

330 East Molino Road
Palm Springs CA 92262
760 416 3061
jimisermann@earthlink.net
jimisermann.com



do not believe that any development that backs directly up to 6 single-family homes should be granted variances of any kind. This must include but not be limited to variances for setbacks and for burying power lines. The unimaginative plan has lighted parking for nearly 100 plus cars directly along side the six homes' backyards. How can a covered, lighted carport be allowed within 5 feet of a single-family property? One of the alleged benefits of Class I designation is the requirement that any impact from proposed developments be carefully considered and weighed, yet no Environmental Impact Report has been deemed necessary for the proposed development. For more detailed impact I refer you to the well-articulated letter submitted by my dear neighbors James Pigott and Ginger Heyman Pigott.

Finally, Palm Springs is littered with foreclosed homes and half started housing projects, one directly across the street from the proposed project. If these now affordable homes remain unsold and the low demand for housing has shuttered promising developments how can a poorly envisioned, high density project proposed for one of the most windy and bleak corners of Palm Springs stand a chance. I repeat that I would love to support a well-designed, green project for the site. But the neighborhood deserves better than the current proposal. And certainly the target market for the property deserves far better.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Isermann". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jim Isermann

Cc: Mayor Pougnet
Ken Lyon
Steve Roberts & Loren Bloch, Community Dynamics
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee
Tom Carnase and Claire Victor
Brian Mcguire
Jim Moore
Doug Keeve
Mary Ann Webster

000034

Craig Ewing

From: Marcus Fuller
Int: Thursday, July 09, 2009 12:20 PM
To: 'Steve Roberts'
Cc: Ken Lyon; Craig Ewing; Carol Templeton
Subject: RE: Case No. 3.333, 51 affordable townhomes

Steve,

We are aware of the clarification made in the Addendum to the RFP issued by the Redevelopment Agency regarding the utility undergrounding.

The utility undergrounding is required by Municipal Code, and staff can not waive the requirement. This is why the condition has been imposed, to be consistent with the Code. Only the City Council can waive the requirement.

However, given the fact that you responded to the RFP for this project with the information released by the Redevelopment Agency, it will support your request to the Planning Commission and ultimately City Council for the obligation to be waived.

I recommend you be prepared to identify what the estimated cost is to perform the utility undergrounding, and why the project can not absorb that cost.

Keep in mind that the overhead power lines on the north side of your project have been installed underground extending to the east (they end at this property). Likewise, two different projects north of this property were required to underground the overhead lines that extend up the east side of Indian Canyon Dr., and except for an older apartment complex to the south of this property, the rest of the lines are underground.

Sincerely,

Marcus L. Fuller, P.E., P.L.S.
Assistant Director of Public Works/
Assistant City Engineer
City of Palm Springs
(760) 323-8253, ext. 8744

www.palmsprings-ca.gov
Marcus.Fuller@palmsprings-ca.gov

—Original Message—

From: Ken Lyon
Sent: Thursday, July 09, 2009 11:19 AM
To: Steve Roberts
Cc: Marcus Fuller
Subject: RE: Case No. 3.333, 51 affordable townhomes

Received. You had received earlier e mails from Engineering on their COA's regarding undergrounding. I've forwarded the DDA addendum to Engineering also. I don't know whether they will be amenable to "defer to covenant" or not on this issue but I believe they are discussing this matter. I'll get the COA's to you as early as possible and if we have to discuss this further with Engineering, we can do so.

Ken Lyon,
Associate Planner

City of Palm Springs Department of Planning Services 3200 Tahquitz Canyon Way Palm Springs, CA 92263
Phone 760 323 8245 Fax 760 322 8360

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071

jpigott@kernowpartners.com
gpigott@reedsmith.com

13 July 2009

Via Email

Palm Springs Planning Commission
c/o Jay Thompson, City Clerk
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs CA 92263

Re: Case 3.3333 & Associated Files – 51-unit Project, 3130 North Indian Canyon Drive
Public Hearing 22 July 2009 – REQUEST FOR DENIAL AND/OR CONTINUANCE

Dear Members of the Palm Springs Planning Commission:

This is our third letter to you in advance of the 22 July 2009 meeting where Case 3.333 (hereinafter referred to as the "Development") will be considered. Our prior letters of 29 June and 7 July outlined some of our initial concerns and set forth the basis for our request for a continuance and/or denial of this matter to allow all interested and impacted parties additional time before making a decision on this proposed Development. This letter is unfortunately necessitated by information only made available on the 9th and 10th of July and is further support of the reasonableness of our request.

First, there is an issue with regard to access to and completeness of files despite our request and notice of our inability to be at the meeting due to James departure on 12 July and Ginger's departure on 14 July for the remainder of the month. On 29th of June, we requested by phone, in writing and in person to have access to and copies of the entire file(s) from the Planning Department. What we received was approximately 135 pages of documents that were out of order and in many places incomplete (e.g. pages numbered as 4 of 16 with not all 16 pages). We spoke to Ken Lyon upon his return on 6 July and indicated we were reviewing the file, and he kindly responded to some of our initial questions on zoning. On 7 July we submitted our second letter quoting from the files extensively despite limited review time, and putting the City on notice that we had issues with the files and that the City should take all steps to preserve all relevant information such as paper documents and electronically stored information.

On 9 July we had a further email from Ken Lyon indicating he was providing access to an additional 200 pages relating to the Development. This more than doubled what we were provided previously. We made arrangements to have the documents collected and were able to begin review on 10 July.¹ Not only did this leave us little time to process the information, but these documents refer to communications and relevant documents that are missing. By way of example only, we see addendum number 1 to the original "RFQ" for this Development but there is no original RFQ, and no documentation on that process, within the papers we have seen.

With reference to our letter of 7 July, we highlighted potential issues with regard to the average

¹ We note for the record that paper copies of emails are not sufficient for preservation and we urge the City to maintain the electronically stored information in accordance with relevant standards.

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setback of the Development and compliance with zoning requirements. We would like to note at this point that despite two written requests to Community Dynamics to confirm the setback distances for each of the 9 multiple unit blocks, we have still not had an answer. Based on the measurements we can see from Community Dynamics' plans, the average setback appears to be only 140 feet. Furthermore, upon initial review of the new tranche of documents, we note there is correspondence in April 2009 between Ken Lyon and Steve Roberts where Mr. Lyon requests Community Dynamics to provide an exhibit that "demonstrates conformance with the 150 foot average set back for buildings greater than 15 feet in height between the R1 and R2 zones...." Mr. Roberts responded that no such exhibit existed but that one would be provided within approximately 7 days. After our hastened review, we see no such exhibit in the file.

Further, during this latest exercise additional issues and questions were revealed by the documents:

- Power lines – Apparent confusion between the City Engineering Division, Planning Department and Community Dynamics relating to required undergrounding of power lines on the north, east and west property lines of the Development. It appears there is some question as to the cost, necessity of and responsibility for undergrounding. This issue seems to be one that even members of the Planning Department were not aware of as recently as 7 July 2009. We believe this highlights another area where the developer will seek relief to the detriment of the community and environment.
- Proposed unit purchase financing method for moderate income families – the scheme as outlined in an email dated 9 June 2009 reveals possible issues for the target buyers as to the proposed method of purchase and the impacts of a 'negative direction' property market such as currently exists.
- Other areas of possible zoning and related compliance problems, and therefore requiring further research, include the proposed San Rafael bus turn-out and the existing storm water drainage system on the eastern property line contiguous to the R1 properties.

We have also submitted to the public record copies of correspondence between ourselves and Community Dynamics with regards to our concerns connected to a purported line of sight study. We disagree with the study's findings and underlying assumptions. We believe a more physical study should be undertaken with sufficient access to our property and the other adjacent homes.

In addition, late on Friday, 10 July, we received Notice of Public Hearing relating to this Development. The section titled "Environmental Determination," stated that this Development was "categorically exempt" from further environmental review pursuant to Section 15332 of CEQA Guidelines. The cited section, however, is not applicable to this Development. We object to this conclusion and note that there are inadequate findings to support such a conclusion. We urge the Commission to grant our request for continuance and/or denial, and to reject the categorical exemption which we believe is subject to formal challenge if the Development is approved. Although we are seeking qualified legal counsel, we have reviewed this section and note the following immediate concerns.

First, from the plain language of Section 15332, this Development does not meet the necessary requirements. For example, in order to qualify, the Development must be consistent with the applicable zoning regulations. See § 15332(a). Please refer to our letter of 7 July 2009 for a fuller analysis of zoning problems. Briefly, to be consistent with the zoning regulations, this Development must (a) comply with the 150 foot setback rule or (b) obtain a determination from the Planning Commission that there will be no detrimental effect of using a 150 foot average setback variation, once an average 150 foot setback has been established and (c) must obtain approval of the AMM it is

seeking. None of the above has been approved as of the date of the Notice of Public Hearing, and therefore we do not see how a categorical exemption can be authorized at this time.²

Furthermore, even if the City disagrees with the very real zoning problems, there are additional issues with a categorical exemption. Section 15332 is part of Article 19 "Categorical Exemptions" (Sections 15300 to 15333) and derives its authority from CEQA (part of the California Public Resources Code) Sections 21083 and 21084. Within the CEQA Guidelines themselves, Section 15300.2 mandates that a categorical exemption within Article 19 such as 15332, "shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource." See §15300.2(f) (emphasis added); and see § 15354 (defining categorical exemption as one that does not have a "significant effect on the environment"). As we have urged in our prior letters, this Development as presently configured will effect substantial adverse changes in the significance of the Class One Historic Wexler Steel Houses both in the long and short term.

Finally, under any exemption, whether a residential infill categorical exemption under Article 19, a residential infill project under Article 12.5 (covered in our 7 July 2009 letter) or any other exemption that might be considered, CEQA mandates that Sections 21083 and 21084 must be followed and those do not allow the City to simply overlook the impacts as raised in our correspondence. Section 21084 (a) authorizes the creation of the Article 19 exemptions contained within the CEQA Guidelines. However, subdivision (e) of Section 21084 specifically states that "[n]o project that may cause a substantial adverse change in the significance of an historical resource, as specified in Section 21084.1, shall be exempted from this division pursuant to subdivision (a)." Thus, as mandated by the CEQA statute and the CEQA Guidelines, no exemption can apply where historical resources are impacted. We do not believe the City has outlined adequate findings to support a categorical exemption under these circumstances.

We note once again that we have done our best with limited time and resources to address very serious concerns. We do this to reserve our rights and note our diligent efforts to do so in advance of this hearing. To the extent additional issues are raised that were not revealed prior to the meeting, we reserve any and all arguments as outlined in Government Code Section 65009(b)(1)(A).

Sincerely,

Electronically Signed
James and Ginger Pigott

Cc: Mayor Pougnet
Ken Lyon
Steve Roberts & Loren Bloch, Community Dynamics
Palm Springs Architectural Advisory Committee c/o Chairman Chris Sahlin
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee
Jim Isermann
Tom Carnase and Claire Victor
Brian Mcguire
Jim Moore
Doug Keeve & Mary Ann Webster

² There also may be question as to Section 15332(d) and the potential significant effects of this Development on traffic, noise, air quality and/or water quality. We have previously outlined concerns in these areas as well and any one of them might disqualify application of a categorical exemption.

Pigott, Ginger Heyman

From: Steve Roberts [sroberts@com-dyn.com]
Sent: Monday, July 13, 2009 8:39 PM
To: jpigott@kernowpartners.com; Pigott, Ginger Heyman
Cc: lbloch@com-dyn.com
Subject: Building Setbacks
Attachments: Building Setbacks.pdf

James, Ginger,

In response to your inquiry, attached please see the minimum setback distances from each proposed building to the adjacent R-1 property line.

Respectfully,

Stephen Roberts
Vice President, Development
Community Dynamics
2800 28th Street, Suite 206
Santa Monica, CA 90405
(310) 399-9555 x204
(310) 399-9777 fax
www.com-dyn.com

000039

08/05/2009

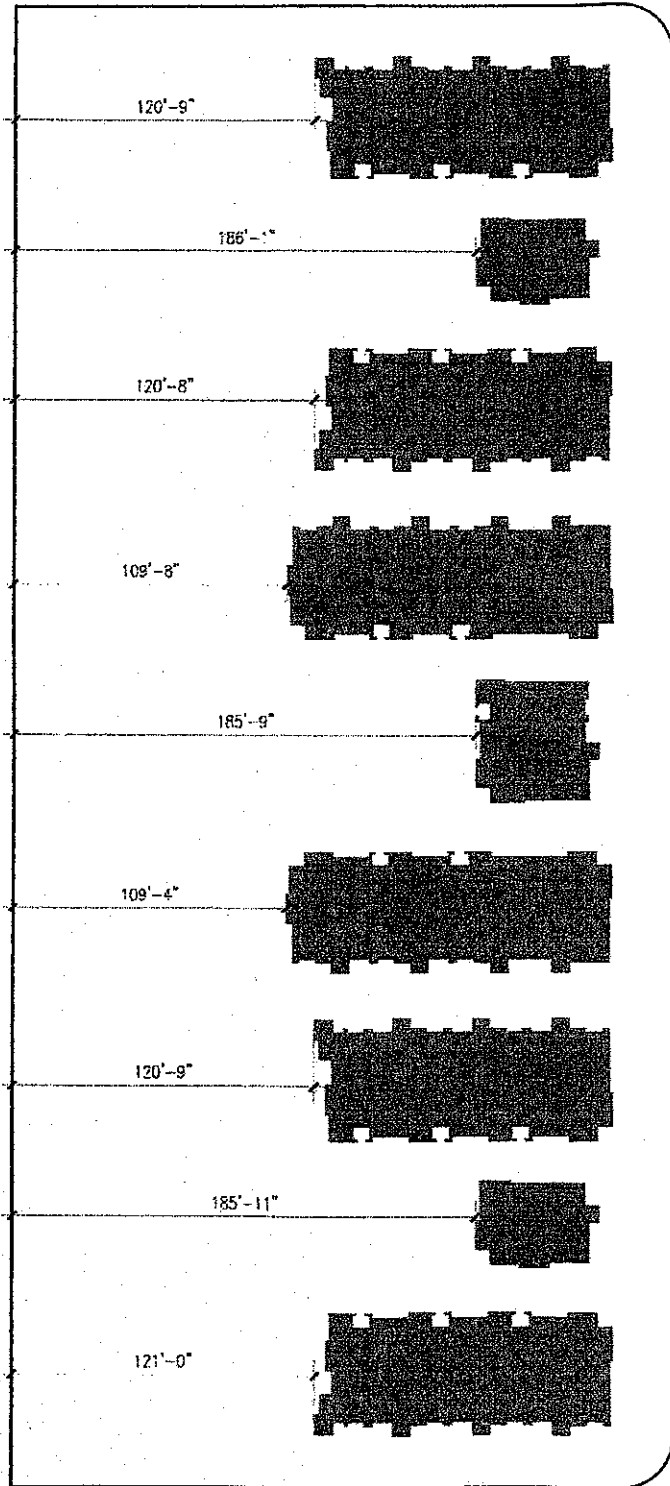
Developer:
ComDyn PS, LLC
2800 28th Street, Suite 208
Santa Monica, CA 90405

