



CITY OF PALM SPRINGS

DEPARTMENT OF PLANNING SERVICES

MEMORANDUM

Date: September 1, 2010
To: Palm Springs Planning Commission
From: Ken Lyon, Associate Planner *Ken Lyon*
Subject: Case 5.1154 Desert Palisades Specific Plan (DPSP), Zone Change & TTM 35540
Response to Commissioner's questions from 7.28.10 PC meeting

At its meeting of June 23, 2010, the Planning Commission opened the public hearing on the subject case, received testimony and closed the public hearing. It posed questions and comments on the Specific Plan and Environmental Impact Report and continued the meeting to a date certain of July 28, 2010.

At the July 28, 2010 meeting, Staff provided enumerated responses to the Commissioner's previously raised questions and the Commission gave direction on each response.¹ The Commission requested staff to provide a "track change" copy of the Desert Palisades Specific Plan, incorporating the clarifications to their questions. The Commission continued the hearing to a date certain of September 1, 2010 to allow staff and the applicant time to prepare the "track change" copy of the Plan for their review.

The full "track change" copy of the Desert Palisades Specific Plan is attached to this memo. A small number of items remain from the previous meetings. These are summarized below with a response from the applicant and staff's recommendation to each, for the Commission's consideration.

Recommendation:

That the Planning Commission

1. Recommend certification by the City Council of the Final Environmental Impact Report as an adequate analysis of the project's impacts under CEQA.

¹ A summary of the Commission's actions from the July 28, 2010 meeting is noted in the attached exhibit.

2. Recommend approval of Case 5.1154, The Desert Palisades Specific Plan, Change of Zone, General Plan Amendment, and Tentative Tract Map 35540 by the City Council, subject to the attached Conditions of Approval.

A draft resolution is provided for the Commission's consideration.

The following matrix reflects the questions and issues raised at the July 28, 2010 meeting. Staff seeks the Commission's direction on each recommendation.

ITEM	QUESTION OR CONCERN	SOLUTION/RESPONSE PROPOSED BY APPLICANT AND STAFF RECOMMENDATION
1.	Propose language to limit / restrict the amount of paved area on each homesite.	<p>The applicant asserts that both the language on minimal site disturbance, limits on lot coverage, and the requirement that each site must retain its on-site stormwater runoff will drive homesite design with minimal impervious paved/terrace areas</p> <p>Staff recommends acceptance of the applicant's proposed language.</p>
2.	Concern about use of Nonex, Cracamite and RockFrac	<p>The Fire Department reviewed the various methods and agents for rock splitting and developed a condition of approval (FID 12) prohibiting Nonex, but permitting Crackamite, RockFrac and other non-explosive chemical rock splitting agents.</p> <p>Staff recommends approval of this condition.</p>
3.	Provide an alternative or modified solution to gated vehicular entry.	<p>The applicant prefers to retain the project with the gated vehicular entry and has not offered an alternative or modified approach to the gated entry in the track change DPSP.</p> <p>Based upon discussion by the Planning Commission at its 7-28-10 meeting, staff has included Condition PLN 38, which proposes vehicular gates be installed but be programmed to be open to allow public vehicular access daily between 8:00 a.m. and 8:00 p.m., and closed from 8:00 p.m. until 8:00 a.m.</p> <p>Staff recommends approval of this condition.</p>
4.	Limit the lot coverage to 6,000 square feet regardless of lot area or lot mergers	<p>The applicant prefers to retain the text, allowing combined lots to increase the total lot coverage over the 6,000 square foot limit.</p> <p>The Planning Commission gave direction at its 7-28-10 meeting to limit lot coverage to 6,000 square feet. Staff has included Condition PLN 37 which limits lot coverage to 6,000 square feet regardless of lot size or lot combination,</p> <p>Staff recommends approval of this condition.</p>
5.	Prohibit decomposed granite (DG) for parking areas	<p>The applicant prefers to retain the text allowing decomposed granite for parking areas.</p> <p>Decomposed granite is not permitted by the Zoning Code for parking areas or driveways because it is subject to erosion, wind-borne dust, and is not stable over time. The City's Engineering Department has prohibited the use of DG except for use on pedestrian trails.</p> <p>The Planning Commission gave direction at its 7-28-10</p>

