Resort amenities proposed in these applications will cause significant impacts beyond those previously outlined in the extensive prior environmental review. The Addendum concludes that with the proposed modifications to the Signature Pool area, the Resort as a whole will have not greater impacts than what has already been identified and accepted. In this regard, it is important to note that the proposal involves no increase in the number of rooms available for rent. Instead, its purpose is to have more efficient usage of the existing capacity of the Resort.

The Planning Commission, during the EA and SDP review with Commissioner Daniels absent, discussed the various issues brought up as well as their ideas and concerns. In addition to neighborhood concerns, items discussed by one or more of the Commissioners included: whether the Signature Pool facilities were too intense for the location; how the facility would be operated; the Resort's right to evolve and make changes; impacts on the surrounding property owners; and possible additional Conditions of Approval, including improvements to the berm along Eisenhower Drive and the existing pathway.

The Planning Commission on a 4-0 vote adopted Resolution 2007-007 recommending certification of an Addendum to Environmental Impact Report #41 and subsequent CEQA compliance documents for Environmental Assessment 2006-573.

Then, Commissioner Quill motioned to approve Site Development Permit 2006-865 with Commissioner Engel seconding the motion. The motion failed to pass on a 2-2 vote with Commissioners Alderson and Barrows casting negative votes. The Commission was informed by the City Attorney that City's policy is when there is a tie vote and a commissioner is absent, the item is normally continued to the next meeting so that the absent commissioner can break the tie vote. However, the policy allows the Commission to provide a different disposition if they can do so in a successful motion. Because the Commission action on the SDP was simply a recommendation to the Council, the Commission adopted a motion 4-0 directing that the request be sent to the City Council noting their action and the Conditions of Approval that had been

suggested by Commission Chair Quill. Specifically, they requested the following additional Conditions of Approval be considered by the City Council if it is determined that the SDP be approved:

1. That a comprehensive landscaping, irrigation and fencing plan to resolve problems and improve the appearance be prepared for the Eisenhower Drive frontage and southern perimeter adjacent to the Bear Creek Bike Path for review and approval by the Community Development Director. The plan shall be implemented and completed prior to issuance of the Certificate of Occupancy for the Signature Pool facility.
2. That a security operations plan be submitted to the Community Development Director for approval prior to issuance of first building permit. The plans should include items such as security in the pool facility and Avenida Obregon areas during operation and after hours, control of guests in residential areas, etc.
3. That trees on the rock formations shall be limited to small trees that do not obstruct views and are compatible with the local mountain habitat.

Planning Commission Action on Conditional Use Permit 2007-102

The Planning Commission held a Public Hearing to consider the Conditional Use Permit at its meeting of March 13, 2007 (Attachment 12). During his presentation, the applicant noted they had met with representatives of the major Homeowners Associations surrounding the Resort. They noted the changes they had agreed to, based on this meeting and City staff discussions. Mr. Bill Markenson, Loss Prevention Manager for the Resort noted they had already implemented many of their proposed traffic and parking control plans during recent practice tennis events and noted that they worked well, avoiding traffic and circulation problems in the Signature Pool area.

One Resort representative spoke in favor of the project and asked a number of La Quinta residents who are Resort employees to stand in the audience. Additionally, she noted improvements were being done at PGA West and the Citrus to provide fitness and tennis facilities there, thus reducing potential trips to the tennis and fitness facilities at the Resort.

A number of residents from the area spoke in opposition to the proposed request. They cited concerns similar to those raised at the previous public hearing, such as noise, traffic, ambiance, tennis facility reductions, quality of life reduction, and construction noise.

Attorney Wayne Guralnick, speaking on behalf of Los Estados, Mountain Estates, Tennis Villas and The Enclave homeowner associations stated that one of the required Findings for a CUP was that the use was compatible with and not injurious to surrounding properties. He testified that in his opinion the required Findings were not made by staff. He recommended denial of the request or that the Conditions of

Approval be carefully considered if the project is approved. He noted that the use of the area by the Resort for dinners, meetings, etc. would create conditions that would be incompatible with the adjacent properties. He requested that the closing times for ancillary outdoor activities and the restaurant be cutback and that no dinners, meetings, etc. be held in the active water feature area (open areas near the wave and slide pools and lazy river). He requested that movies only be allowed in the formal pool area. Mr. Guralnick felt determination and enforcement of noise violations would be difficult if not impossible.

Mr. Rick Zeilenga, Attorney for the applicant spoke in rebuttal, noted that many of the concerned residents were three football fields away. He noted the noise study for the Addendum was very conservative in its assumption. Therefore, he noted noise levels could be arguably lower than stated in the report. He noted that their concessions in operating hours, days and activities during prime season assure that the use would not detrimental to the closest Tennis Villas residents. Mr. Zeilenga noted that traffic studies completed by Endo Engineering indicate that traffic and parking is operating at a fraction of its capacity and summer traffic would not exceed prime winter parking. It was noted pedestrian safety measures would improve with approval of the project. He briefly discussed other measures proposed to improve traffic and circulation. He explained the benefits the project would generate for the City, community as well as the Resort if the project is approved.