Indian Canyon
Palm Springs, California

Architecture + Planning
1733 Ocean Ave Ste 250
Santa Monica, CA 90401
310.358.2823
map.com



Building Setbacks



Pigott, Ginger Heyman

From: Pigott, Ginger Heyman
Sent: Tuesday, July 14, 2009 12:28 PM
To: 'Ken Lyon'; 'Jay Thompson'; 'cityclerk@palmsprings-ca.gov'
Cc: 'Steve.Pougnnet@palmsprings-ca.gov'; 'rick@rickvila.com'; 'Peter Moruzzi'; 'chrissahlin@verizon.net'; 'Sroberts@com-dyn.com'; Loren Bloch; 'Thomas Carnase'; 'Jim Isermann'; 'Jim Moore'; 'Doug Keeve'; 'Mary Ann Webster'; 'bmcguire98443@roadrunner.com'; James Pigott
Subject: Important Further Information Re 22 July 2009 Planning Commission Hearing (Case 3.333 and Related Files)
Attachments: Building Setbacks

Further to our previous correspondence, we believe new additional information is highly relevant to the issues and needs to be considered by the Planning Commission as part of its evaluation of the request for continuance and/or denial relating to this Development. Specifically, as you will see in the attached, we received the proposed setback distances as to each of the 9 multiple unit blocks from Steve Roberts of Community Dynamics at 5:39 pm yesterday 13 July 2009, despite our initial request for such measurements over one week ago. Not only do we struggle to see how this delay is acceptable given the acute time constraints we made clear to all (James has already departed), but the information given raises serious concerns over why this Development is even being put forward to the Planning Commission at this time. The average setback for this Development, using the data supplied by Community Dynamics, provides an average setback distance of 139' 9" (our prior estimates based on the incomplete measurements in the plans put it at 140 feet and now we have firm confirmation). The Zoning Code quite clearly states that the average setback needs to be 150 feet before any possible allowance of a 50 foot variable to the setback line is even considered. Here, the first requirement has not been met.

By way of side note, we are also confused as to why some of these distances appear to be different from previously viewed material and plans in the public file. This certainly gives pause as to the accuracy of the other proposed distances and ability to comply with the zoning code.

If our understanding of the setback is indeed the case (and we have no basis to conclude otherwise), we are perplexed as to why this development is being possibly heard and even approved on July 22nd, given this elementary issue? We have spent considerable amounts of time, money and other resources over recent weeks, and have endeavored to be timely with all of our correspondence and honest with our approach. It is our perception that unfortunately others do not seem to have followed these standards.

Certainly the Planning Commission's time is also valuable and limited. We, however, fully expect and request that this serious issue be raised with them specifically as it makes no sense for them to consider a development that has not even minimally met the requirements. Certainly the Commission should not be asked to even consider the question of whether a request for the variance in the code is detrimental (and we have argued previously that it is) when the initial threshold has not been met. We would like it noted for the public record that it is our intention to appeal (and possibly pursue other legal action) if approval is given to the development on July 22nd. Given the problems mentioned above, as well as those raised in previous correspondence from us and other members of the community and noting the mounting number of issues we have uncovered in the limited time we have had, we reiterate our request for a continuance/denial for the hearing on July 22nd.

Please confirm receipt of this email and its submission to the Public Record. I am due to leave for the airport at midday. Your attention is appreciated.

Regards,
Ginger Pigott



Building Setbacks

Ginger Heyman Pigott | Partner | ReedSmith LLP
gpigott@reedsmith.com | gheyman@reedsmith.com
direct: 213.457.8027 | cell: 213.300.9983 | fax: 213.457.8080
355 S. Grand Ave., Suite 2900, Los Angeles, CA 90071

14 July 2009

Palm Springs Planning Commission
c/o Jay Thompson, City Clerk
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs CA 92263

RECEIVED
CITY OF PALM SPRINGS

2009 JUL 15 AM 8:14

JAMES THOMPSON
CITY CLERK

Re:

Case 3.3333

51-unit Affordable Condos, 3130 North Indian Canyon Drive
Public Hearing 22 July 2009

Dear Members of the Palm Springs Planning Commission:

I have written previously but am compelled to send an additional letter due to new information coming to light and to issues raised that have been ignored. I am a property owner at 3125 North Sunny View Drive, one of the adjacent Wexler all-steel homes.

I am requesting that the above-referenced application be denied—or at the very least, granted a continuance—on the following grounds (I will try to be brief):

- **Setback** – According to recently obtained data, the average setback measures only 139.99 feet, 10 feet less than that required by law. We were told 150 feet and that has proven to be an untruth. Why does this rule exist if it is ignored?
- **Environmental Impact Report** – It is unclear why this project is exempt from an EIR, given its certain effects on noise, traffic, light pollution, garbage from up to 200 residents, the violation of the required setbacks, pet poop (I can predict where that will end up: right against the shared wall), and most notably the deleterious impact on the historic steel houses.
- **Privacy** – My objection to the windows on the eastern second stories and my request for redesign—either elimination altogether or reconfiguration to clerestory—was ignored. The current design renders my property unusable with regard to the private enjoyment of my pool and yard area.
- **Line of Sight** – The recently distributed diagrams are highly manipulated, misleading, and deliberately deceptive. A story-pole analysis is essential. Presently a resident in a second story condo will be treated to a full-length view of myself and guests around my pool . . . not a child-friendly sight.
- **Dumpsters** – My request that the site of the condo dumpsters be relocated further away from the property line was ignored.
- **AC Units** – I was recently informed of the plan to locate the AC units on the condo roofs, an even uglier adulteration to our already compromised views.
- **Carports** – My suggestion that the eastern carports be placed 2 feet below grade to be out of sight was met with the argument that it would be too expensive. *How does that "expense" compare with our diminished property values?*

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- **Future residents** – Most importantly, the current design of this project does not even serve the sector for which it is intended: families with children. This is a high-traffic, high-wind area with no place to walk, no place to play, no swimming pool (but with an unobstructed view of mine). How many children will be tempted to jump the wall and swim on my property?

Who indeed is being served by this ill-conceived project? Only an entity who is not even a member of the Palm Springs community: the developer. This is an insulting kick in the teeth to those of us who originally restored the steel houses (Jim Moore, Jim Isermann, Doug Keeve/MaryAnn Webster) and the rest of us who are carefully maintaining our homes and grounds—and sharing them with the public in countless home tours.

In summary, there are too many unanswered questions and unaddressed issues for this project to be intelligently considered on 22 July. Once approved—and once building commences—what will be our recourse with regard to even more variances (such as "Administrative Minor Modification" applications) or deliberate deviations?

I like to think that Palm Springs can do better than this, both for its current and future residents. Please reject this application.

Respectfully,

Brian W. McGuire PhD
PO Box 1613
Thousand Oaks CA 91358

bmcguire98443@roadrunner.com

000043

July 15, 2009

Mr. Ken Lyon, Associate Planner
Department of Planning Services
City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs, CA 92262

Re: Tentative Tract Map No. 36185

Dear Ken,

Under the underlying R-2 zoning standards, the 3.63 acre site supports 53 residential units without a density bonus. Our proposal includes 51 townhomes, 100% of which will be sold exclusively to moderate income households.

Pursuant to California Government Code 65915 (a), when an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units as prescribed in Section 65915.

The section goes on to state that the applicant shall receive three incentives or concessions for projects that include at least 30% for persons and families of moderate income in a common interest development. As noted above, 100% of the homes will be sold to moderate income households.

The section defines a concession or incentive as a reduction in a development standard or a modification of a zoning code requirement or architectural design requirement. The section defines "development standard" as a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

Section 92.03.03(E)(2) of the City's zoning code states: When R-2 zoned property abuts R-1 zoned property, all structures within one hundred fifty (150) feet of the R-1 zone boundary line shall have a height of not greater than

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fifteen (15) feet and shall not exceed more than one (1) story. This setback line may vary by fifty (50) feet if the average setback is one hundred fifty (150) feet and the planning commission determines that no detrimental effects will result.

Our architect has prepared an average setback calculation demonstrating that the average setback is 166'-0" (attached hereto). Although there is no defined methodology for the average setback calculation in the City's code, and the 166' setback calculation is consistent with average setback calculations in other jurisdictions, the Planning Department has stated that it may not accept the submitted average setback calculation.

Pursuant to California Government Code 65915, by way of this letter ComDyn PS, LLC respectfully submits a request for a modification to the average 150' setback requirement development standard in section 92.03.03(E)(2) of the City's zoning code.

Respectfully,



Stephen Roberts
Vice President, Development

Cc: Craig Ewing

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July 16, 2009

Mr. Ken Lyon, Associate Planner
Department of Planning Services
City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs, CA 92262

2800 TWENTY-EIGHTH STREET
SUITE 206
SANTA MONICA
CALIFORNIA 90405

310/399-9555 Office
310/399-9777 Fax

www.com-dyn.com

Re: Case 3.3333 MAJ

Dear Ken,

ComDyn PS supports the request submitted by some members of the community to continue the above referenced case from the Planning Commission meeting currently scheduled for July 22.

While we support the request by these neighbors to further evaluate the proposed community, and we look forward to continuing our communications with the site's neighbors, we must balance their request with our need to continue to move our proposal forward.

We therefore request that the above referenced case be continued to the Planning Commission meeting scheduled for September 9, 2009.

Sincerely,



Stephen Roberts
Vice President, Development

Ken Lyon

From: Ken Lyon
Sent: Thursday, July 16, 2009 8:11 AM
To: 'Steve Roberts'
Subject: RE: Request for continuance to 9.9.09 PC meeting

Received. We will process accordingly. Is it Com Dyn's intent to request the project to be processed requesting the "exemptions" to the setbacks and undergrounding via the provisions of SB1818, or do you intend to request the project be processed as a PDD henceforth?

Ken Lyon,
Associate Planner
City of Palm Springs Department of Planning Services
3200 Tahquitz Canyon Way
Palm Springs, CA 92263
Phone 760 323 8245 Fax 760 322 8360

"Make no small plans;
they have no magic to stir men's blood and probably won't be realized.
Make big plans; aim high in your work and in hope.
Let your watchword be Order, and your beacon Beauty"
- Daniel Burnham, Architect and Planner

From: Steve Roberts [mailto:sroberts@com-dyn.com]
Sent: Thursday, July 16, 2009 7:47 AM
To: Ken Lyon
Cc: lbloch@com-dyn.com; Craig Ewing
Subject: Request for continuance to 9.9.09 PC meeting

Ken,

Please see the attached letter. Thank you.

Stephen Roberts
Vice President, Development
Community Dynamics
2800 28th Street, Suite 206
Santa Monica, CA 90405
(310) 399-9555 x204
(310) 399-9777 fax
www.com-dyn.com

000048

8/11/2009

Craig Ewing

From: Ken Lyon
Date: Monday, July 20, 2009 10:37 AM
To: Craig Ewing
Subject: FW: Request for continuance to 9.9.09 PC meeting
Attachments: Portal 1.jpg; Portal 2.jpg; Average Site Setback Calculation.pdf

Craig,
 As noted below Community Dynamics would like to review with us today the attached proposed revised design detail for recalibrating setbacks. In essence they are proposing to infill between the units with vestibules and an "entry portico" so that the setbacks can be calculated to those faces. My initial concern is that while the proposed vestibule could potentially be considered in the overall setback, the portico is essentially a garden wall, and as such is not part of the actual habitable structure. I asked them, if this white portion which is the portico could be developed into a closet of some kind, where it is actually part of the structure with enclosed space, it may be a stronger argument to be included in the setback calculation; but that I would review it with you. (proposed time at 2 pm today)

Ken Lyon,
Associate Planner
 City of Palm Springs Department of Planning Services
 3200 Tahquitz Canyon Way
 Palm Springs, CA 92263
 Phone 760 323 8245 Fax 760 322 8360

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 - Daniel Burnham, Architect and Planner

From: Steve Roberts [mailto:sroberts@com-dyn.com]
Sent: Monday, July 20, 2009 10:12 AM
To: Ken Lyon; Craig Ewing
Cc: lbloch@com-dyn.com
Subject: RE: Request for continuance to 9.9.09 PC meeting

Ken,

Before responding to your question, an issue has been raised with respect to the average setback, and this led us to take a closer look at the design program with KTG. Our architects have identified an opportunity to integrate a portal element at each of the east/west walkways (which connect the site's active courtyards to the Indian Canyon sidewalk). Please see attached images. Adding the porticos strengthens the sense of entry for the townhomes closest to Indian Canyon, and also protects these entries by further shielding front doors from Indian Canyon Drive. Adding the portico elements results in an average set back of 157'-1" pursuant to the City's calculation protocol, as shown on the attached calculation.

Loren and I would like to discuss the above with you and Craig on the phone today, before we make any further decisions. Can you please advise if there's a time that you're both available? Anytime before 3:30pm works best for us. Thank you.

Stephen Roberts
 Vice President, Development
 Community Dynamics
 2800 28th Street, Suite 206
 Santa Monica, CA 90405
 (310) 399-9555 x204
 (310) 399-9777 fax
www.com-dyn.com

From: Ken Lyon [mailto:Ken.Lyon@palm Springs-ca.gov]
Sent: Thursday, July 16, 2009 8:11 AM
To: Steve Roberts
Subject: RE: Request for continuance to 9.9.09 PC meeting

000049

8/11/2009

Ken Lyon

From: Ken Lyon
Sent: Wednesday, July 22, 2009 2:51 PM
To: 'Steve Roberts'
Subject: 3.3333 Continance Granted

Dear Steve,
Loren was present today when the PC granted your continuance for the subject project. Please let me know how you would like to proceed with the setback issue. Thanks.