		<p>meeting to prohibit the use of DG. A condition of approval (PLN40) has been imposed prohibiting DG for parking areas and driveways.</p> <p>Staff recommends approval of this condition.</p>
6.	All development applications are subject to review and approval by the Planning Commission pursuant to PSZC Section 94.04.00 (Architectural Review) and 93.13.00 (Hillside Development)	<p>The applicant prefers to have development applications reviewed by the HOA and City staff and prefers the language referencing Planning Commission review and approval be omitted.</p> <p>The Planning Commission gave direction at its 7-28-10 meeting that all development applications shall require the review and approval of the Planning Commission pursuant to PSZC 94.04 (Architectural Review) and 93.13.00 (Hillside Development).</p> <p>A condition of approval has been imposed (PLN 39) requiring all future development to be reviewed and approved by the Planning Commission subject to PSZC Section 94.04.00 (Architectural Review) and 93.18.00 (Hillside Development).</p> <p>Staff recommends approval of this condition.</p>
7.	Tennis Courts are prohibited	<p>Applicant prefers to retain Tennis courts be "Conditionally Permitted" subject to conformance with the Design Guidelines section of the DPSP.</p> <p>The Planning Commission prohibited tennis courts at its 7-28-10 meeting. A condition of approval (PLN 41) prohibiting tennis courts has been imposed.</p> <p>Staff recommends approval of this condition.</p>
8.	Clarify the phasing of the installation of the projects' portion of Line 2 of the City's master plan of drainage	<p>The DPSP proposes to construct its share of Line 2 at the onset of the project's construction. Further discussion of Line 2 begins on page 33 of the track change copy of the DPSP.</p> <p>For clarification only, no further action is required.</p>
9.	Clarify how storm water retention on individual lots is to be handled.	<p>The design and implementation of storm water retention on individual lots is described on page 33 and 34 of the track change copy of the DPSP and utilizes individual on-site detention/retention structures.</p> <p>For clarification only, no further action is required.</p>
10.	Question about photo-simulations in the FEIR showing views of the project (Commissioner Hudson)	<p>Staff and the City's EIR consultant met with Commissioner Hudson and reviewed the photo-simulations in question. The EIR consultant did further review and provided clarification and response to each of Commissioner Hudson's questions and concerns.</p> <p>Staff recommends the Planning Commission recommend certification of the FEIR by the City Council.</p>

In addition to the answers to the Commissioner's questions provided above, staff also received the following clarifications:

1. FEIR concurrence from the Agua Caliente Band of Cahuilla Indians

Tribal Staff have reviewed the Final EIR and the Specific Plan. They have concluded that the Specific Plan is consistent with the Tribal Habitat Conservation Plan (THCP). The Project as proposed meets the goals and objectives of the THCP and all mitigation measures proposed are adequate to meet the requirements of the THCP. Tribal Staff concurs with the responses to comments as presented in the Final EIR.

2. Minter (Friends of Palm Springs Mountains) to Planning Commission letter of 7-23-10 raised several questions relating to the FEIR.

The City's Environmental Consultant has reviewed the Minter/Friends letter of 7-23-10 and concluded that most issues were previously addressed in the FEIR and do not require further response. The EIR consultant has provided a letter (attached herein) addressing each item. Staff incorporated Condition FID 12 relating to Rock Splitting. The DPSP text has been revised regarding the Chino Cone Levee. Staff believes the EIR consultant's response on the State's Alluvial Fan Task Force in her letter dated 8-24-10 adequately addresses the question.

Summary.

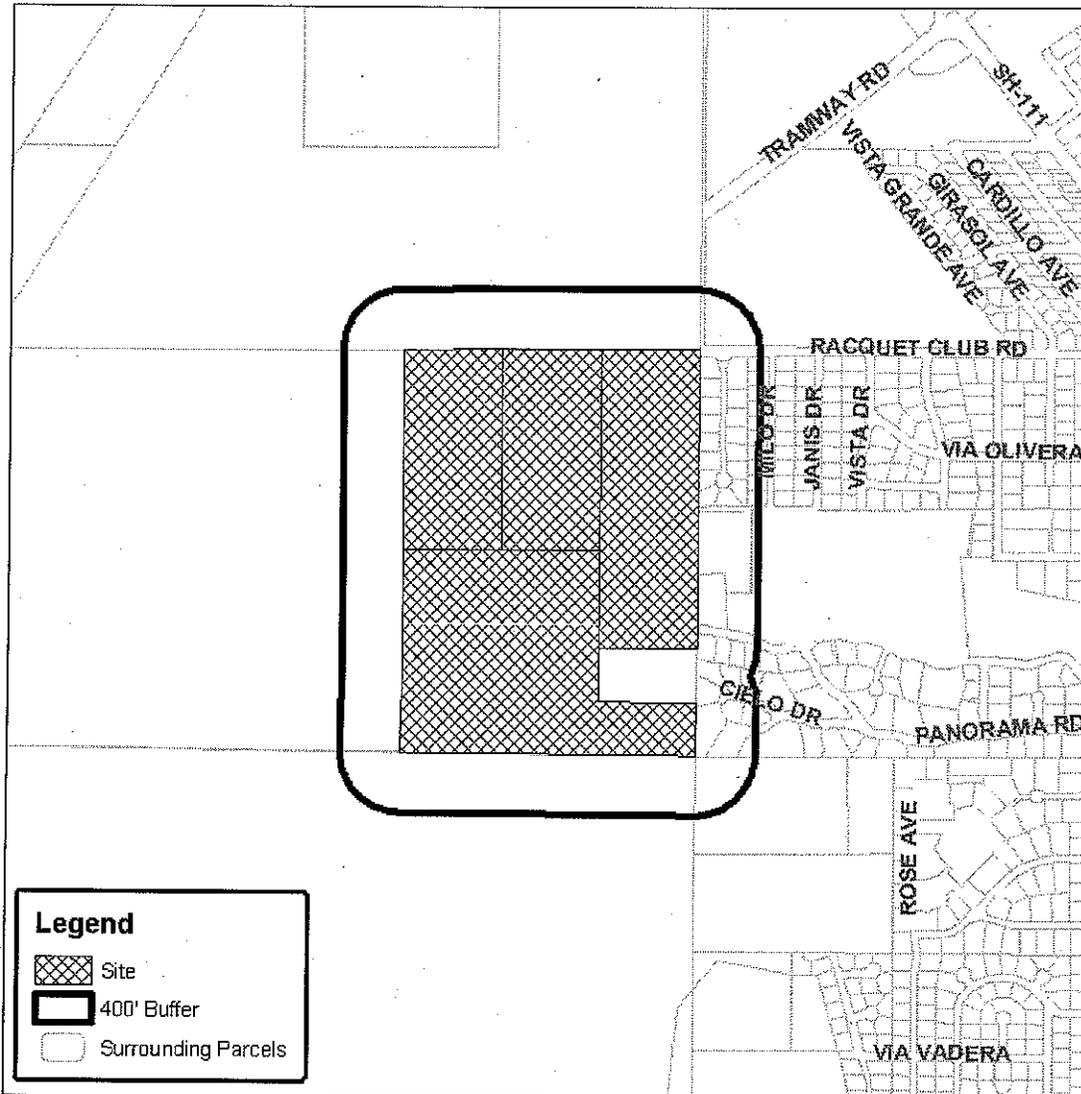
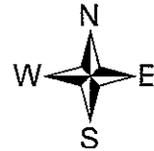
Staff believes that the Desert Palisades Specific Plan, as presented, meets the required findings as outlined in the City's General Plan, the Palm Springs Zoning Code and State Law as they relate to a General Plan Amendment, a Zoning Map Amendment (Change of Zone), a Specific Plan within the ESA-SP zone, the related Zoning Text Amendment associated with a Specific Plan, and a Tentative Tract Map. Further Staff has concluded that the FEIR, as presented, is an adequate and complete portrayal of the future environmental conditions resulting from the proposed Specific Plan.