The Planning Commission discussed the merits of the project and noted that the applicants had presented an operational program that addressed their concerns and provided that future issues could be resolved to ensure the project would be acceptable. The Commission did add to their SDP condition during their previous review to have the perimeter landscaping upgraded along Eisenhower Drive, south of Avenue 50, along the Bear Creek Trail on the south property line and along Avenida Carranza to their maintenance facility. On a Motion by Commissioner Daniels, seconded by Commissioner Engle, the Planning Commission on a 5-0 vote adopted Resolution 2007-011, subject to revised Conditions of Approval.

Response to Mr. Fredricks:

The Mayor and City Council have received a letter from Mr. Richard R. Fredricks' attorney (Demetrious, Del Guerio, Springer & Francis, LLP) regarding the proposed CUP and SDP. The letter (Attachment 13) references a number of concerns regarding the legal and physical condition of Avenida Obergon. The City does not dispute the fact that Avenida Obergon provides access between Avenida Fernando and the Fredricks' estate. This condition has existed for many years and the physical improvement of Avenida Obergon has been modified over the years. The proposed SDP and the recommended Conditions of Approval for the CUP have been carefully revised by the City to ensure that the current conditions are upgraded as follows:

1. A new entry area with turnaround at Avenida Obergon and Avenida Fernando will be provided.

2. Relocation of parking in front of Spa La Quinta with a new drop-off area at the Spa provided.
3. Installation of decorative crosswalks on Avenida Obregon.
4. The City can require up to three parking studies with improvements if problems arise after the facility opens.
5. A Parking Management Program will be required to monitor parking and assure on-street restrictions are enforced.
6. Shuttle service will assure guests do not need to drive to the facility from other parts of the Resort.
7. New Resort parking and traffic employees will be hired specifically to monitor parking and traffic conditions in the water feature and adjacent roadway areas and resolve problems as they arise.
8. Should the gates at Avenida Obregon and Avenida Fernando be used, all property owners of private property that take access from Avenida Obregon will continue to have access at no cost to them.
9. A parking/traffic hotline will be implemented by the Resort with immediate response required.

Based upon the physical and management improvements to be implemented with this project, City staff believes that the access along Avenida Obregon will be improved and not degraded.

Response to Mr. Mittelbusher:

Staff has received an inquiry (Attachment 14) from Mr. Ed Mittelbusher, a resident on Calle Mazatlan, near the proposed Signature Pool asking the following questions:

1. Could the temporary increases in noise during demolition, excavation, grading and construction of the new pools and related site improvements be as long as eight hours per day for weeks at a time?
2. What are the measures that would reduce the potentially significant impacts to the level of less than significant?

A response has been prepared specifically answering his questions based on the construction schedule for the project (Attachment 15). In summary, noise levels would vary from phase to phase, and from day to day, depending on where equipment is in use. Because of the relatively short-term to moderate duration of individual construction activities at any single location, and the City's existing restrictions on periods when construction must occur, as well as the incorporation of routine construction noise controls, potential noise impacts from construction in the surrounding residential area are considered less than significant. Specific measures as noted in the response could reduce construction noise levels. These five measures are as follows and are recommended as conditions of approval to the SDP:

1. The following construction noise attenuation measures shall be implemented to the satisfaction of the Directors of Building and Safety and Community Development:
 - A. Stationary equipment shall be staged away from the surrounding residential units and temporary noise barriers or enclosures shall be utilized around staging areas.
 - B. Quiet equipment such as air compressors, concrete pumps and generators, etc. shall be used by the construction contractor.
 - C. Temporary noise barriers shall be used at specified locations either around specific construction activities and/or at the perimeter of the construction site to reduce localized noise impact to adjacent residential units.
 - D. Construction activity scheduling shall be utilized to limit higher noise level operations to the middle of the day when ambient noise levels are typically at their highest levels to mask the construction activity noise levels, thereby reducing the perceived impact.
 - E. The construction contractor shall submit a noise control plan to the Building and Safety and Community Development Directors for approval, to be implemented as part of the construction project and process that will minimize the level and time of construction activities.

It should be noted that construction activities are exempt from compliance with the City Noise Ordinance requirements but due to concerns of surrounding residents the above noted Conditions are recommended.

Architecture and Landscaping Review Committee (ALRC):

The ALRC reviewed this request at its meeting of December 6, 2006, and on a 3-0 vote recommended approval of the request with conditions recommended by staff (Attachment 16).