Ken Lyon,
Associate Planner
City of Palm Springs Department of Planning Services
3200 Tahquitz Canyon Way
Palm Springs, CA 92263
Phone 760 323 8245 Fax 760 322 8360

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Make big plans; aim high in your work and in hope.
Let your watchword be Order, and your beacon Beauty"
- Daniel Burnham, Architect and Planner

000050

8/11/2009

Ken Lyon

From: Ken Lyon
Sent: Tuesday, August 11, 2009 12:23 PM
To: Steve Roberts
Cc: Edward Robertson; Craig Ewing
Subject: 3.3333 Deadlines for meeting the 9-9-09 PC date
Importance: High

Steve,

Since our meeting on July 15, we have been waiting for your direction on how Community Dynamics intends to proceed with the 150 foot setback issue on the subject project. We are running out of time to complete the staff analysis and production of the staff report for the continued hearing on your project for September 9th. As we have discussed, you may either (1) revise the design to conform to the 150 foot average setback, (2) resubmit the application as a PDD revising the development standards to fit the current design, or (3) keep the present design and invoke SB1818 requesting concessions from the City's development standards.

I will be out of the office starting this Friday August 14, returning Monday August 31st. All draft staff reports must be complete by the Tuesday of the week prior to the hearing, (thus my draft staff report and all attachments, conditions, etc. must be done by Tuesday September 1, effectively leaving me only 3 days to complete the SB1818 analysis, findings and reports).

As Craig Ewing indicated in our meeting of June 15th, if it is your intent to invoke SB1818, we will need adequate time to review the matter with the City Attorney, in addition to staff time to evaluate the request and incorporate the findings and analysis into the staff report, since this Commission and staff have not processed an SB 1818 exemption.

At this point, it is likely we will need to continue this item to the hearing of September 23 or later, to allow the City adequate time to complete the processing of the project and completion of the staff report. Please advise how you wish to proceed.

Ken Lyon,
Associate Planner
City of Palm Springs Department of Planning Services
3200 Tahquitz Canyon Way
Palm Springs, CA 92263
Phone 760 323 8245 Fax 760 322 8360

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they have no magic to stir men's blood and probably won't be realized.
Make big plans; aim high in your work and in hope.
Let your watchword be Order, and your beacon Beauty"
- Daniel Burnham, Architect and Planner

000051

9/8/2009

GREENBERG GLUSKER

1900 Avenue of the Stars
 Suite 2100
 Los Angeles, CA 90067-4590

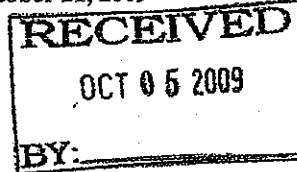
General billing questions: (310) 785-6842
 (310) 785-6831
 (310) 201-7443
 Fax: (310) 553-7018

Client # 12281, ComDyn, LLC
 Matter # 00001, General

Due Date: October 21, 2009

Invoice date: 09/30/09
 Invoice # 461619

Charges through: 08/31/09



FEES				
Date	Timekeeper	Description of Services	Hours	Amount
08/11/09	E Watson	Telephone conference with S. Roberts regarding Palm Springs density bonus; review document regarding density bonus.	2.75	\$ 1,375.00
08/12/09	E Watson	Telephone conference with S. Roberts and L. Bloch regarding Palm Springs; review correspondence regarding setbacks; review correspondence regarding statute.	0.75	\$ 375.00
Total fees for this matter:				\$ 1,750.00

RECAP OF AMOUNTS DUE				
Total Previous Balance				\$ 625.00
Payments received	457100	07/22/09	\$ -625.00	
Total Payments Received				\$ -625.00
Balance Forward				\$ 0.00
Current Month Fees			\$ 1,750.00	
Current Month Costs			\$ 0.00	
Discount			\$ -1,000.00	
Total Current Charges				\$ 750.00
Total Due from Current Charges				\$ 750.00
AMOUNT DUE	PROJECT	<i>Palm Springs</i>		\$ 750.00

AMOUNT _____
 APPD SR
 APPD _____
 DATE PD _____
 CHECK # _____

000052

Ken Lyon

From: Marcus Fuller
Sent: Monday, August 17, 2009 4:51 PM
To: Steve Roberts
Cc: Ken Lyon; Craig Ewing; Carol Templeton
Subject: RE: Case No. 3.333, 51 affordable townhomes

Steve,

As I indicated in my earlier e-mail, it is important for Community Dynamics to outline for Planning Commission and City Council on the benefits of waiving the requirement to perform utility undergrounding. Since this project involves City (Agency) owned land and is being sponsored by the City (Agency); I will remain neutral on the issue of waiving the requirement, as the City Council will ultimately determine if utility undergrounding is important for the benefit of the area, for the project, for both, or of no benefit. Given the recent comments from the adjacent neighborhood regarding the existing overhead utilities, consideration of utility undergrounding will likely come up.

Marcus

-----Original Message-----

From: Steve Roberts [mailto:sroberts@com-dyn.com]
Sent: Thursday, August 13, 2009 6:28 PM
To: Marcus Fuller
Cc: Ken Lyon; Craig Ewing; Carol Templeton
Subject: RE: Case No. 3.333, 51 affordable townhomes

Marcus,

I am writing to clarify my understanding of your e-mail below regarding utility undergrounding.

You stated that because ComDyn responded to the RFP with the information released by the Redevelopment Agency, it will support our request to the Planning Commission and ultimately City Council for the utility undergrounding obligation to be waived.

I would like to clarify whether you are indicating that the Redevelopment Agency will support our request, City staff will support our request, or both? I understand that City staff can not waive the obligation and must include the condition to be consistent with code, but would like to clarify whether City staff is able to include a recommendation in support of this request? Thank you.

Best,

Stephen Roberts
Vice President, Development
Community Dynamics
2800 28th Street, Suite 206
Santa Monica, CA 90405
(310) 399-9555 x204
(310) 399-9777 fax
www.com-dyn.com

-----Original Message-----

From: Marcus Fuller [mailto:Marcus.Fuller@palmsprings-ca.gov]
Sent: Thursday, July 09, 2009 12:20 PM
To: Steve Roberts
Cc: Ken Lyon; Craig Ewing; Carol Templeton
Subject: RE: Case No. 3.333, 51 affordable townhomes

Steve,

We are aware of the clarification made in the Addendum to the RFP issued by the Redevelopment Agency regarding the utility undergrounding. The utility undergrounding is required by Municipal Code, and staff can not waive the

requirement. This is why the condition has been imposed, to be consistent with the Code. Only the City Council can waive the requirement. However, given the fact that you responded to the RFP for this project with the information released by the Redevelopment Agency, it will support your request to the Planning Commission and ultimately City Council for the obligation to be waived. I recommend you be prepared to identify what the estimated cost is to perform the utility undergrounding, and why the project can not absorb that cost. Keep in mind that the overhead power lines on the north side of your project have been installed underground extending to the east (they end at this property). Likewise, two different projects north of this property were required to underground the overhead lines that extend up the east side of Indian Canyon Dr., and except for an older apartment complex to the south of this property, the rest of the lines are underground.

Sincerely,

Marcus L. Fuller, P.E., P.L.S.
Assistant Director of Public Works/
Assistant City Engineer
City of Palm Springs
(760) 323-8253, ext. 8744

www.palmsprings-ca.gov
Marcus.Fuller@palmsprings-ca.gov

ANTICIPATED CHANGES AS A RESULT OF THE PROPOSAL

Are the following items applicable to the project or its effects? Discuss all items checked "Yes" or "Maybe" on a separate sheet.

1. Change in existing features of hillsides or substantial alteration of ground contours. Yes No Maybe
2. Change in the dust, ash, smoke, fumes, or odors in the project vicinity. Yes No Maybe
3. Subject to or resulting in soil erosion by wind or flooding. Yes No Maybe
4. Change in ground water quality or quantity, or alteration of existing drainage patterns. Yes No Maybe
5. Change in existing noise or vibration level in the vicinity. Subject to roadway or airport noise (has the required acoustical report been submitted?) Yes No Maybe
6. Involves the use or disposal of potentially hazardous materials, such as toxic substances, flammable or explosives. Yes No Maybe
7. Involves the use of substantial amounts of fuel or energy. Yes No Maybe
8. Changes the demand for municipal services (police, fire, sewage, etc.) Yes No Maybe
9. Changes the demand for utility services, beyond those presently available or planned in the near future. Yes No Maybe
10. Significantly affects any unique or natural features, including mature trees. Yes No Maybe
11. Change in scenic views or vistas from existing residential areas or public land/roads. Yes No Maybe
12. Results in the dislocation or relocation of people. Yes No Maybe
13. Generates controversy based on aesthetics or other features of the project. Yes No Maybe

✓ Additional explanation of "Yes" and "Maybe" answers are attached

CERTIFICATION: I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Steve Roberts

Please Type or Print Name



Signature

ComDyn PS, LLC

For

8.24.09

Date

August 25, 2009

Mr. Ken Lyon, Associate Planner
Department of Planning Services
City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs, CA 92262

Re: Planned Development District - Case 3.3333 MAJ, TTM 36185, AMM 7.1320

Dear Ken,

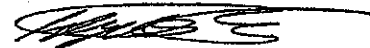
By way of this letter, ComDyn PS, LLC requests that the City of Palm Springs process the above referenced application for 51 townhomes at the SEC of Indian Canyon and San Rafael as a Planned Development District (PD). I will submit a PD application form to your attention under separate cover.

We are pleased to present our development program which creates a vibrant residential community at this gateway location, addresses the City's long-term need for a strong jobs/housing balance by providing 51 townhomes for moderate income homebuyers, and delivers significant sustainable/green building features which will reduce energy and water use among other low-impact design features.

We note that because 100% of the townhomes will be sold to moderate income homebuyers the development qualifies for a density bonus and incentives or concessions pursuant to Government Code Section 65915. ComDyn PS, LLC is not applying for a density bonus (in fact our proposal for 51 units is below the allowable density for the underlying R-2 zone); however, we do note that this application for a PD is consistent with State Density Bonus Law.

Our application will be reviewed and approved in conjunction with a disposition and development agreement; therefore, Section 94.03.00(1)(3) of the Palm Springs Municipal Code will apply. Please contact me if you have any questions.

Respectfully,



Stephen Roberts
Vice President, Development

Cc: Craig Ewing
Edward Robertson

2800 TWENTY-EIGHTH STREET
SUITE 206
SANTA MONICA
CALIFORNIA 90405

310/399-9555 Office
310/399-9777 Fax

www.com-dyn.com

000056

Ken Lyon

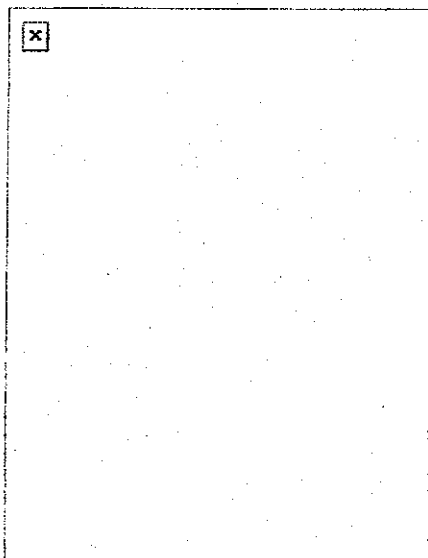
From: Ken Lyon
Sent: Tuesday, September 08, 2009 3:48 PM
To: 'Steve Roberts'
Cc: Marcus Fuller; Carol Templeton; Edward Robertson
Subject: Case 3.3333 / 5.1231, PDD 356 Indian at San Rafael - Initial review of applicaiton

Steve,

I am beginning to review the PDD application. A couple immediate concerns;

1. On page 12 your responses to questions 11 and 12 should probably be "maybe" or "yes" with a brief additional explanation, since we already know there is a good deal of controversy and concerns about views from the existing residences.
2. On page 13, item 13, it will be necessary for roadway noise contours in the General Plan to be considered and evaluated; below is a portion of the roadway noise contours for the site from figure 8-5 of the General Plan Noise Element. Red is 70db CNEL, yellow is 65 and blue is 60. The entire site lies in areas above the 60db CNEL noise contour

From page 8-11 of the General Plan, *"The 60 db CNEL contour level shown on this map represents the zone in which any proposed noise sensitive land use should be evaluated on a project specific basis and may require mitigation to meet the City and state standards"* Further in this section, *"Residential land uses, hospitals, rest homes and convalescent hospitals, churches, schools and other areas identified as noise sensitive must be protected from excessive noise."* I will check with Edward to determine whether specific acoustical reports may be required. (As an aside, the application refers to "2010 levels" which is a leftover from when our '93 General Plan was in effect. It should refer to 2025.) You may also wish to review the environmental appendices and EIR documents from the 2007 General Plan to assist you in your analysis. I don't know if these were made available to you at the time of initial RFP application, but they may be purchased from the City Clerk in the form of a CD. The on-line version at the City's website does not include the maps yet.



000057

3. Please confirm that the development standards for which you are seeking relief via the PDD are (a) all the setbacks previously identified in the AMM, (b) the 150 foot average setback to 140 feet for the adjacency of the two story portions to the R1 zone (c) undergrounding of overhead utility lines (d) any others?

Let me know if you have any questions.

Ken Lyon,
Associate Planner
City of Palm Springs Department of Planning Services
3200 Tahquitz Canyon Way
Palm Springs, CA 92263
Phone 760 323 8245 Fax 760 322 8360

"Make no small plans;
they have no magic to stir men's blood and probably won't be realized.
Make big plans; aim high in your work and in hope.
Let your watchword be Order, and your beacon Beauty"
- Daniel Burnham, Architect and Planner

000058

Proposed housing project upsets some homeowners

Owners of historic steel homes fear overcrowding, increased traffic

BY TERRIA SMITH

terria.smith@thedesertsun.com

Homeowners in a northern Palm Springs neighborhood recently spoke out against a city agency's bid to build affordable housing near their homes.

Details about the project were met with resistance from residents at an informational meeting Sept. 3 at the James O. Jessie Desert Highland Unity Center, 480 Tramview Road.

"It's too many living spaces in a 3-acre parcel. It could very well support two or three very nice single-story family homes," said Donna Chaban, a 10-year resident of the Racquet Club Estates. Her home is five blocks from the proposed project.