Attachments:

- Vicinity Map
- Draft Resolution with Conditions of Approval.
- Track Change copy of the Desert Palisades Specific Plan dated 9-1-10.
- Lyon to Roos memo and e mail 7-29-10 summarizing Commission action from meeting of 7-28-10.
- Ventura to Commission memo dated August 12, 2010 regarding rock splitting.
- Public Correspondence received after the July 28, 2010 meeting.
- Schedule of outreach efforts (with dates) to the neighborhood and community (Bob Mara & Associate)
- Witherspoon to Ewing letter dated 8-24-10 regarding Minter/Friends letter dated 7-23-10



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE: 5.1154 SP / TTM 35540 / CZ (Specific Plan, Tentative Tract Map, General Plan Amendment and Change of Zone)

APPLICANT: Pinnacle View, LLC

DESCRIPTION: A request by Pinnacle View, LLC for approval of a Specific Plan amending the General Plan, a Tentative Tract Map and a Change of Zone for a subdivision of approximately 117 acres for 110 homesites, open space, private roads, public trails and a DWA dual tank reservoir, Zone ESA-SP (Planning Area 4) (IL)

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL CERTIFY THE ASSOCIATED ENVIRONMENTAL IMPACT REPORT AND APPROVE CASE 5.1154; AN APPLICATION FOR A SPECIFIC PLAN (SP) FOR A RESIDENTIAL DEVELOPMENT OF 110 HOMESITES ON AN APPROXIMATELY 117-ACRE PARCEL IN PLANNING AREA 4 OF THE ENVIRONMENTALLY SENSITIVE AREA – SPECIFIC PLAN ZONE (ESA-SP). THE SITE IS LOCATED AT THE WESTERN TERMINUS OF RACQUET CLUB ROAD; SECTION 4(IL)

WHEREAS, on April 30, 2007, Ed Freeman on behalf of Pinnacle View, LLC (“the applicant”) submitted an application for review pursuant to PSZC Sections 92.21.1.00 through 07 (“*Environmentally Sensitive Area – Specific Plan*”), PSZC Sections 94.07.00 (“*Zoning Map Amendment*”), State of California Governmental Code Sections 65450 (“*Specific Plans*”), and Sections 66425 66474 (“*Maps*”). The application includes a General Plan Amendment and Zone Text Amendment to adopt the proposed Specific Plan titled “Desert Palisades Specific Plan” (DPSP), a change of zone (CZ) that proposes to change the boundaries of ESA-SP Planning Areas 3 and 4, and a Tentative Tract Map (TTM 35540), that proposes to create a subdivision of 110 residential lots, private roadways, open space, and an approximately 1.7 acre parcel for a future Desert Water Agency dual tank domestic water reservoir, on an approximately 117-acre site. The project site is located at the western terminus of Racquet Club Road; and

WHEREAS, on November 1, 2007, notice in accordance with State Governmental Code Section 65352.3, (“*SB 18*”) was provided to Native American Tribal representatives, and

WHEREAS, on December 7, 2007, the City issued a Notice of Preparation (NOP) and Initial Study on the project indicating that a draft Environmental Impact Report (DEIR) would be prepared on the proposed Specific Plan; the NOP comment period ran from December 7, 2007 to January 7, 2008; and

WHEREAS, on January 19, 2010 a Notice of Preparation (NOP) was issued to public agencies and interested parties noting a revised EIR would be prepared and a 45-day period was provided for responses to the NOP that ended on March 4, 2010, and

WHEREAS, on January 21, 2010 the DEIR was prepared and circulated for a 45-day public review period which ended on March 8, 2010, and