Historic Preservation Commission (HPC):

On January 18, 2007, the Historic Preservation Commission reviewed the provisions proposed to retain the Walter Morgan House at the Resort as part of their proposed water feature. The HPC requested the following additional information be submitted:

1. Retrofit costs to make the house safe to occupy.
2. Future plans for the house at this time.
3. Plan for maintaining the house if not retrofitted.
4. Discussion of how the building could be used as part of the Resort.

This information is required to be submitted and approved by the HPC prior to any alterations to the Morgan House other than demolition of the adjacent detached modern-era outbuilding.

Public Notice:

This application was advertised in the Desert Sun newspaper on March 2, 2007. All property owners in and within 500 feet of the site were mailed a copy of the Public Hearing notice as required by the La Quinta Municipal Code. Other persons sent notices included those who sent the City letters or e-mails prior to the publishing of the hearing notice. As of this writing, a number of new letters have been received and are attached for your review (Attachment 17). The negative correspondence to date has cited issues such as increased traffic and noise, parking problems, loss of views, loss of the Resort's original ambiance and construction. Relocating the use to an alternate site on the Resort grounds such as the Renker pool area has been suggested.

Mandatory Findings for the Conditional Use Permit:

The Findings as required by Section 9.210.020 (Conditional Use Permits) of the Zoning Code can be made as noted below.

1. Compliance with the General Plan - The project site within the La Quinta Resort is designated by the General Plan and applicable Specific Plan 121E, Amendment #5 as Tourist Commercial. This Tourist Commercial designation permits the Resort and related recreational uses such as the proposed Signature Pool water feature. Furthermore, the project site has been used for various Resort related recreational uses, including a previous "Signature Pool" where the sunken tennis courts presently exist. Therefore, the project is in compliance with the General Plan and Specific Plan.
2. Compliance with the Zoning Code - The City Zoning Map and applicable Specific Plan 121E, Amendment #5 designates the zoning of the project site within the La Quinta Resort as Tourist Commercial. This designation permits the resort and related recreational uses such as the proposed Signature Pool water feature. Applicable development standards are complied with based on the proposed plans, operation and recommended Conditions of Approval. No structures proposed exceed the 40 feet height limit nor are they setback less than the required 15 feet from residentially zoned properties.
3. Compliance with CEQA - The La Quinta Community Development Department has caused to be prepared Environmental Assessment 2006-573 (an Addendum to Final Environmental Impact Report (EIR) Number 41 and to a series of subsequently approved environmental review documents) for this Site Development Permit in compliance with the requirements of the California Environmental Quality Act of 1970, as Amended.

The Community Development Department has determined that the proposed modifications to the La Quinta Resort do not require a subsequent EIR, Supplemental EIR or a Negative Declaration/Mitigated Negative Declaration, since the circumstances described in Section 15162 of the California Environmental Quality Act Guidelines do not exist, in that there will be no new or more significant impacts than those disclosed in the prior EIR Number 41 and the CEQA compliance documents approved subsequently. The modifications proposed and the circumstances under which the modifications would be carried out do not require substantial changes to the previous EIR, or the Subsequent Environmental documents, due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects. In addition, there is no new information of substantial importance which would trigger the requirement of a subsequent EIR, supplemental EIR or Negative Declaration/Mitigated Negative Declaration in accordance with Section 15162(a)(3). Therefore, upon certification of Environmental Assessment 2006-573 the project is in compliance with CEQA requirements.

4. Surrounding Uses - The recommended Conditions of Approval and site design of the project ensure that the Water Feature will operate in a manner that will minimize the impacts to the adjacent residential uses. Furthermore, the Conditions of Approval require problems or issues to be reviewed and resolved.

The property to the south consists of Spa La Quinta, tennis courts and several Tennis Villas, only one of which abuts the subject property. To the north are a number of Tennis Villas. These Villas are privately owned properties and some are rented out as part of the Resort. The project as proposed will incorporate measures to provide compatibility with the surrounding residential uses, such as sound attenuation through walls, lowering finish grades, extensive planting, parking controls, construction restrictions, etc. As noted in the environmental documentation prepared in connection with the Addendum, and which have been specifically incorporated by reference herein, the Proposed Modification is not incompatible with or injurious to the surrounding community.

Mandatory Findings for Site Development Permit:

The Findings as required by Section 9.210.010 (Site Development Permits) of the Zoning Code can be made as noted below.

1. **Compliance with the General Plan** - The SDP site within the La Quinta Resort is designated by the General Plan and applicable Specific Plan 121E, Amendment #5 as Tourist Commercial which includes recreational uses. This designation permits the Resort and related recreational uses such as the proposed Signature Pool water feature. Furthermore, the 4.7-acre site has been used for various resort-related recreational uses, including a previous "Signature Pool" where the

sunken tennis courts presently exist. Therefore, the proposal is in compliance with the General Plan and Specific Plan.