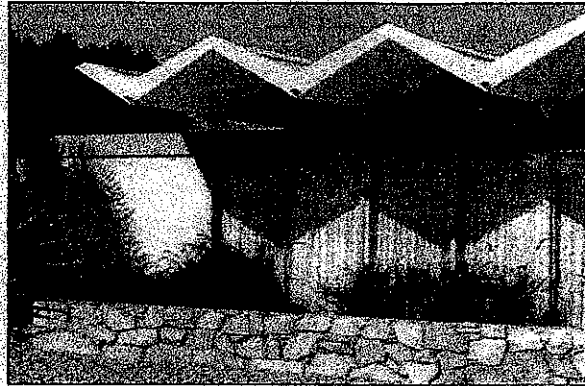
At issue are at least 51 townhouses the city of Palm Springs' Community Redevelopment Agency wants to build on nearly 4 acres of land on the southeast corner of San Rafael and Indian Canyon drives — a state-mandated plan.

The homes would be sold to moderate-income families who earn between \$53,000 and \$74,000, said Stephen Roberts, vice president of Community Dynamics, the company the city has tapped to develop the project.

"These are really working families. They are people who work in health care, hospitality, education and government," Roberts said.

"The state redevelopment law requires that 20 percent of redevelopment funds be designated for affordable housing across the state," said Assistant Palm Springs City Manager Tom Wilson.

But homeowners in the area are balking at the project, which is still in its preliminary stages and awaiting city approval.



PALM SPRINGS SUN FILE PHOTO

A home on the corner of Molino Road and Sunnyview Drive in Palm Springs is one of seven steel homes designed by Donald Wexler.

The project is scheduled to go before the Palm Springs Planning Commission on Sept. 23.

Not far from the proposed site are seven steel houses, designed by mid-century modern architect Donald Wexler, which have been designated by Palm Springs as Class One Historic Sites.

The majority of the homes are valued from \$350,000 to \$700,000.

Five of those steel homes are adjacent to the development, said James Piggot, who owns one of the homes.

Homeowners contend the project, which could attract close to 200 residents, will increase traffic and overcrowd the area, as well as obstruct existing mountain views, and run the risk of financial problems in a down economy.

"It will take away completely the mountain views for the people who bought their homes specifically for those views," Chaban said.

Roberts, however, said the project is designated for medium-density residential development.

In an e-mail to The Desert Sun, Roberts said the proposal qualifies for a 35 percent density bonus according to California regulations.

This would permit them to build up to "72 residential units on the site," the e-mail stated.

Wilson said the project will have to meet all requirements, including height restrictions.

If not, "it will have to be dinged out by the planning commission," he said.

Beyond the restrictions there is not much the local homeowners can do legally to protect their mountain views, said Patrick McGrew, a member of the board of the Palm Springs Preservation Foundation.

"Basically the whole issue is a nonissue unless something is designated as a scenic view. The only option the homeowners have to protect their view is to buy the property and put an easement on it," McGrew said.

Piggot said he is concerned that the project may end up failing in mid-construction during an uncertain economy, leaving the area with an eyesore.

"There's every chance that this could be some half-abandoned project," Piggot said.

The developers say this won't happen.

"We don't intend to start (construction) until the market can support the development," Roberts said.

CITYNEWS

Mike Costley, Pat Ri perform at Tony's P

Tony's Pasta Mia will feature entertainment during September. Vocalist Mike Costley performs Thursdays, while saxophonist Pat take the stage at 9 p.m. Fridays at The restaurant is at 360 N. Drive. It's open starting at 4 through Saturday throughout Information: (760) 327-1777

— WILL DEAN

Restaurant hosting I Independence Day fi

Las Casuelas Terraza will host Independence Day community I Starting at 5:30 p.m., visito

Carden

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DAVID CA

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071

jpigott@kernowpartners.com
gpigott@reedsmith.com

23 September 2009

Via Email

David Ready, Esq., Ph.D.
City Manager
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: Case 5.1231 PD 356 & Associated Files – 51-unit Project, 3130 North Indian Canyon Drive
REQUEST FOR SUSPENSION OF APPLICATION ACTIVITIES

Dear Mr. Ready:

We write regarding the above-referenced file; a Planned Development District application filed by developer Community Dynamics of Santa Monica. The proposed affordable housing development consists of 51 "for sale" two story units on a 3.63 acre site located at North Indian Canyon Drive and San Rafael Drive ("the Development"). The land is owned by the Palm Springs Community Redevelopment Agency. We own a site adjacent Class One Historic Wexler Steel House.

We respectfully request two immediate actions. First, we request a suspension of this application and all related publicly financed payments to the developer associated with the application and entitlement process. Second, we request a meeting with those decision-makers within the City who can address the serious issues identified below. These actions will allow the City and community members reasonable time to investigate issues that have arisen during review of the public records, meetings with the developer, correspondence with various City departments, and finally, local media interest. We request this action to hopefully achieve swift resolution and negate the possible need for future legal action, which we are sure all parties are keen to avoid given the history of the site.

These requests are not made lightly or without recognition that the relief we seek is unusual. We urge action now because we are informed that this Development will be placed on the agenda for the October 14, 2009 Planning Commission meeting. Though we recognize that the hearing process provides an opportunity for the public to send letters and have three minutes to speak, we feel under the circumstances this is insufficient and inappropriate. It is at best premature. It may now even be impossible for the Planning Department to compose a complete and balanced staff report for the Commission in light of several issues seemingly beyond their authority which have recently surfaced.

We request a meeting to further explain and to hopefully resolve many of the outstanding issues which for reference include, but are not limited to, the following areas:

1. the purchase of the site by the Community Redevelopment Agency in September 2001;
2. the CRA's March 2007 RFQ and related addendums;
3. the April 2007 request by the CRA for a five year site ownership extension;
4. the use of public funds for affordable housing at this site;
5. auditing to ensure appropriate usage of developer grant funding;
6. past and future extensions of the City's May 2008 EAN with Community Dynamics;
7. the location of public meetings held by Community Dynamics;
8. inaccurate statements in the developer's March 2009 MAJ/AMM applications;
9. the City's processes and protocols for checking applications for accuracy;

000060

10. the approval given to the Development by the AAC in June 2009;
11. correspondence received from Community Dynamics dated June 24, 2009;
12. the developer's statements and documents provided at the September 3, 2009 meeting;
13. the purpose and intention of the September 2009 PD application by Community Dynamics;
14. misleading statements in the developer's September 2009 PD application;
15. the City's CEQA analysis;
16. the impact of the Development on the Class One Historic Wexler Steel Houses;
17. the effects of the application and entitlement process on community residents and neighbors;
18. the developer's inadequate line of sight studies based on incomplete assumptions;
19. the current lack of appropriate stormwater management on the project site;
20. the Development's conditions of approval including undergrounding of utility wires;
21. the start date for physical development of the site if the application is approved;
22. the economic viability of the Development including proposed unit sales prices;
23. the Development's HOA/CCR documentation and subsequent DDA;
24. the City's protocols for maintaining public records relating to planning applications;
25. the City's supply of records to members of the public upon request;
26. the City's documenting of meetings / telephone conversations during the application process;
27. communications received from the site's owners, the CRA;
28. the zoning designation of the site.

As stated in previous correspondence, we fully support the endeavor to provide quality and sustainable affordable housing to lower and moderate income families. Our objections have always been about the unnecessary density and the related negative impacts caused by the problematic design of this proposed Development. As a result, we have had to expend great time and cost in reviewing the plans, the history and the objectives of the proposal. This review has revealed other significant issues to which we, and others, also object. In writing this letter we are acting on our own behalf but other members of the community may support this request for suspension.

We have owned our Class One Historic Wexler Steel House since April 2007, and we spend time in Palm Springs using local shops, restaurants, museums and other facilities. We purchased our home knowing that it was adjacent to an empty lot but presumed housing of a single level design would be developed given the site's geography and the complete failure of previous multi-level for-sale projects in the North part of Palm Springs.

We oppose, and will continue to oppose with all legal means possible, this application in its current form because it is inappropriate for all bar one; the developer. As stated in an internal email between members of the Palm Springs City staff, we are not "NIMBYs." Rather, we are concerned members of the tax paying public and custodians of one of the historic tourist attractions in your City.

Please inform us whether you will agree to our requests by or before Monday, September 28, 2009.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Mayor Steve Pougnet
Mayor Pro Tem Chris Mills
Councilmember Ginny Foat
Councilmember Rick Hutcheson
Councilmember Lee Weigel
Palm Springs Planning Commission
Ken Lyon

Dale Cook
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

1 October 2009

Via Email

Palm Springs Planning Commission
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: 10/14/2009 Agenda Item Case 5.1231 PD 356 & Assoc. Files -- 3130 N. Indian Canyon Drive
REQUEST FOR CONTINUANCE AND/OR DENIAL - ISSUE ONE

Dear Planning Commission Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. We respectfully request a continuance and/or denial of this Planned Development District (PDD) application. There are many grounds for this request and we address one here; evidence that the developers, Community Dynamics, are using the PDD process to circumnavigate problems they had with their March 2009 MAJ application and its inability to meet underlying R2 zoning setback requirements. They may also attempt to use this application to seek waivers for the conditioned undergrounding of utility lines on the subject site, and other ordinance obligations they hope to avoid.

Furthermore, the stated public benefits identified by the developer in correspondence dated September 16, 2009 have not been designed by their architect as voluntary additions to this proposal, but are simply the basic intentions of the original project RFQ, "**...Housing for Moderate Income Families Using 'Green Building' Technologies,**" as issued by the Community Redevelopment Agency in March 2007, two and a half years ago. The RFQ also clearly states;

Development proposals shall be based on current municipal codes, standards and policies and not on the necessity for adjusting existing development standards in order for the development proposal to be viable.

Moreover, the developer has threatened to use other means to gain approval for this project, from linking all the buildings together with walls to avoid the setback issue to even invoking SB1818, but these actions only serve to further highlight the problem with this application; that Community Dynamics ignored the initial 2007 RFQ request for a developer to construct "up to thirty homes," and are trying to force 51 units upon all.

We seek this continuance and/or denial to further pursue negotiations with the City to resolve other technical issues we have uncovered with this proposed development. Some of these issues were identified in our previous correspondence to the Planning Commission dated June 29, July 7, July 13 and July 14, 2009. We would like to reiterate that we are supporters of suitable affordable housing developments, but this application fails to meet the legal standards established in the various ordinances and codes by The City of Palm Springs.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: See list on page 2

000062

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

1 October 2009

Via Email

Palm Springs Planning Commission
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: 10/14/2009 Agenda Item Case 5.1231 PD 356 & Assoc. Files – 3130 N. Indian Canyon Drive
REQUEST FOR CONTINUANCE AND/OR DENIAL – ISSUE TWO

Dear Planning Commission Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. We respectfully request a continuance and/or denial of this Planned Development District (PDD) application. There are many grounds for this request and we address one here; the developer, Community Dynamics, has incorrectly completed elements of their September 3, 2009 PDD application despite certifying its truth and accuracy. As with our earlier letter, this alone supports the requested relief.

For example, on page 12 of 22 in the application, entitled "Anticipated Changes As A Result Of The Proposal," Community Dynamics has submitted the following incorrect statements:

- Question 11 asks if there will be change to scenic views from existing residential areas. Community Dynamics answers "No" when it is obvious there will be a significant impact to views of the surrounding mountains from adjacent houses. This was dramatically confirmed on September 29, 2009 when the developer installed a small number of story poles on site. Yet they indicated on September 30 that they will not change their answer in the application.
- Question 13 asks if the project generates controversy, and again Community Dynamics answers "No." However, a brief review of the attachments to Ken Lyons' Staff Memo dated July 22 illustrates the level of controversy regarding the proposal.
- Question 10 asks if there will be significant affects on any unique feature, and again the developer answers "No." To clarify, it is still unclear as to the affects on the five adjacent Class One Historic Wexler Steel houses, and thus a "Maybe" answer would have been suitable. The developer has not guaranteed against negative impacts to the features and natural environment that are important to the architectural setting of the houses.

We seek this continuance and/or denial to further pursue negotiations with the City to resolve other technical issues we have uncovered with this proposed development. Some of these issues were identified in our previous correspondence to the Planning Commission dated June 29, July 7, July 13 and July 14, 2009. We would like to reiterate that we are supporters of suitable affordable housing developments, but this application fails to meet the legal standards established in the various ordinances and codes by The City of Palm Springs.

Regards,
Electronically Signed
James and Ginger Pigott

000063

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

5 October 2009

Via Email

Palm Springs Planning Commission
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: 10/14/2009 Agenda Item Case 5.1231 PD 356 & Assoc. Files – 3130 N. Indian Canyon Drive
REQUEST FOR CONTINUANCE AND/OR DENIAL – ISSUE THREE

Dear Planning Commission Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. We respectfully request a continuance and/or denial of this Planned Development District (PDD) application. There are many grounds for this request and we address one here; the failure of the developer, Community Dynamics, to conform to the underlying R2 zoning code with reference to building setbacks.

In the initial project RFQ, issued by the Community Redevelopment Agency ("CRA") in March 2007, it was clearly stated that any proposal must comply with R-2 zoning standards. Particular reference was made to the site's eastern property line with the adjacent R1 zone including the Class One Historic Wexler Steel Houses. Also included was "Attachment B; R-2 Zoning Standards."

The issue of R-2 zoning standards was again clarified by the CRA in RFQ Addendum No. 1 issued April 16, 2007. The RFQ asked for up to thirty units to be constructed. And, while the CRA stated that a developer could propose to construct any number of units up to the maximum allowable under R-2, the CRA specifically emphasized that the developer, "needs to conform to the other development standards under the R-2 Zoning Code, including a restriction on two-story units within 150 feet of adjacent R-1 zoning (the east property line). Staff feels that, given this setback requirement....30 was a reasonable number of units to propose."

In correspondence dated November 24, 2008, Steve Roberts of Community Dynamics confirmed with Ken Lyon the applicable R-2 setback standard; that no structure over 15 feet high can be within 150' of the R1 property line, but the setback line can vary by fifty feet if the average setback is 150' and the Planning Commission determines that no detrimental effects will result.

After our June 18, 2009 meeting with the developer, where the question of the nine building setbacks was raised, we received a letter on June 24 from Mr. Roberts who assured us that "the average distance is 154 feet and 5 inches. This complies with the site's current R-2 zone..."