WHEREAS, all public comments received on the DEIR were reviewed and written responses were provided in a Final EIR (FEIR), and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider a recommendation to the City Council of Case 5.1154 SP, CZ, & TTM 35540 was given in accordance with applicable law; and

WHEREAS, on June 23, 2010, a public hearing on Case 5.1154, (The Desert Palisades Specific Plan, Change of Zone and Tentative Tract Map 35540), and associated Final Environmental Impact Report was held by the Planning Commission in accordance with applicable law, at which hearing, the Planning Commission considered the draft Specific Plan, associated Final Environmental Impact Report, a staff report, background materials and oral and written testimony presented, and

WHEREAS, at said public hearing the Planning Commission closed the public testimony, raised several questions for further review and recommendation by staff and continued the hearing to a date certain of July 28, 2010, and

WHEREAS, on July 28, 2010, a meeting was held by the Planning Commission in accordance with applicable law and at said meeting, the Planning Commission reviewed the information provided by the applicant and staff's recommendations in response to the Commissions' questions, and continued the meeting to a date certain of September 1, 2010 requesting staff and the applicant to incorporate their directions on the additional information into a "track change" copy of the Desert Palisades Specific Plan, and

WHEREAS, on September 1, 2010, a meeting was held by the Planning Commission in accordance with applicable law, and at said meeting the Planning Commission reviewed the 'track change' copy of the Desert Palisades Specific Plan and reviewed information provided by Staff and the applicant, in response to the Commissions' questions from the meeting of July 28, 2010 and letters from the public.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: That the EIR for the subject project is an adequate assessment of the potential adverse impacts of the proposed project under the guidelines of the California Environmental Quality Act (CEQA). That the mitigation measures outlined in the Mitigation Monitoring Plan are sufficient and adequate to reduce any potentially significant impacts to less than significant levels.

Section 2: That the proposed Desert Palisades Specific Plan is consistent with the Goals, Policies and Actions outlined in the City of Palm Springs General Plan as follows:

There are no specific findings for the approval of a Specific Plan, however the Planning Commission finds the proposed Specific Plan is harmonious and consistent with General Plan policies and action items that are applicable to the project. The Specific Plan's proposal to amend the General Plan by changing an approximately 12 acre parcel from Planning Area 4 to Planning Area 3 within the Special Policy Area land use designation is consistent with the General Plan because the proposed parcel remains within the Special Policy area and its applicable goals, policies and action items.

Policy LU13.1: Require that any development in the Chino Cone be harmonious with and respectful of the area's natural features.

The DPSP provides detailed design guidelines and development standards for structures and landscaping that provides for development that is integrated with the natural conditions of the Chino Cone area. The proposed change of approximately 12 acres from Planning Area 4 to Planning Area 3 of the Special Policy Area land use designation retains that area within the oversight of the Special Policy Area.

Policy LU 13.4: Allow for rural street profiles with French drain or similar type of stormwater control features and code-complaint pedestrian accommodations to traditional street standards and design of curbs and gutters to establish a natural streetscape that visually blends into the surrounding terrain.

The DPSP provides for a rural street profile with a v-profile and a center gutter. Street surfaces are to be precast pavers, (no asphalt) in colors that are harmonious with the local area.

Action LU13.1: Require preparation of a Specific Plan and associated environmental analysis prior to the approval of any development within the Chino Cone that differ from the residential uses permitted by right (1du/40 acres)

The DPSP provides a comprehensive Specific Plan and Environmental Impact Report in accordance with the PSZC Section 92.21.00 (ESA-SP) and the General Plan. The DPSP proposes a density of just under 1 du/ac, which is within the maximum permissible density of 2du/ac with a Specific Plan for Planning Area 4 of the ESA-SP.

Section 3: That the proposed Change of Zone is consistent with the required findings of PSZC Section 94.07.00 (Zoning Map Amendment) as follows:

Pursuant to PSZC Section 94.07.00 (Zoning Map Amendment), the commission in recommending and the council in reviewing a proposed change of zone, shall consider whether the following conditions exist in reference to the proposed zoning of the subject property:

1. *The proposed change of zone is in conformity with the general plan map and report. Any amendment of the general plan necessitated by the proposed change of zone should be made according to the procedure set forth in the State Planning Law either prior to the zone change, or notice may be given and hearings held on such general plan amendment concurrently with notice and hearings on the proposed change of zone.*

The project proposes a minor change in the zone boundaries for Planning Area 3 and Planning Area 4 of the ESA-SP zone. Specifically a triangular parcel to the north of the proposed Specific Plan which is presently in Planning Area 4 is proposed to be removed from Planning Area 4 and added to Planning Area 3. This roughly 12-acre triangular parcel is actually part of a larger Indian-owned property that crosses Tram Way, and is proposed to be included in a future Specific Plan for Planning Area 3. Both Planning Area 4 and Planning Area 3 are within the Special Policy Area land use designation of the General Plan, and therefore the land use policies applicable to the 12 acre parcel remain consistent with the General Plan.