2. **Compliance with the Zoning Code** - The City Zoning Map and applicable Specific Plan 121E, Amendment No. 5 zone the 4.7 acre site within the La Quinta Resort as Tourist Commercial. This designation permits the Resort and related recreational uses such as the proposed Signature Pool water feature. Applicable development standards are complied with based on the proposed plans and recommended Conditions of Approval.
3. **Compliance with CEQA** - The La Quinta Community Development Department has caused to be prepared Environmental Assessment 2006-573 (an Addendum to Final Environmental Impact Report (EIR) Number 41 and to a series of subsequently approved environmental review documents) for this Site Development Permit in compliance with the requirements of the California Environmental Quality Act of 1970, as Amended.

The Community Development Department has determined that the proposed modifications to the La Quinta Resort do not require a subsequent EIR, Supplemental EIR or a Negative Declaration/Mitigated Negative Declaration, since the circumstances described in Section 15162 of the California Environmental Quality Act Guidelines do not exist, as there will be no new or more significant impacts than those disclosed in the prior EIR No. 41 and the CEQA compliance documents approved subsequently. The modifications proposed, and the circumstances under which the modifications would be carried out, do not require substantial changes to the previous EIR, or the Subsequent Environmental documents, due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant effects. In addition, there is no new information of substantial importance which would trigger the requirement of a subsequent EIR, supplemental EIR or Negative Declaration/Mitigated Negative Declaration in accordance with Section 15162(a)(3). Therefore, upon certification of Environmental assessment 2006-573, the proposal will be in compliance with CEQA requirements.

4. **Architectural Design** - The architectural design of the proposed facilities, including, but not limited to the architectural style, scale, building mass, materials, colors, architectural details, roof style, and other architectural elements, are compatible with other plans approved for construction on the Resort grounds and other surrounding development in the City.
5. **Site Design** - The site design of the facilities, including, but not limited to entries, interior circulation, pedestrian amenities, and other site design elements have been established by the previous development of the 4.7-acre area on the Resort grounds. The center tennis court area has been used for a pool in the past and, with this project, will be again used for that purpose. The proposed

facilities will be compatible with surrounding hotel development and with the quality of design prevalent in the City.

6. **Landscape Design** – The proposed landscaping includes, but not limited to the location, type, size, color, texture, and coverage of plant materials is designed so as to provide relief, complement buildings, visually emphasize prominent design elements and vistas, screen undesirable views, and provide a harmonious transition between adjacent land uses. It will provide an overall unifying influence, enhance the visual continuity of the facilities, complement the surrounding area and comply with City and CVWD water efficiency requirements, ensuring efficient water use.
7. **Sign Programs** - A comprehensive sign program, including on-site facility and Resort directional signage is required upon approval of this proposal prior to issuance of the first building permit. Resort area directional signage will include shuttle routes and stops.

Conclusion:

The Resort has grown and continuously evolved over the years. It began with 20 casitas' and one restaurant. Over the years it has been expanded and been modified to include 62 acres and over 800 rooms, along with extensive recreational activities including golf, tennis, fitness, biking, and water activities. The Signature Pool proposal is an evolution of the recreational activities at the resort.

FINDINGS AND ALTERNATIVES:

The Mandatory Findings for approval can be made as noted above and in the attached Resolution. The alternatives available to the Council include:

1. Adopt a Resolution of the City Council certifying an Addendum to the Environmental Impact Report and subsequent CEQA compliance documents and approving Conditional Use Permit 2007-102, and Site Development Permit 2006-865, subject to the Conditions of Approval; or
2. Deny the request; or
3. Provide staff with alternative direction.

Respectfully submitted,

Douglas R. Evans
Community Development Director

Approved for submission by:

Thomas P. Genovese, City Manager

- Attachments:
1. Addendum (EA 2006-573) - Errata to Addendum attached (Council attachment only – copies for review are available in the City Clerk's office)
 2. City Council minutes for the meeting of February 20, 2007
 3. Location map
 4. Signature Pool description
 5. February 20, 2007 City Council report (without attachments) for EA 2006-573 and SDP 2006-865
 6. Plan exhibit booklet for SDP 2006-865
 7. Plan exhibit booklet for CUP 2007-102
 8. Letter from Paul J. McCormick dated January 11, 2007
 9. Planning Commission minutes for the meeting of February 13, 2007
 10. Letter from Guralnick & Gilliland, LLP dated February 12, 2007
 11. Noise and Traffic Consultant's response letters
 12. Planning Commission minutes for the meeting of March 13, 2007
 13. Letter from Demetrious, Del Guerio, Springer & Francis, LLP on behalf of Mr. Richard R. Fredricks
 14. E-mail from Mr. Ed Mittelbush
 15. Response to Mr. Mittelbush's inquiry
 16. ALRC minutes for the meeting of December 6, 2007
 17. Letters received from public