However, our further investigation revealed the true average setback was only 139 feet and 9 inches, nearly 15 feet less than the developer had told us and far short of that required under zoning standards. We informed Mr. Lyon of this problem, and he clarified the details with the developer whose failure to meet the setback requirement is the main reason why this application is now a PDD. Furthermore, we have since learned that the developer claims to have calculated setbacks with a system that includes measuring empty space, which gave them a setback average distance of 166'. If they always believed their calculation was 166 feet, why did they tell us a completely different distance in June? How can the City donate the land to this developer and approve a project that violates both the spirit and the letter of both the RFQ and the zoning code?

000064

Page 2 of 2

We seek this continuance and/or denial to further pursue negotiations with the City to resolve other technical issues we have uncovered with this proposed development. Some of these issues were identified in our previous correspondence to the Planning Commission dated June 29, July 7, July 13, July 14, and October 1, 2009. We would like to reiterate that we are supporters of suitable affordable housing developments, but this application fails to meet the legal standards established in the various ordinances and codes by The City of Palm Springs.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Mayor Steve Pougnet
Mayor Pro Tem Chris Mills
Councilmember Ginny Foat
Councilmember Rick Hutcheson
Councilmember Lee Weigel
David Ready
Tom Wilson
Dale Cook
Craig Ewing
Ken Lyon
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore
Donna Chaban
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee

000065

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

5 October 2009

Via Email

Palm Springs Planning Commission
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: 10/14/2009 Agenda Item Case 5.1231 PD 356 & Assoc. Files – 3130 N. Indian Canyon Drive
REQUEST FOR CONTINUANCE AND/OR DENIAL – ISSUE FOUR

Dear Planning Commission Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. We respectfully request a continuance and/or denial of this Planned Development District (PDD) application. There are many grounds for this request and we address one here; the original purchase of the development site in September 2001 by the Community Redevelopment Agency ("CRA") using monies from the Low and Moderate Income Housing Fund, and the possibly illegitimate request for a property ownership extension in 2007. As with our earlier letters, this alone supports the requested relief.

In September 2001, the CRA purchased the site at issue for \$500,000 using Low and Moderate Income Housing Fund monies as part of a settlement due to litigation initiated by the then owners of the site, CBM Group. Under the terms of California Redevelopment Law Section 33334.16, the CRA had five years – **up to September 2006** – to have either conveyed the site for development or sold the land and deposited the sale proceeds less costs back into the Low and Moderate Income Housing Fund. Unfortunately, neither scenario was realized.

While California Redevelopment Law provided authority for the CRA to have sought a further five year extension of ownership, in this case, the five years expired without such a request or grant by the City. It was not until seven months later, on April 18, 2007, that the CRA sought an extension. In his staff memo to the City Council of the same date, David Ready explained that the "purpose of the extension [was] to enable the Agency to comply with (Section 33334.16) which, barring an extension from the City Council as the legislative body, prohibits redevelopment agencies from retaining such properties longer than five years without initiating specific development activities."

Mr. Ready continued in his memo to urge that the City act stating **"the period of time to hold the land for affordable housing purposes must be extended prior to June, 2007 in order to avoid an audit finding."**

Moreover, the RFQ for this proposed development was only issued on March 6, 2007, six months beyond the allowable term of unextended ownership. Regardless, even if the CRA had complied with Section 33334.16 (which they did not) it is clear that physical development of the site must be started by September 2011, or the property sold and monies put into the relevant Housing Fund. Whether the developers proposing to enter into a DDA with the CRA were made aware of this fact is not obvious, but we do not see such a condition in the March 2007 RFQ for this development or subsequent addendums.

We seek this continuance and/or denial to further pursue negotiations with the City to resolve other technical issues we have uncovered with this proposed development. Some of these issues were

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Page 2 of 2

identified in our previous correspondence to the Planning Commission dated June 29, July 7, July 13, July 14, and October 1, 2009. We would like to reiterate that we are supporters of suitable affordable housing developments, but this application fails to meet the legal standards established in the various ordinances and codes by The City of Palm Springs.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Mayor Steve Pougnet
Mayor Pro Tem Chris Mills
Councilmember Ginny Foat
Councilmember Rick Hutcheson
Councilmember Lee Weigel
David Ready
Tom Wilson
Dale Cook
Craig Ewing
Ken Lyon
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore
Donna Chaban
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee

000067

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

6 October 2009

Via Email

Palm Springs Planning Commission
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: 10/14/2009 Agenda Item Case 5.1231 PD 356 & Assoc. Files – 3130 N. Indian Canyon Drive
REQUEST FOR CONTINUANCE AND/OR DENIAL – ISSUE FIVE

Dear Planning Commission Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. We respectfully request a continuance and/or denial of this Planned Development District (PDD) application. There are many grounds for this request and we address one here; the now inapplicable Architectural Advisory Committee (AAC) approval of the development design as a MAJ application, with no subsequent approval as the now proposed PDD.

In November 2008, April 2009 and June 2009, the development design was reviewed by the AAC where it encountered significant opposition and negative commentary. By way of example only, minutes of the April 2009 AAC meeting included the comment that the project was "**woefully under designed,**" and was subsequently voted against by 5-0. At the third attempt in June, the design was approved with a narrow 3-1 vote. However, the comments reveal that the development remained problematic for the AAC, with members noting it was "**still too dense, courtyards and back to back patios still don't work.**"

However, this approval is now effectively moot and certainly lacks any authority given the developers' September 2009 re-submittal of the application as a PDD due to the failure of the original MAJ (to meet R2 zoning standards). This fact should be reflected in all future Staff Memos presented to the Planning Commission and City Council. Even though the basic design has not changed the blatant intentions of the PDD application certainly have, and the AAC would have taken into account any waivers sought, and/or stated public benefits, before deciding on whether to give their approval.

Moreover, as the final AAC meeting occurred in June 2009, it is fair to assume that the members were under the impression that all R2 zoning standards had been met, including building setbacks with regard to the R1 property line. However, as we have noted in prior correspondence, in July 2009 it was discovered that the developer had failed to meet the minimum setback requirement, and this led to the withdrawal of the MAJ application and the re-submittal of this proposal as a PDD.

We appreciate that the AAC approval has no binding authority, but such approval might give this design some ill-deserved credibility prior to the Planning Commission and City Council hearings. Certainly, this development should no longer benefit from an approval achieved only with incomplete and inaccurate information such as the setback conformance and related line of site problems among other issues.

We seek this continuance and/or denial to further pursue negotiations with the City to resolve other technical issues we have uncovered with this proposed development. Some of these issues were identified in our previous correspondence to the Planning Commission dated June 29, July 7, July 13,

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Page 2 of 2

July 14, October 1 and October 5, 2009. We would like to reiterate that we are supporters of suitable affordable housing developments, but this application fails to meet the legal standards established in the various ordinances and codes by The City of Palm Springs.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Mayor Steve Pougnet
Mayor Pro Tem Chris Mills
Councilmember Ginny Foat
Councilmember Rick Hutcheson
Councilmember Lee Weigel
David Ready
Tom Wilson
Dale Cook
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Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore
Donna Chaban
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee

000069

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

6 October 2009

Via Email

Palm Springs Planning Commission
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: 10/14/2009 Agenda Item Case 5.1231 PD 356 & Assoc. Files – 3130 N. Indian Canyon Drive
REQUEST FOR CONTINUANCE AND/OR DENIAL – ISSUE SIX

Dear Planning Commission Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. We respectfully request a continuance and/or denial of this Planned Development District (PDD) application. There are many grounds for this request and we address one here; the incorrect and inapplicable CEQA Categorical Exemption as determined and proposed by the Palm Springs Planning Department.

The Public Notice for the October 14, 2009 Planning Commission hearing for this proposed PDD states the project is "categorically exempt from further environmental review pursuant to Section 15332 (Infill development) of the California Environmental Quality Act (CEQA)." This same language was used on the notice for a prior hearing (later continued) when this project was submitted as a MAJ.

However, a brief review of Section 15332 demonstrates that this proposal fails to meet at least three of the five requirements for such an exemption to apply, including the following:

(a) The project is consistent with....applicable zoning designation and regulations.

We, and others, have submitted previous correspondence that clearly demonstrates the developer's failure and inability to meet the underlying R2 zoning standards, in particular with building setbacks in relation to the adjacent R1 zone and the subsequent withdrawal of the MAJ and submittal of this PDD.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The 3.6 acre development proposal calls for parking for over 110 vehicles, estimates the number of residents at approximately 180 people (plus pets), and places 51 air conditioning units on unit roof tops. These combined factors will have an incredible impact on many levels of pollution including traffic, light, noise and air, as well as significant energy use and issues relating to personal safety.

(e) The site can be adequately served by all required utilities and public services.

As highlighted in a previous letter, the lack of access to adequate public transport is a problem for this development, and will only serve to exacerbate the issues of excessive car usage, large-scale parking and negative environmental impacts.

Given this brief analysis, we fail to understand how this proposed development can be "categorically exempt" from a full CEQA analysis including an Environmental Impact Report. CEQA was enacted to protect from the very types of impacts this project proposes to inflict and a full analysis performed by

000070

the City is mandated in order to make sure such impacts are quantified and accounted for, and if necessary, mitigated. Yet here, we have a case where in reviewing their CEQA determination the City Staff attempted to find loopholes as to why an EIR is not required, as opposed to looking at all the reasons why a Report should be undertaken. How can that procedure be reconciled with the statute? And, does it not make more sense, when further issues are raised by the public, for the City to even minimally provide analysis to support an exemption prior to making a decision that might result in protracted contentious proceedings? Yet, here, despite analysis provided by us in July and a request for further discussion, the City Staff have provided no substantive response.

We seek this continuance and/or denial to further pursue negotiations with the City to resolve other technical issues we have uncovered with this proposed development. Some of these issues were identified in our previous correspondence to the Planning Commission dated June 29, July 7, July 13, July 14, October 1 and October 5, 2009. We would like to reiterate that we are supporters of suitable affordable housing developments, but this application fails to meet the legal standards established in the various ordinances and codes by The City of Palm Springs.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Mayor Steve Pognet
Mayor Pro Tem Chris Mills
Councilmember Ginny Foat
Councilmember Rick Hutcheson
Councilmember Lee Weigel
David Ready
Tom Wilson
Dale Cook
Craig Ewing
Ken Lyon
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore
Donna Chaban
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee

Table 2.0: Zone R-2 Development Standards and Proposed Standards for PDD 356

	R-2 Development Standards	Proposed Development
Lot Area	20,000 square feet	158,058 square feet 3.63 ac.) (conforms)
Lot Width	170 Feet	266 Feet (conforms)
Lot Depth	150 Feet	551 Feet (conforms)
Yards between R-1 and R-2 zones	150' when R-2 zoned property abuts R-1 zoned property, for structures greater than fifteen (15) feet and more than one (1) story	Nine - 2 story buildings, an average of 140 feet from the east of the site. (Requires PDD approval to conform)
Density	3,000sf of lot area/unit	3,099 sf of lot area/unit (51 Units) (conforms)
Building Height	24 Feet (two stories)	24 feet (conforms)
Front Yard (San Rafael Road)	30 Feet	24 feet (requires PDD approval to conform)
Side Yard (N. Indian Canyon)	30 Feet (side fronting a major thoroughfare)	24 feet (requires PDD approval to conform)
Side Yard (interior east side yard)	10 Feet	8 feet to carports (requires PDD approval to conform)
Rear Yard (Simms Road)	15 Feet	24 feet (conforms)
Landscape Open Space	50% of the site area shall be usable open space.	52% - (conforms)
Lot coverage	Not to exceed 30%	21% - (conforms)
Separation from adjacent zones.	6 ft. high wall & screening landscaping between R-1 & R-2.	6 foot high wall provided with landscaping (conforms)
Walls	Maximum 6 foot high	7 foot high masonry walls at patios fronting Indian Canyon to mitigate road noise (requires PDD to conform)
Parking	Per PSZO 93.06.00 51 units as designed requires 110 spaces	116 spaces provided - conforms - see below for more detail on parking conformance
Building Distance	15'-0" & bldgs. opposite a courtyard shall be 30' apart.	Varies (16'-2" is smallest; Courtyard min. is 72') (conforms)

PLANNED DEVELOPMENT DISTRICT

other street cuts within existing asphalt concrete pavement of off-site streets required by the proposed development may require complete grinding and asphalt concrete overlay of the affected off-site streets, at the discretion of the City Engineer. The pavement condition of the existing off-site streets shall be returned to a condition equal to or better than existed prior to construction of the proposed development.

- ENG 55. On phases or elements of construction following initial site grading (e.g., sewer, storm drain, or other utility work requiring trenching) associated with this project, the applicant shall be responsible for coordinating the scheduled construction with the Agua Caliente Band of Cahuilla Indians, Tribal Historic Preservation Officer or Tribal Archaeologist. Unless the project site has previously been waived from any requirements for Tribal monitoring, it is the applicant's responsibility to notify the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760)-699-6800, for any subsequent phases or elements of construction that might require Tribal monitoring. If required, it is the responsibility of the applicant to coordinate scheduling of Tribal monitors during construction, and to arrange payment of any required fees associated with Tribal monitoring. Tribal monitoring requirements may extend to off-site construction performed by utility companies on behalf of the applicant (e.g. utility line extensions in off-site streets), which shall be the responsibility of the applicant to coordinate and arrange payment of any required fees for the utility companies.
- ENG 56. All proposed utility lines shall be installed underground.
- ENG 57. In accordance with Chapter 8.04.401 of the City of Palm Springs Municipal Code, all existing and proposed electrical lines of thirty-five thousand volts or less and overhead service drop conductors, and all gas, telephone, television cable service, and similar service wires or lines, which are on-site, abutting, and/or transecting, shall be installed underground unless specific restrictions are shown in General Orders 95 and 128 of the California Public Utilities Commission, and service requirements published by the utilities. The existing overhead utilities across the west and north property lines meet the requirement to be installed underground. Utility undergrounding shall extend to the nearest off-site power pole; no new power poles shall be installed unless otherwise approved by the City Engineer. A letter from the owners of the affected utilities shall be submitted to the Engineering Division prior to approval of a grading plan, informing the City that they have been notified of the City's utility undergrounding requirement and their intent to commence design of utility undergrounding plans. When available, the utility undergrounding plan shall be submitted to the Engineering Division identifying all above ground facilities in the area of the project to be undergrounded. Undergrounding of existing overhead utility lines shall be completed prior to issuance of a certificate of occupancy.