2. *The subject property is suitable for the uses permitted in the proposed zone, in terms of access, size of parcel, relationship to similar or related uses, and other considerations deemed relevant by the commission and council.*

The roughly 12-acre parcel proposed to be changed from Planning Area 4 to Planning Area 3 is actually a contiguous part of a larger Indian-owned parcel that is wholly within Planning Area 3. Moving this to Planning Area 3 makes it possible for this parcel to be incorporated into a logical larger area for a future Specific Plan in Area 3. The change from Planning Area 4 to Planning Area 3 makes the relationship to future planning efforts for this entire Indian-owned parcel feasible and practical.

3. *The proposed change of zone is necessary and proper at this time, and is not likely to be detrimental to the adjacent property or residents.*

The proposed change of this parcel from Planning Area 4 to Planning Area 3 is proper at this time because it allows the balance of Planning Area 4 to encompass the proposed Specific Plan. The ESA-SP zone notes that Specific Plans should encompass the entire planning area. In this case, the only remaining portion of Planning Area 4 that is not within the proposed Specific Plan is a small, roughly 5-acre parcel that is contiguous to a parcel at 1090 El Cielo Road and both parcels are owned by the same individual. (1090 El Cielo is entirely outside the ESA-SP zone.). Furthermore a condition of approval is provided (ENG 22) which provides for resolution of an access easement to this 5-acre parcel as a condition of the recordation of the Final Tract map.

Section 4: That the proposed Desert Palisades Specific Plan is consistent with the required findings of the Palm Springs Zoning Code as follows.

There are three sets of findings in the Zoning Code that relate to Specific Plans and development within Specific Plans in the ESA-SP zone; they are:

- Section 92.21.1.05 (I) "*Design Review*"
- Section 94.04.00 (B) "*Architectural Review*"
- Section 92.21.1.06 (D) "*Requirements of a Specific Plan in the ESA-SP*"

Pursuant to PSZC Section 92.21.1.05(I) "*Design Review*" there are ten findings that must be made prior to approval of development within the ESA-SP. Finding 1 is noted below. Findings 2 through 10 of this code section are the same as findings 1 through 9 of Section 92.21.1.06(D) and are evaluated later in this section of the staff report.

Section 92.21.1.05(I) states:

Any application for a development project within the ESA-SP zone may only be approved if, in addition to the findings contained in Section 94.04.00 of the Palm Springs Zoning Code, the following findings are made:

1. *The project demonstrates a complete and integrated vision for design, operation and use through the use of exemplary site planning, architecture, landscape architecture, materials and color principles and techniques.*

The Desert Palisades Specific Plan provides a comprehensive set of design guidelines, development standards, landscape guidelines and a plant palette for use in the design of each custom residence. In addition, the roads, trails, entry features, bridges, gates, buffer features, and interpretative sites are proposed with designs that integrate the natural topography, rock outcroppings, and landscape conditions that are unique to the Chino Cone area. The materials are consistent with the guidelines in the ESA-SP code and are required to blend with the natural colors of the rock and vegetation of the site.

Pursuant to PSZC Section 92.21.1.06(D), a specific plan for a planning area within the ESA-SP zone may only be approved if, the following nine findings are made (these are the same as findings 2 through 10 of PSZC Section 92.21.1.05(I)) mentioned above):

1. *The development provided in the Specific Plan is harmonious with, adapted to, and respectful of, the natural features within minimal disturbance of terrain and vegetation.*

As proposed, the Desert Palisades project will respect existing topography and natural features as much as possible. Site disturbance will be limited to the initial grading for

street and infrastructure installation, trails, construction of a DWA dual tank water reservoir, and development that will occur in the future as individual owners develop their homesites. The lots range in size from 16,000 to 32,000 square feet. A maximum footprint of 6,000 square feet is permitted for home and accessory building construction for each lot, leaving the remaining portion of each lot undisturbed.

2. *The development within the Specific Plan is properly located to protect sensitive wildlife habitat and plant species, and avoids interference with watercourses, arroyos, steep slopes, ridgelines, rock outcroppings and significant natural features.*

Existing vegetation will remain in its natural state and any landscaping introduced with future development will be in accordance with the landscape standards of the Specific Plan which encourages native species. The proposed lot lines for each residential lot are separated by common open space between lots that will remain undisturbed. The project is designed to preserve and avoid disturbance of large rock outcroppings as well as sensitive cultural areas. Existing drainage courses have been preserved in the project's design. Bridges or fair-weather crossings will be utilized in street design to span these areas.

3. *The development provided in the Specific Plan will be constructed with respect to buildings, accessory structures, fences, walls, driveways, parking areas, roadways, utilities and all other features, with natural materials, or be screened with landscaping, or be otherwise treated so as to blend in with the natural environment.*

The architectural and site design guidelines in the Specific Plan address these issues, including acceptable materials, screening requirements, and methods for the blending of building design with the natural environment.

4. *The development provided in the Specific Plan utilizes landscaping materials, including berms, boulders and plant materials which, insofar as possible, are indigenous and drought tolerant native species.*

All landscaping concepts and proposed perimeter berms/buffers described in the proposed Specific Plan will utilize materials currently found on-site or conducive to the Chino Cone area. Boulders removed during grading will be relocated to perimeter areas to create a natural buffer for adjacent residents and traffic along Tram Way. The proposed plant palette includes plants which are drought tolerant and normally found in undeveloped areas of the desert.

5. *The grading of land within the Specific Plan will be terrain sensitive and excessive building padding and terracing is avoided to minimize the scarring effects of grading on the natural environment.*

Grading will be required to construct the site's roadways/infrastructure and install utilities. The preliminary grading plan submitted with the Specific Plan is limited to only these roadways and related infrastructure. Once this initial phase of grading is completed, disturbed areas will be re-naturalized and lots will remain undisturbed until individual owners are ready to construct homes. The timing of these subsequent activities will be driven by market conditions and individual preferences. The architectural guidelines provided herein propose various home foundation systems intended to limit development impacts within each homesite. The incorporation of natural terrain and geographic features is also encouraged in home construction pursuant to the design and development standards in the proposed Specific Plan.

6. *The Specific Plan preserves open space areas to the maximum extent permitted by the Ordinance and in accordance with the conservation plan, and adequate assurances are provided for the permanent preservation of such areas.*

According to the ESA-SP Zoning Ordinance, a minimum of 72% of the Planning Area is required to be left as undisturbed open space. The Desert Palisades project includes approximately 74% open space. This is based on the developable area of 100 acres. When accounting for the gross acreage of the project site (117 acres) the open space percentage is closer to 77%.

Based on the requirements for dwelling size (6,000 square feet), approximately 15 acres of the site would be developed with homes if the maximum buildout of 110 homes is reached. There are approximately 11 acres of private streets and rights-of-way proposed within the project. As a result, approximately 26 acres of the Planning Area would be disturbed by development. Areas between lots, drainage courses, and the on-site trail system are included in the 54 acres of undisturbed land shown as lots "A" through "I" on Tentative Tract Map 35540. Assigning lots to areas reserved for preservation is in accordance with the provisions of the ESA-SP Ordinance. Prohibiting mass grading of lots, limiting overall lot coverage, and allowing for large separations between home sites is also part of the project's broader goals to keep the site as natural and undisturbed as possible.

7. *The Specific Plan provides the maximum retention of vistas and natural topographic features including mountainsides, ridgelines, hilltops, slopes, rock outcroppings, arroyos, ravines, and canyons.*

The proposed SP includes a view analysis from various vantage points which has been expanded on in the EIR through a visual simulation that will place homes on the landscape to analyze impacts. Existing topography will be preserved as much as possible with limited grading, and a specific color and material palette is proposed for future homes to minimize the visual impact of development on the site from the surrounding areas of the City. The project is designed to preserve the existing topographic features including rock fields, outcroppings, natural slopes, ravines, and arroyos. There are approximately nine acres of hillside near the southern boundary of

the project site on which no development or disturbance of any kind is proposed. Natural vistas and viewsheds will be preserved and development guidelines for the future development of homes are intended to nestle the structures within the topography of the site, as much as possible.

8. *The development provided in the Specific Plan has been adequately designed to protect adjacent property with appropriate buffers to maximize the enjoyment of property within the Specific Plan and surrounding properties.*

The project provides a separation of approximately 100 feet between the easternmost row of homes and the eastern boundary that separates Planning Area 4 from the adjacent Little Tuscany neighborhood. Similar buffers occur along the portion of the project that fronts Tram Way, and the northern boundary of the project. The Tram Way buffer along with the topographic variation that exists between Tram Way and the project site will obscure most of the development from motorists along this roadway. Relocated boulders and scattered plantings will be also be incorporated into each buffer area in lieu of a block wall, creating a natural appearance while allowing for privacy and enjoyment of property between neighborhoods. The mountainous terrain adjacent to the southern boundary of the project prohibits any development from taking place.

9. *The development provided in the Specific Plan will not have a negative fiscal impact on the City or its citizens.*

A fiscal analysis was prepared for the project by Stanley R. Hoffman Associates (March, 2007 and updated June 2010), which presents the fiscal impact analysis for the Desert Palisades Specific Plan. There is no funding assistance provided to the Desert Palisades Specific Plan by the City of Palm Springs. According to the report, a recurring surplus of roughly \$593 thousand was projected after buildout based on recurring revenues of about \$776 thousand and recurring costs of \$183 thousand. The large projected surplus for the proposed Specific Plan is a result of the substantial projected property tax, retail sales tax generated by the residents of the project and property tax in-lieu of vehicle license fees (VLF). Projected property taxes account for about 60 percent of projected recurring revenues, and are the result of the high-value, custom home residential development proposed.

Zoning Code Section 94.04.00(B 1 through 3) "*Architectural Review*" provides the following three findings with regard to Design Review:

1. *Recognize the interdependence of land values and aesthetics, and to provide a method by which the city may implement this interdependence to its benefit;*

The Desert Palisades Specific Plan proposes a subdivision of roughly 117 acres for 110 homesites, private roadways, public trails, open space, and landscaping for a residential community of custom built homes to be built by individual purchasers of the lots. The

DPSP provides for comprehensive design, development standards, and landscape guidelines that provide for preservation of land values and aesthetics and provides a process for review of all subsequent development within the Specific Plan.

2. *Encourage development of private and public property in harmony with the desired character of the city and in conformance with the guidelines herein provided with due regard to the public and private interests involved;*

The DPSP provides design, development standards, and landscape guidelines and a process for reviewing future development within the Specific Plan area. These standards, guidelines and procedures relate to the guidelines for Architectural Review in the City's Zoning Code. They provide a comprehensive guide to assure future development in the Specific Plan is in character with the community, harmonious with the environment, and takes into account both public and private interests by preserving public access trails, and promoting preservation of viewsheds, privacy for adjoining development and high quality development within the plan area.