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

19 October 2009

Via Email

David Ready, Esq., Ph.D.
City Manager
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: Case 5.1231 PD 356 & Associated Files – 51-unit Project, 3130 North Indian Canyon Drive
FOLLOW-UP TO PLANNING COMMISSION MEETING

Dear Dr. Ready:

Following the Planning Commission's decision of October 14, 2009, to return the above PDD application design "to the drawing board," we were hoping that you could clarify the current position of the Community Redevelopment Agency's ("CRA") May 2008 Exclusive Agreement to Negotiate ("EAN") with the developer, Community Dynamics of Santa Monica (aka Com Dyn PS, LLC).

We understand, from correspondence held in the public record, that the CRA and developer originally had a one year EAN beginning in May 2008. This EAN was extended in May 2009, at the request of Community Dynamics, by one hundred and fifty days to October 21 2009. The support for the request was the assertion that by the end of the extension, all entitlements would be approved and the Disposition and Development Agreement ("DDA") would also have approval from the Agency Board.

As we now all realize none of these objectives have been met, and in particular the entitlements may now be many months and even years away from final approval. It is worth noting that the RFQ for this project was first issued by the CRA in March 2007, two and a half years ago.

We would also like to know the intentions of the CRA regarding the Recoverable Grant in the amount of \$530,555, awarded to Community Dynamics also in May 2008. We are aware that through August 2009 they had received \$453,459.82 (from the Affordable Housing Fund?), including \$250,000 for "Developer Overhead," and in return the CRA received a project design called a "pig" by one member of the Planning Commission.

In summary, is it the intention of the CRA to further extend the EAN with Community Dynamics, and if so for what period? Also, will the developer be entitled to further grant funds as they begin the redesign and consultation process of this project, given the time and money it has taken them to get to this point, and the negative spirit in which their original application was conducted?

We note our disappointment that we did not receive even the courtesy of an acknowledgement to our previous letter dated September 23, 2009. However, the issues we have raised are many and worth considering by the City. To that end, we would still like the opportunity to meet with you to discuss the issues that this application process has uncovered, and we hope that you will give this letter due consideration.

Regards,
Electronically Signed
James and Ginger Pigott

000074

Albany
Atlanta
Brussels
Denver
Los Angeles

McKenna Long & Aldridge LLP

Attorneys at Law

Tel: 404.527.4000
www.mckennalong.com

Remittance Address:
P.O. Box 116573, Atlanta, GA 30368

New York
Philadelphia
San Diego
San Francisco
Washington, D.C.

ATTORNEY-CLIENT PRIVILEGED
TAX ID NO. 52-1237458

RECEIVED
NOV 17 2009
BY: _____

COMDYN, LLC
Attn: Loren Bloch
2800 28th Street, Suite 206
Santa Monica, CA 90405

Client No.: 31202
Matter No.: 31202.0001

Invoice No. 680820
Invoice Date: November 13, 2009

FOR PROFESSIONAL SERVICES RENDERED through October 31, 2009
RE: PALM SPRINGS DEVELOPMENT

***** SUMMARY OF ACTIVITY *****

Name	Hours Worked	Billed Per Hour	Bill Amount
M.W. Steres	0.80	425.00	340.00
B. Pham	3.00	400.00	1,200.00
Total	3.80		1,540.00

TOTAL FEES: \$ 1,540.00

TOTAL THIS STATEMENT: \$ 1,540.00

TOTAL BALANCE DUE: \$ 1,540.00

PROJECT Palm Springs
AMOUNT _____
APPD SR
APPD _____
DATE PD _____
CHECK # _____

000075

DESCRIPTION OF SERVICES

10/08/09 B Pham	.60 MULTIPLE CONF CALLS WITH STEVE AND LOREN RE. INDIVIDUAL MEETINGS WITH PLANNING COMMISSION MEMBERS AND ISSUES RELATED TO BROWN ACT; REVIEW AND SEND GUIDELINES RELATED TO BROWN ACT TO STEVE.
10/12/09 B Pham	.60 CONFERENCE CALL WITH STEVE AND LOREN RE. VIEW MODELING AND ENVIRONMENTAL ISSUE REGARDING POTENTIAL VIEW IMPACT ON NEIGHBORING PROPERTY; FOLLOW-UP WITH ATTY MARK STERES RE. SAME; CONFERENCE CALL WITH STEVE ROBERTS AND MARK STERES RE. LESS THAN SIGNIFICANT IMPACT ISSUES.
10/12/09 M Steres	.40 TELEPHONE CALL WITH CLIENT RE CEQA COMPLIANCE AND VIEW IMPACTS.
10/14/09 B Pham	.80 RECEIVE AND REVIEW CITY'S CONDITIONS OF APPROVAL RE. INDEMNIFICATION OF CITY; REVIEW AND ANALYSIS INDEMNIFICATION REQUIREMENTS; INTEROFFICE CONFERENCE RE. ISSUES RELATED TO RIGHT OF CITY TO UNILATERALLY SETTLE CASES; CONFERENCE CALL WITH LOREN RE. INDEMNIFICATION PROVISION.
10/14/09 M Steres	.40 REVIEW STAFF'S CONDITIONS OF APPROVAL RE INDEMNIFICATION; OFFICE CONFERENCE RE PROPOSED INDEMNIFICATION PROVISION.
10/21/09 B Pham	.30 CONF CALL WITH LOREN AND STEVE RE. RESULT OF PLANNING COMMISSION HEARING AND FOLLOW-UP WITH CITY ATTORNEY RE. POLICY OF COMMISSIONERS NOT HAVING A ONE-ON-ONE MEETING WITH APPLICANTS.
10/22/09 B Pham	.10 CALL TO DOUG HOLLAND RE. CITY'S POLICY RE. PLANNING COMMISSION MEMBER'S MEETING WITH APPLICANTS.

COMDYN, LLC
MATTER NUMBER: 31202.0001
INVOICE NO.: 680820

November 13, 2009

PAGE 3

10/26/09 B Pham

.30 CONFERENCE CALL WITH DOUG HOLLAND OFFICE RE. COMDYN'S PROJECT IN PALM SPRINGS; CALL DOUG HOLLAND AND LEAVE VOICEMAIL RE. ISSUES RELATED TO ONE-ON-ONE MEETING WITH PLANNING COMMISSION MEMBERS.

10/27/09 B Pham

.30 CONFERENCE CALL WITH DOUG HOLLAND RE. MEETING WITH PLANNING COMMISSION MEMBERS.

000077

January 7, 2010

Mr. Craig Ewing, Director
Department of Planning Services
City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs, CA 92262

Re: Case 5.1231 PDD 356 / TTM 36185

Dear Craig,

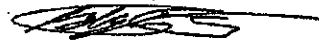
Together with our consulting team, we have studied the design recommendations made by the Planning Commission at the October 14, 2009 hearing. We have determined that, in order to achieve the community focused living environment for the primarily young working families the development will serve, the best alternative is to move forward with the existing design program without revisions.

As such, by way of this letter ComDyn PS, LLC requests that the above referenced case be scheduled for reconsideration by the Planning Commission, as the Architectural Advisory Committee has previously reviewed and recommended approval of our design.

We would appreciate the opportunity to present the Planning Commission with our analysis of the Commission's October 14th design recommendations, in order to explain the basis for our decision to move forward with the existing program.

Thank you for your consideration.

Sincerely,



Stephen Roberts
Vice President, Development

cc: Edward Robertson

2800 TWENTY-EIGHTH STREET
SUITE 206
SANTA MONICA
CALIFORNIA 90405

310/398-9556 Office
310/398-0777 Fax

www.com-dyn.com

RECEIVED
CITY OF PALM SPRINGS

2010 FEB 22 AM 8:23

JAMES THOMPSON
CITY CLERK

Claire Victor
300 East Molino Road
Palm Springs, CA 92262

VIA email

February 22, 2010

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

Re:
Case 5.1231, PDD 356
51-unit Affordable Townhouses, 3130 North Indian Canyon Drive

Dear Mr. Thompson:

Please enter my letter into the record and distribute copies to the Planning Commission.

My husband Tom Carnase and I are owners and full-time residents of one of the Class One Historic, Donald Wexler steel houses that abut the proposed development. We moved here over two years ago, specifically to live in, care for and restore this one of a kind treasure. We were inspired to do so because of the abundance of mid-century architecture and the Palm Springs mind-set towards preservation.

I remain opposed to the development as designed for all the reasons I have stated in my previous letter dated August 17, 2009 and my comments made in person to the Planning Commission on October 14, 2009.

I am disappointed and shocked that Community Dynamics has chosen to ignore every suggestion made by the Planning Commission at the Oct 14, 2009 meeting. On the other hand this reinforces and continues to show that this project is all about what serves the developer best, not Palm Springs and certainly not "the segment of the population so often overlooked" as they like to point out at every chance.

I still question the need to build this development at all. There is ample real estate available in Palm Springs in every price range. The City of Palm Springs website provides a link to Homefinder.com. A quick search of homes and condos (2+ bedrooms) in the price range of 90k-250k, as of February 21, 2010, shows 323 agency & broker listings. It also shows 148 foreclosures. One interesting listing is

ID#41375698, a 2 bedroom, 2 bath townhouse, with a garage, at Palermo. The listing price of \$199,000 is much less than the proposed townhomes, and with much more to offer.

I'm still very worried that this will end up as another unfinished project like so many in Palm Springs. Again, within eyesight we have three. Community Dynamics has said they will build in phases. All across the country people and developers are walking away from their mortgages and uncompleted properties, why would this not be the same situation?

Supposedly this development will have a covenant of 45 years. There is no forward thinking in the design, which already looks like it is at least 20 years old and very similar to the rental housing a few blocks west on San Rafael. The high-density layout is crammed, unhealthy and unoriginal and does not even comply with City setback codes or undergrounding of utilities. As we have expressed all along, less density would allow for a much nicer environment for the new homeowners as well as the existing neighborhood.

Community Dynamics has shown that they are inflexible and unwilling to work with the Community and the Planning Commission. On those grounds alone I am hopeful that you will decide against proceeding with this development and developer and will consider a project more creative, less invasive and more appropriate for everyone, when the market warrants it.

Respectfully submitted,

Claire Victor

cc: City Council
Ken Lyon
Tom Carnase
James Pigott
Ginger Heyman Pigott
Jim Isermann
Brian Mcguire
Jim Moore
Douglas Keeve
Mary Anne Webster
Donna Chaban
Racquet Club Estates Neighborhood Association

RECEIVED
CITY OF PALM SPRINGS

2010 FEB 22 AM 8:25

JAMES THOMPSON
CITY CLERK

22 February 2010

Palm Springs Planning Commission
c/o Jay Thompson, City Clerk
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs CA 92263

Re:

Case 5.1231, PDD 356
51-unit Affordable Townhouses, 3130 North Indian Canyon Drive
(10 March 2010 rehearing)

Dear Members of the Palm Springs Planning Commission:

I am a property owner at 3125 North Sunny View Drive, one of the all-steel Wexler homes. Please reference my previous correspondences to the City dated 22 September 2008, 19 October 2008, 24 June 2009, 14 July 2009, 7 September 2009, 24 September 2009, and 4 October 2009, and please make this letter part of the official record for this case.

I understand that the applicant, Community Dynamics, has applied for a rehearing of their proposal and that they have submitted nothing new and no revisions to their project that was continued from the hearing in October of 2009 pending redesign. I am puzzled that this request is being entertained by the Planning Commission for the following reasons:

- the applicant ignored all input from the neighborhood
- the applicant ignored all input from the Planning Commission, specifically, instructions to redesign with fewer units and less density
- the applicant did not resubmit their plans to the Architectural Advisory Committee as requested
- the applicant allowed the standard time-to-appeal to lapse, which should have made this recent application null and void
- the applicant is still noncompliant with setback ordinances
- the applicant is misusing the PDD designation for the purpose of bypassing standard building codes
- the line-of-sight story pole studies produced last October at the last minute revealed an almost comical loss of privacy to adjacent homeowners

My neighbors and I are disappointed that Community Dynamics has chosen not to take any input seriously. All of us are looking forward to seeing the tract in question improved in a sensitive and appropriate manner and we had hoped that the numerous recommendations and suggestions both from us and the Commission would have been taken into consideration by the applicant. Granted I am not knowledgeable of the various procedures and regulations involved in this rather perplexing process, but it is inexplicable to me that an applicant with such an utter lack of respect for the City of Palm

Springs and its residents is still being actively considered. Were I a member of the Planning Commission I would be angry at how the process and the situation is being manipulated. Furthermore, because the applicant has previously provided documents and statements that have been proven false, I think that their entire application should be thrown out. Are there no consequences for dishonesty?

Thank you for your attention to this matter and for your continued commitment to protecting the rights of current residents and taxpayers.

Respectfully,

Brian W. McGuire PhD
PO Box 1613
Thousand Oaks CA 91358
bmcguire98443@roadrunner.com

cc: L. Bloch (ComDyn)
T. Carnase
C. Ewing
G. Heyman
J. Isermann
K. Lyon
J. Pigott
C. Victor

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

16 February 2010

Via Email

David Ready, Esq., Ph.D.
City Manager
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

**Re: Case No. 5.1231 PDD 356 / TTM 36185 & Assoc. Files – 3130 N. Indian Canyon Drive –
Community Redevelopment Agency Actions**

Dear Dr. Ready:

We write to you, as we did following the Palm Springs Planning Commission's decision of October 14 2009, in the hope that you can clarify the current position of the Community Redevelopment Agency's ("CRA") May 2008 Exclusive Agreement to Negotiate ("EAN") with the developer, Community Dynamics of Santa Monica (aka Com Dyn PS, LLC).

The CRA and developer originally had a one year EAN beginning in May 2008. This EAN was first extended in May 2009, at the request of Community Dynamics, by one hundred and fifty days to October 21, 2009. The support for this request was the assertion that by the end of the extension all entitlements would be approved and the Disposition and Development Agreement ("DDA") would also have approval from the Agency Board.

We now understand there has been a second extension of the EAN, although it is unclear for how long. It is worth noting that the RFQ for this application was first issued by the CRA in March 2007, and still the applicant has not received any form of approval by the Planning Commission or City Council. Is it the intention of the CRA to continually extend the EAN with Community Dynamics regardless of the damning indictment of their application by the Planning Commission?

Moreover, attached for your consideration is a set of minutes from the Palm Desert Housing Commission, dated April 8, 2009. Reference is made to problems surfacing at the Palm Desert development called "Falcon Crest," a Community Dynamics affordable housing project. These problems include homeowners having income difficulties, HOA defaults and the prospect of liens being filed against properties. We trust the City of Palm Springs is aware of these issues; Falcon Crest has been the much lauded local reference for the developer's Indian Canyon proposal.

We are also concerned about the developer's intentions for construction if approval is eventually granted by both the Planning Commission and City Council. For example, Community Dynamics' President Loren Bloch was interviewed September 3, 2009 for KESQ TV saying **"...we are bringing in about thirteen million (dollars) of construction at a time when the economy is suffering."** However, Vice President Steve Roberts is quoted on September 11, 2009, saying **"[w]e don't intend to start (construction) until the market can support the economy."** Is the developer aware that, under California Redevelopment Law Section 33334.16, physical development of the site must be started by September 2011?

Finally, we are realizing that the genuine concerns of local homeowners are simply not as important to the City as the needs of a grant-funded developer. This must be the reason we did not receive the

basic courtesy of an acknowledgement from you to our previous letters of September 23 and October 19, 2009. However, we continue in our apparently misguided hope you will give this letter due consideration. The issues we have raised are many and worth considering by the City of Palm Springs.

Regards,

Electronically Signed
James and Ginger Pigott

Enclosure

Cc: Mayor Pougnet
City Council
Planning Commission
Tom Wilson
Dale Cook
Craig Ewing
Ken Lyon
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore
Donna Chaban
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee
Patrick McGrew
Gary Wexler
Joy Smith



CITY OF PALM DESERT

HOUSING COMMISSION

MINUTES

APRIL 8, 2009

I. CALL TO ORDER

Verna Smith, Housing Commission Chair, convened the meeting at 3:30 p.m.

II. ROLL CALL

Present:

Donna Lewis
Verna Smith
Wade Tucker
Jane Turner

Members Absent:

Leo Sullivan
Natalie Russo

Also Present:

Richard S. Kelly, Councilmember Liaison
Dave Yrigoyen, Director of RDA/Housing
Janet Moore, Director of Housing
Martin Alvarez, Redevelopment Manager
Jessica Gonzales, Management Analyst
James Conway, Project Coordinator
Patty Leon, Recording Secretary

Guest(s):

Teresa Vakili, RPM Company
Dave Erwin, Best Best and Krieger

III. ORAL COMMUNICATIONS

IV. CONSENT CALENDAR

A. MINUTES of the Regular Housing Commission meeting of **March 11, 2009.**

With a Motion made by Commissioner Tucker and seconded by Commissioner Lewis the minutes of March 11, 2009 were unanimously approved.

V. REPORTS AND REMARKS

April 8, 2009

A. COMMISSION REPORTS

I. New Legislation Affecting How Legislative Bodies Communicate
(SB 1732)

A letter from the District Attorney regarding the Brown Act was provided to the Housing Commission as informational. Janet Moore stated that the meeting dates are optional to attend.

She noted that the Housing Commission members are required to attend ethics training every two years. A notification is sent by the City Clerk's office of upcoming meeting dates for the training.

Mrs. Moore introduced Dave Erwin, City Attorney, present to update the Housing Commission on new changes to the Brown Act. She noted that Mr. Erwin routinely attends committees/commissions to provide updates on the Brown Act and answer any questions.

Dave Erwin stated that the Brown Act has been in effect for many years and otherwise known as the Open Meeting Law. He explained the basic regulations regarding public meetings and advised that all meetings of the legislative body shall be open and publicized for which an agenda is posted 72 hours in advance. Closed session meetings have specific exceptions and are typically pertaining to personal and litigation issues as well as real property negotiations. A legislative body is any governing body of a local agency, a City Council, a voting Board, Commissions and Committees appointed by the City Council. He noted that the Brown Act has been recently amended sufficiently to include criminal sanctions for violations of the Brown Act. He reminded the Commission that staff is not part of the legislative body and therefore are not subject to the Brown Act. He stated that he is making the Commission aware of some of the elements so they do not inadvertently do something that would be subject to any sort of sanctions according to the Brown Act. He noted that there are some limited exceptions for putting items on the agenda that arise at a later date and by a 4/5 vote the item may be added to the Agenda for discussion.

Mr. Erwin referenced the memo from Best Best and Krieger provided to the Commission and read a section that is now in place:

"A majority of the members of the Legislative Body shall not, outside of the meetings authorized by this chapter, use a series of communications of any kind directly or indirectly, discuss, deliberate, or

Housing Commission
Minutes

April 8, 2009

take action on any item of business that is within the subject matter jurisdiction called the Legislative Body."

Mr. Erwin explained that if two members of this Commission consisting of seven members, majority is four, engage in a conversation within the subject matter jurisdiction, meaning an item that might require action, but it's not on the agenda, and they each speak to someone else it constitutes a violation of the Brown Act because it has become a meeting.

He provided an example of an organization that canceled a trip to a production facility within their jurisdiction matter because there were too many legislative bodies invited.

He advised Commission members not to discuss any items within the subject matter jurisdiction while attending City functions. At this time, the legislative body for the City of Palm Desert is not under scrutiny but to be cautious in the event it is. He further noted that if this Commission had any questions or concerns he may be reached at Best Best and Kreiger.

Verna Smith asked about Commission members attending tours and grand openings to facilities within the subject matter jurisdiction.

Mr. Erwin responded that as long as those functions are posted as an open meeting and open to the public, the Commission is free to discuss any matter related.

Jane Turner asked for clarification as to the members of the legislative body.

Mr. Erwin reiterated that the Legislative Body is the governing body, City Council, a Commission or Committee Board or other body of the local agency with a permanent or temporary decision making or advisory of the legislative body.

Wade Tucker asked if he discussed an agenda item with his wife and his wife decides to communicate the related matter with someone else, would that constitute as a violation of the Brown Act.

Mr. Erwin stated that it would not be a violation since she is not part of the legislative body. He reiterated to the members of this Commission to refrain from speaking with one another on matters within the subject matter jurisdiction outside Brown Act meetings.

April 8, 2009

Mrs. Moore stated that staff is taking every precaution with regard to the Brown Act requirements. The agenda and agenda items emailed to commission members will restrict email addresses in the event a member inadvertently "Replies to All" with a question regarding the Agenda which will automatically create a meeting resulting in a violation of the Brown Act.

Ms. Turner asked if Commission members are allowed to obtain a list of addresses and phone numbers of members of this Commission.

Mrs. Moore stated that the City Clerk had indicated that if the Commission members provided those numbers amongst themselves that would be fine, but typically was not provided by their office. She noted that this request may be revisited with the City Clerk.

II. Replacement Housing Plan

A draft version of the Replacement Housing Plan for Country Village was provided to the Commission as informational.

Janet Moore stated that this plan was developed as a result of the redevelopment of Country Village. Redevelopment Law states that whenever units are destroyed or removed, the Agency is required to create a plan that identifies where replacement units could be built. She referenced the last page of the plan that lists expected locations of replacement units. She noted that some of replacement locations are not in a Project Area which is beneficial to the Agency since affordable housing units outside a Project Area count for only half a unit for inclusionary purposes. Once the Agency identifies units that are to be used as replacement, they cannot count as produced affordable housing since the Agency is replacing existing units. Fifty-six units were deemed affordable at Country Village of which cannot be counted towards housing production. Therefore, the Agency identified existing units, outside a Project Area, to be used as replacement to allow all of the units developed at Country Village's site as production. This item will be forwarded to the Redevelopment Agency Board for approval at their second meeting in April.

Mr. Tucker asked about the new concept in terms of two-story buildings on that site.

Mrs. Moore mentioned that not all the buildings are designed to be two-story.

April 8, 2009

Martin Alvarez mentioned that he will provide a brief explanation of the new concept during the power point presentation.

Jane Turner asked for clarification of existing units.

Janet Moore replied that the Agency uses what's called "Banked" units which mean previously existing housing units that meet the requirement from being restricted. Las Serenas is owned by the Agency and deemed affordable which meets the criteria. In the event those units are counted towards our stipulation requirement, they only count for half towards the inclusionary requirement for the Redevelopment Agency because the units are outside a project area. There is a stipulated requirement, Regional Housing Needs Assessment (RHNA) requirement, inclusionary requirement, and replacement requirement. If units are counted in the replacement category they cannot be counted in any of the other categories. Only a certain number of units will be used from Las Serenas as replacement units and will no longer be counted in the other categories. She noted that the Agency used the best option for replacement that would be beneficial to the housing production. She further noted that although the requirements may sound complicated, it's all classified as affordable housing. The only time the requirements are separated is when the Agency reports to the State.

Mrs. Moore reported that another possible replacement housing plan will be presented to the Commission for a property being considered at a future date. She noted that the plan does not change the operation of the properties nor does it change the terms of who manages them.

B. SUMMARY OF CITY COUNCIL, REDEVELOPMENT AGENCY, AND HOUSING AUTHORITY AGENDA ITEMS AND ACTIONS

The summary was reviewed by the Commission.

Martin Alvarez reported that a Notice of Completion for Country Village will be presented to the Redevelopment Agency Board for approval at their April 28th meeting.

**C. MONTHLY OCCUPANCY STATUS REPORT
RPM WEEKLY ACTIVITY STATISTICS**

The Commission reviewed the Monthly Occupancy Status Report and Weekly Activity Statistics for February.

April 8, 2009

As a request by a Commission member, a column was added to include totals for Qualified and Non Qualified Traffic.

Verna Smith inquired on Falcon Crest status.

Janet Moore stated that there is one property at Falcon Crest that has been forwarded to the Redevelopment Agency Board for approval to acquire. She noted that the for-sale wait list is down. There has been some outreach in the City's Brightside with regard to the affordable for-sale program. At this time, the Agency will purchase the property back and look for a qualified buyer based on the terms of the Falcon Crest program. She further stated that there are a few homeowners who have income issues and have contacted the Agency for advice. The Agency has not been notified of any defaults filed for either development.

Wade Tucker asked about the financing of the Falcon Crest homes.

Mrs. Moore stated there is a combination of financing. There are three loans on each Falcon Crest home to include a first mortgage with either Wells Fargo or Country Wide, a second loan in favor of the Redevelopment Agency, and a third loan by the City for the purpose of down payment assistance. The third loan was awarded to the City of Palm Desert in a form of a grant. It has been a year since the project sold out. There are a few homeowners with income issues and possible non-payment of mortgages that have been encouraged to inquire on foreclosure counseling and/or catholic charities. One major problem reported at both Desert Rose and Falcon Crest is the non-payment of Homeowners Association dues. Violation letters are sent to those homeowners who are in default of HOA dues. The Agency receives notifications from the Homeowners Association when homeowners are substantially behind. While it's not the responsibility of the Agency to collect HOA dues, letters are sent to homeowners to remind them of their obligation per their affordable housing agreement. The HOA may file a lien against their property and possibly foreclose; therefore the Agency will do everything in their power to maintain the properties affordable.

Teresa Vakill reported on the traffic count stating that most traffic is by telephone calls; One Quail Place is the only property that gets a lot of walk-ins.

D. REPORT #1 - MONTHLY OCCUPANCY AND AVERAGE RENT STATEMENT

The Commission reviewed the Monthly Occupancy and Average Rent Statement for February.

E. REPORT #2 – MONTHLY NET OPERATING INCOME STATEMENTS

The Commission reviewed the Monthly Net Operating Income Statements for February.

As a request by a Commissioner at a previous meeting, a column that shows a comparison of monthly totals to the previous year was included at the bottom of page 3.

Wade Tucker asked for clarification of the numbers in parenthesis.

Janet Moore stated that those numbers represent a negative in that category. It is expected that the Housing Authority properties would not be able to fund themselves simply from rents due to the income levels at the properties. However, 20% set aside money derived from tax increments are utilized to offset those negatives.

F. HOUSING AUTHORITY PROPERTIES UPDATE

The update on the Housing Authority properties was reviewed by the Commission.

James Conway summarized the report.

Upon request, Mr. Conway provided a brief explanation on the Virginia Graeme Baker Act, stating that the Act requires public pools to install equipment that prevents pool drain entrapment. One recommendation is to split a single drain system into dual drains to reduce the possibility of a drain blockage. Additional safety upgrades include the installation of Intelli Flo (vs + svrs) vacuum release pumps that shut down pumps when blockage takes place on a single drain. New safety drain covers were installed that allow 3" of clearance to prevent hair or other things from getting trapped in the suction area.

Mr. Conway also mentioned that the City of Palm Desert's Set To Save program allows residential owners to install these preventive measures in their homes; a savings of several thousand dollars a year. The cost to upgrade the Housing Authority pools was approximately \$40,000 of which the Agency received \$12,000 back in rebates. The annual savings is considered over \$80,000.

Wade Tucker inquired if security cameras are installed at the Housing Authority properties, stating several incidents at Las Serenas where outside guests have been seen opening doors and going through garbage cans as well as a recent theft incident in the laundry facility.

April 8, 2009

Janet Moore stated that One Quail Place has security cameras installed. Courtesy patrol inspects the properties as part of their daily routine. The installation of security cameras has been considered but is costly since most of the cameras at One Quail Place have been vandalized. Staff is also discussing this matter with the City Attorney with regard to the issue of privacy since the properties are technically not considered public. Signs are posted at the properties that read "no soliciting", "under surveillance" etc. Mrs. Moore noted that residents are encouraged to report any issues to the property manager since they are familiar with the property.

Teresa Vakili stated that with a large complex as Las Serenas where there are a lot of vehicles, it's typical to attract thieves. Tenants are encouraged to report any incident to the property managers.

Mr. Conway stated that most of the property managers attend seminars provided by the Sheriff's Crime Free Prevention who have also done several presentations at the properties.

G. COUNTRY VILLAGE DEMOLITION PRESENTATION

A power-point presentation was provided by Martin Alvarez of Country Village's deconstruction project. Mr. Alvarez reported that although the goal was to divert 75% of construction debris currently over 80% has been diverted from landfills.