3. *Foster attainment of those sections of the city's general plan which specifically refer to the preservation and enhancement of the particular character of this city and its harmonious development, through encouraging private interests to assist in their implementation, and assure that the public benefits derived from expenditures of public funds for improvement and a beautification of streets and other public structures and spaces shall be protected by the exercise of reasonable controls over the character and design of private buildings, public buildings, streetscapes, and open spaces.*

The DPSP is consistent with policies of the General Plan for the Special Policy land use area which encourage the careful development of lands in this part of the City. The DPSP proposes features that benefit both the future private lot holder through thoughtful and complete design and landscape standards, as well as to ensure preservation of open space and public trails are maintained and improved. The DPSP proposes a set of development standards that require the careful integration of development into the natural topography and terrain of the Chino Cone area. It also provides for public enjoyment of this unique part of the City through the preservation of existing public access trails, establishment of new public access trails, and the physical improvement of these trails through surface improvements, interpretative signage, benches and special landscape treatment.

Section 5: That the proposed Desert Palisades Specific Plan is consistent with the guidelines for approval of Specific Plans as outlined in State of California Governmental Code Section 65450 as follows;

Although there are no specific findings outlined in the State of California Governmental Code, Section 65450 requires that Specific Plans be adopted in the same manner as a General Plan and that the following basic components must be in all Specific Plans:

1. *The distribution, location, and extent of the uses of land, including open space within the area covered by the plan.*

The Desert Palisades Specific Plan (DPSP) identifies the proposed land uses for all areas within the Specific Plan boundaries. These include 110 residential lots, open space, private roadways, and the location of a dual tank Desert Water Agency water reservoir. The extent of the uses (permitted uses) are delineated in the Specific Plan for the lots (single family residential) and the uses for the open space is also identified for public access trails and a network of private roadways.

2. *The distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses proposed in the Plan.*

The DPSP identifies the location and proposed extent of all roadways, utilities, and other essential facilities and services such as solid waste disposal, domestic water, sewer, electricity, gas and other utilities. The design of all roadways, including surface materials, load capacities and right-of-way dimensions are outlined in the DPSP. The Specific Plan provides a comprehensive plan for all services and infrastructure necessary to support the proposed development. The project provides landscape and development standards for the proposed Desert Water Agency dual tank domestic water storage reservoirs that are consistent with the guidelines for development of water storage utilities in the ESA-SP zone.

3. *Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources.*

The DPSP provides a comprehensive set of Design, Architectural, and Landscape Guidelines for the development of the future 110 homesites. The project envisions that each home be customized and constructed by the future owners of the individual lots. The development standards provide for the integration of the future homes into the natural terrain as much as possible, as well as conservation of topography, natural rock outcroppings and vegetative features.

4. *A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out items 1, 2 and 3 above.*

The DPSP provides procedural guidelines for the design review of the future homes to

be constructed on the individual lots. The project applicant identifies those portions of the project that will be developed, constructed and/or installed in advance of construction of the individual homesites, this includes roadway and utility infrastructure.

5. *The plan shall include a statement of the relationship of the Specific Plan to the General Plan.*

The DPSP provides a statement that describes the relationship between the Specific Plan and the City's General Plan. The DPSP is located in the Special Policy Area Land Use designation of the City's General Plan and is consistent with the General Plan's goals and policies for this area. Furthermore, the DPSP is consistent with the densities permitted by the General Plan with the submission of a Specific Plan for this Special Policy Area and with approval of the Specific Plan, becomes an amendment to the City's General Plan.

Section 6: That the proposed Tentative Tract Map #35540 is consistent with the required findings of the State of California Subdivision Map Act as follows:

Pursuant to Section 66474 of the Subdivision Map Act of the State of California, the following findings relating to the Tentative Tract Map application apply. In order to approve any map, the following findings must be affirmatively made:

- a. *The proposed Tentative Parcel Map is consistent with all applicable general and specific plans.*

The General Plan designation for the project area is "Special Policy Area". The Chino Cone Special Policy Area has an underlying density of 1 dwelling unit to 40 acres (du/ac), however with the approval of a Specific Plan submitted in conformity with the ESA-SP zone requirements of the Zoning Code, the density can be adjusted. The proposed Specific Plan application amends the General Plan and proposes a density of approximately 1 du/ac which is consistent with the ESA-SP zone which allows up to 2 du/ac with an approved specific plan. Thus, with the approval of SP the project will be consistent with the General Plan and the Specific Plan will become the amended zoning standard for the project area.

- b. *The design and improvements of the proposed Tentative Tract Map are consistent with the zone in which the property is located.*

The subject property is zoned ESA-SP (Environmentally Sensitive Area – Specific Plan). The ESA-SP zone requires the submission of a Specific Plan with full development standards design and landscape standards that preserve and respect the natural environment, open space and rural character of Chino Cone. The design and improvements of the proposed TTM incorporate all the required design, architectural and landscape standards as required by the ESA-SP. The proposed design and improvements are consistent with the zone. Water Storage Facilities as part of the

utility infrastructure associated with development within the ESA-SP zone are to be sited to minimize impacts on the surrounding environment and not be located on slopes greater than 3:1. The project is consistent with this guideline.

c. The site is physically suited for this type of development.