VI. NEW BUSINESS

**A. AWARD OF CONTRACT TO ASSOCIATION RESERVES, INC. -
REPLACEMENT FUND STUDY**

Rec: By Minute Motion:

Action: Motion was made by Commissioner Turner and seconded by Commissioner Lewis to forward the recommendation to the Housing Authority to authorize staff to negotiate a professional services contract with Association Reserves, Inc. in an amount not to exceed \$49,250.00

Janet Moore reviewed the staff report.

VII. CONTINUED BUSINESS

VIII. INFORMATIONAL ITEMS

A. HOUSING AUTHORITY NEWSLETTER

Newsletters were provided to the Commission for April.

B. AGENCY HOME IMPROVEMENT PROGRAM UPDATE

An update on the Home Improvement Program (HIP) was provided to the Commission for review.

James Conway summarized the report.

IX. NEXT MEETING DATE – May 13, 2009

ADJOURNMENT

With members of the Housing Commission concurrence Verna Smith, Housing Commission Chair, adjourned the meeting at 4:43 p.m.



Patty Leon, Recording Secretary

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

16 February 2010

Via Email

Palm Springs City Council
c/o Jay Thompson
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

**Re: Case No. 5.1231 PDD 3 56 / TTM 36185 & Assoc. Files – 3130 N. Indian Canyon Drive –
Further Concerns Related to Application Process**

Dear Mayor Pougnet and City Council Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. By way of brief introduction, this letter relates to applicant Community Dynamics' self-titled "request for reconsideration" dated 7 January 2010 that was in all respects an improper and procedurally deficient appeal of an action taken by the Planning Commission on 14 October 2009.

On 14 October 2009 the Planning Commission heard testimony from Community Dynamics and from members of the local community who are opposed to the applicant's overly dense design, their incorrect use of a PDD application, related failures to meet the zoning code, attempts to avoid undergrounding site utility lines, and other significant issues. Video of the hearing shows more than sufficient time was provided to the applicant to respond to the points of opposition, and further make their case for approval.

After hearing extensive testimony from all interested parties, the Planning Commission voted 6-1 for the application to be continued to a date uncertain with instruction and recommendations that included the applicant returning to the Architectural Advisory Committee ("AAC") with a revised and more considered design, reducing the density of the development and the concentrated vehicle parking, and seeking and incorporating more input from the local neighborhood.

On a number of occasions in the days immediately following the hearing we contacted both the City Clerk's office and the Planning Department to inquire if Community Dynamics could appeal this action. We were informed, repeatedly, they could not appeal. However, we continued to communicate with the Planning Department and, as recently as 4 January 2010, were told nothing had been received from the applicant. We expected to hear from Community Dynamics at some stage, or at the very least see the application return to the AAC agenda. We surmised that the redesign must still be taking place and, with our follow-up and due diligence, we could reasonably expect that no further action would be required on our part without adequate prior notice.

We discovered at the earliest time possible, 21 January 2010, that the application was listed on the 27 January 2010 Planning Commission meeting agenda because the applicant was rejecting all Commission recommendations. The hearing was not public, and so our response to this latest turn of events was impossible to present cohesively. To compound our worries the applicant's supporting documents were only provided to the Planning Department on the morning of the hearing, an issue that should have prevented the request being on the agenda. Without hearing new testimony from Community Dynamics the Planning Commission, who seemed perplexed with the events of the day, voted 6-1 for the application to be returned to the agenda as a public hearing at a date certain.

Community Dynamics' attempt to appeal for reconsideration of the original action appeared to force the Planning Commission into scheduling a second public hearing, where a more decisive action could be voted. Has the applicant deliberately manipulated a position that enables them to later seek relief from the City Council and essentially by-pass the Planning Commission which exercised its proper authority in making its October 2009 recommendations?

In summary, we note for the public record our growing concerns about the legitimacy of this application. Is the Community Redevelopment Agency ("CRA") essentially the applicant given they own the site, with Community Dynamics little more than a hired contractor? Is this partnership exempt from the vigorous analysis that a private land developer would face because of a conflict of interest for the City of Palm Springs? Otherwise, how can the developer continually ignore the recommendations of the Planning Department, the AAC and the Planning Commission without question or consequence? Why is their application still valid when it is known that certified statements therein made by their management are incorrect?

As stated in our previous correspondence with the City we support the goal of providing affordable housing, but are sadly disappointed with the direction of this project. The current proposal still fails to meet the goals originally outlined by the Community Redevelopment Agency in their 2007 RFQ, and will struggle to benefit those it is intended to serve and the larger community. The latest attempt to side-step City guidance should not be accepted. We appreciate your consideration and thank you in advance for your time and attention.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Planning Commission
David Ready
Tom Wilson
Dale Cook
Craig Ewing
Ken Lyon
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore
Donna Chaban
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee
Patrick McGrew
Gary Wexler
Joy Smith

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

27 January 2010

Via Email & Hand Delivery

Palm Springs Planning Commission
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

**Re: Case No. 5.1231 PDD 3 56 / TTM 36185 & Assoc. Files – 3130 N. Indian Canyon Drive –
Community Dynamics' Request for Reconsideration**

Dear Planning Commission Members:

We are owners of one of the site adjacent Class One Historic Wexler Steel Houses. We note for the public record our disappointment with the tone and ultimate intention of the 7 January 2010 letter submitted by Community Dynamics, referencing their complete rejection of the Planning Commission's 14 October 2009 recommendations regarding the above PDD application.

We have not been contacted by Community Dynamics since the public hearing three months ago. Following the Commission's recommendations we, and many others, hoped that the developer would pursue a more open and inclusive approach with the local community. Sadly it appears they are continuing to choose a more combative and distressing path. There can be no justifiable reason for them to completely ignore us when there are so many unresolved issues associated with their plans.

Finally, we are concerned as to the motives behind the developers' rejection of the Planning Commission's recommendations. Combined with their similar attitude during the pre-application stage, we wonder how and why Community Dynamics can seemingly ignore so much local authority?

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Mayor Steve Pougnet
Members of City Council
David Ready
Tom Wilson
Dale Cook
Craig Ewing
Ken Lyon
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore
Donna Chaban
Rick Vila, Racquet Club Estates Neighborhood Association
Peter Moruzzi, The Palm Springs Modern Committee

Ken Lyon

From: Ken Lyon
Sent: Wednesday, January 27, 2010 2:24 PM
To: 'Armstrong2000'
Cc: Craig Ewing; Martha Edgmon; Terri Hintz
Subject: Case 5.1231 3130 North Indian Canyon Drive Com Dyn 51 unit condo development

Travis,

The Planning Commission voted 6-1 today to revise its previous action to "continue to a date uncertain" and set a noticed public hearing "for a date certain (other than Feb 10)" to consider action on the subject project. The Commission elected to not hear further presentations by the applicant at today's meeting. Members of the public spoke at the time of public comment regarding the project.

Your correspondence below will be attached as part of the written public comment received on this project when it is presented to the Planning Commission at its next public hearing on Case 5.1231. You may sign up on the City's website to receive e mail notices and updates of scheduled City events at www.palmsprings-ca.gov.

The case file, including all staff reports, analysis of the project's conformity to the Palm Springs Zoning Code and correspondence is available for public viewing upon appointment here in the Planning Department. I am also available by appointment, e mail, or phone to answer any questions you may have. Let me know if you have questions.

PS Pursuant to your request, this e mail is copied to the Director of Planning and secretaries of the City Council and Planning Commission.

Ken Lyon,

Associate Planner

City of Palm Springs Department of Planning Services
3200 Tahquitz Canyon Way
Palm Springs, CA 92263
Phone 760 323 8245 Fax 760 322 8360

"Make no small plans;
they have no magic to stir men's blood and probably won't be realized.
Make big plans; aim high in your work and in hope.
Let your watchword be Order, and your beacon Beauty"
- Daniel Burnham, Architect and Planner

From: Armstrong2000 [mailto:Armstrong2000@lawnet.ucla.edu]
Sent: Wednesday, January 27, 2010 2:10 PM
To: Ken Lyon
Subject: Re: RE:

Mr. Lyon:

Notwithstanding your explanation below, it appears that the commission also took issue with the odd, legally suspect procedure that favored the city-backed development over neighborhood participation. It's a shame that it appears games are being played to push a project that is too dense, and doesn't have the proper size, bulk and scale.

I request that this email string be forwarded to the planning commissioners, Planning Department chief and the City Council.

Sincerely,

1/27/2010

Travis Armstrong

-----Original Message-----

From: "Ken Lyon" <Ken.Lyon@palmsprings-ca.gov>
Sent 1/27/2010 1:28:46 PM
To: "Armstrong2000" <Armstrong2000@lawnet.ucla.edu>
Subject: RE:

Travis, thank you for your correspondence. I have given copies of it to the secretary who will pass it out to the Commissioners. There will be a future noticed public hearing on this item at which time the PC will be expected to take an action. Today's hearing was posted on Thursday January 21, 2010 at the City Hall, Planning Counter, City Clerks' office, and on the City's website (you can find it there by going to the calendar at the top of the home page). You can see the staff memo and letter from the developer attached to that hearing notice and agenda. Thank you for taking the time to write and I apologize if I was not adequate in my explanation of today's noticing.

Ken Lyon,
Associate Planner
City of Palm Springs Department of Planning Services
3200 Tahquitz Canyon Way
Palm Springs, CA 92263
Phone 760 323 8245 Fax 760 322 8360

"Make no small plans;
they have no magic to stir men's blood and probably won't be realized.
Make big plans; aim high in your work and in hope.
Let your watchword be Order, and your beacon Beauty"
- Daniel Burnham, Architect and Planner

From: Armstrong2000 [mailto:Armstrong2000@lawnet.ucla.edu]
Sent: Wednesday, January 27, 2010 1:21 PM
To: Ken Lyon
Subject:

Planning Commission:

While I understand the planning staff's legal argument why no mailed notice of this item was done, fairness requires that the city notify by mail or by posting at the site about this meeting. I wish I could have attended today but have been denied the opportunity.

There's appearance that the city is favoring a city-connected development project at the expense of public participation.

Sincerely,

Travis Armstrong

1/27/2010

James & Ginger Pigott
P.O. Box 712755
Los Angeles, California 90071
jpigott@kernowpartners.com
gpigott@reedsmith.com

19 October 2009

Via Email

David Ready, Esq., Ph.D.
City Manager
City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, CA 92263

Re: Case 5.1231 PD 356 & Associated Files – 51-unit Project, 3130 North Indian Canyon Drive
FOLLOW-UP TO PLANNING COMMISSION MEETING

Dear Dr. Ready:

Following the Planning Commission's decision of October 14, 2009, to return the above PDD application design "to the drawing board," we were hoping that you could clarify the current position of the Community Redevelopment Agency's ("CRA") May 2008 Exclusive Agreement to Negotiate ("EAN") with the developer, Community Dynamics of Santa Monica (aka Com Dyn PS, LLC).

We understand, from correspondence held in the public record, that the CRA and developer originally had a one year EAN beginning in May 2008. This EAN was extended in May 2009, at the request of Community Dynamics, by one hundred and fifty days to October 21 2009. The support for the request was the assertion that by the end of the extension, all entitlements would be approved and the Disposition and Development Agreement ("DDA") would also have approval from the Agency Board.

As we now all realize none of these objectives have been met, and in particular the entitlements may now be many months and even years away from final approval. It is worth noting that the RFQ for this project was first issued by the CRA in March 2007, two and a half years ago.

We would also like to know the intentions of the CRA regarding the Recoverable Grant in the amount of \$530,555, awarded to Community Dynamics also in May 2008. We are aware that through August 2009 they had received \$453,459.82 (from the Affordable Housing Fund?), including \$250,000 for "Developer Overhead," and in return the CRA received a project design called a "pig" by one member of the Planning Commission.

In summary, is it the intention of the CRA to further extend the EAN with Community Dynamics, and if so for what period? Also, will the developer be entitled to further grant funds as they begin the redesign and consultation process of this project, given the time and money it has taken them to get to this point, and the negative spirit in which their original application was conducted?

We note our disappointment that we did not receive even the courtesy of an acknowledgement to our previous letter dated September 23, 2009. However, the issues we have raised are many and worth considering by the City. To that end, we would still like the opportunity to meet with you to discuss the issues that this application process has uncovered, and we hope that you will give this letter due consideration.

Regards,
Electronically Signed
James and Ginger Pigott

Cc: Mayor Steve Pougnet
Mayor Pro Tem Chris Mills
Councilmember Ginny Foat
Councilmember Rick Hutcheson
Councilmember Lee Weigel
Jay Thompson
Ken Lyon

Dale Cook
Jim Isermann
Tom Carnase and Claire Victor
Brian McGuire
Mary Ann Webster and Doug Keeve
Jim Moore

Ken Lyon

From: JIM JENNINGS [jjennings@jimjenningsarchitecture.com]
Sent: Monday, October 19, 2009 1:52 PM
To: Ken Lyon
Subject: Indian Canyon and San Rafael

TO Mr. Ken Lyon, Associate Planner
City of Palm Springs

RE Proposed townhouse project at North Indian Canyon Drive and East San Rafael Drive

I am the owner of property approximately one block from the subject proposed project and I am opposed to this particular development proposal.

North Indian Canyon Drive is one of two entries into Palm Springs from the Los Angeles metropolitan area, the other being Hwy 111. As a gateway to our city, the proposed project is just wrong. It is of a type that can be found anywhere - a ubiquitous kind of architectural conformity. One of the finest examples of residential architecture in California is the cluster of seven all-steel houses designed by Donald Wexler, directly behind the subject property and now visible from Indian Canyon Drive. Rather than extending the scale and architectural quality of those buildings, this proposal replaces them with an all-too-common building type.

Secondly, the immediate area has undergone a quiet but steady improvement in the 10 years since I purchased my property. I have seen houses that were renovated, lots that were built on, and an increasingly strong sense of neighborhood. It might be the north end of town, but it is our community and maintenance of its character is important not only to us but to all of Palm Springs. Preserve the scale of the neighborhood, honor our world-renowned architectural history, encourage excellence in our new architecture, and the entire community will benefit.

I urge you to deny this proposal and seek a lower-density, much higher-quality alternative.

Sincerely,

Jim Jennings AIA

Jim Jennings Architecture
49 Rodgers Alley
San Francisco, CA 94103
tel 415.551.0827
fax 415.551.0829
www.jimjenningsarchitecture.com