The roughly 117 acre site accommodates the density permitted in the Zoning Ordinance and General Plan and provides comprehensive design, development, architectural and landscape standards in accordance with the ESA-SP. The site is proposed with roadways, trails, and open space that are integrated with the unique terrain and natural features such as drainage patterns and rock outcroppings. The project proposes an approximately 1.7 acre parcel for a future Desert Water Agency dual tank domestic water reservoir that is consistent with that agency's General Plan. Therefore the site is physically suited for this type of development.

d. The site is physically suited for the proposed density of development.

The proposed tract map would create a subdivision of 110 lots on a site of approximately 117 acres. The site proposes private roadways, public access trails, and open space in addition to the 110 homesites. The project conforms to the density requirements (roughly 1du/acre) for this land use designation in the Palm Springs General Plan with the application and approval of the associated Specific Plan and conforms to the density of the Zoning Ordinance for the ESA-SP zone for Planning Area 4. The site is therefore physically suited for the proposed density.

e. The design of the subdivision is not likely to cause environmental damage or substantially and avoidably injure fish, wildlife, or their habitats.

The project proposes a residential subdivision of 110 lots on roughly 117 acres. It is designed and submitted with a Specific Plan application that includes comprehensive design, architectural, landscape, and development standards consistent with the requirements of the ESA-SP zone. The project proposes development in an environmentally sensitive manner including a landscape palette of native plant species. The design of the subdivision includes appropriate systems for storm water and other municipal services (water, sewer, electricity, etc) to be in underground installations and integrated with the natural surroundings and topography. The EIR for the project has evaluated the environmental impacts of the proposed project and concluded that with the proposed mitigation measures, the projects' impacts are less than significant. Therefore the project conforms to this finding.

f. The design of the subdivision or type of improvements is not likely to cause serious public health problems.

The subdivision is proposed with all the required public utilities, streets, and trails and

provides an orderly system of emergency access to the project site. The adjacent roadway network is predicted in the General Plan Traffic Study to adequately handle the projected vehicular traffic loads contemplated with this density of development. Therefore, there are no serious public health problems that would be created by the proposed tentative tract map or the proposed site improvements. The roughly 1.7 acre parcel proposed for a future Desert Water Agency dual tank reservoir is consistent with that Agency's General Plan and is proposed to be landscaped and painted to blend with the surrounding environment, thereby making its proposed development consistent with the development guidelines for water storage utilities in the ESA-SP zone.

- g. The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision.*

The public easements necessary for the subject project for roadway and trail right of ways are proposed to be carefully integrated within this tract map. Roadway width right of way dedications are noted on the tract map and are consistent with the local and state requirements. Trails are proposed that provide public access through the project with minimal disturbance to the proposed residences and are connected with the existing network of trails and public access roads in the vicinity of the project. A condition of approval (ENG 22) is provided to resolve easement issues with an adjacent 5-acre parcel as a condition of the recordation of the Final Tract map.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby recommends to the City Council that it:

1. Certifies the Environmental Impact Report associated with the Desert Palisades Specific Plan as a complete and accurate assessment of the environmental impacts associated with the proposed project,
2. Approves Case 5.1154; The Desert Palisades Specific Plan, which amends the 2007 City of Palm Springs General Plan, approved by Resolution 22077, by changing an approximately 12 acre parcel from Planning Area 4 to Planning Area 3 in the Special Policy Area land use designation and establishing permitted uses, densities, and design and development standards and procedures for an approximately 117 acre parcel within Planning Area 4 of the Special Policy Area land use designation,
3. Approves the associated Change of Zone, which changes an approximately 12 acre parcel on the City's official zoning map from Planning Area 4 to Planning Area 3 of the ESA-SP zone,
4. Approves Case 5.1154: The Desert Palisades Specific Plan, subject to the attached Conditions of Approval outlined in Exhibit A, which provides for 110 homesites on approximately 117 acres, open space, private roads, public

trails, and comprehensive design, architectural and landscape development standards and a roughly 1.7 acre parcel for a future Desert Water Agency dual tank domestic water reservoir, and

5. Approves the associated Tentative Tract Map #35540, subject to the Conditions of Approval outlined in Exhibit A, attached, which provides a subdivision of an approximately 117 acre parcel into 110 individual residential lots, and easements, parcels and dedications for open space, private roads, and public trails. and an approximately 1.7 acre parcel for a future Desert Water Agency dual tank domestic water reservoir.

ADOPTED this first day of September, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: CITY OF PALM SPRINGS, CALIFORNIA

Craig A. Ewing, AICP
Director of Planning Services

EXHIBIT A

Case 5.1154 SP Desert Palisades Specific Plan, CZ and TTM 35540
West End of Racquet Club Road near Tram Way

September 1, 2010

CONDITIONS OF APPROVAL

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

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

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case 5.1154 SP, CZ, TTM 35540; except as modified with the approved Mitigation Monitoring Program and the conditions below;
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved specific plan, date stamped December 2009 including site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division except as modified by the approved Mitigation Measures and conditions below.
- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Tentative Map. This approval is for Tentative Tract Map 35540, date stamped December 7, 2009. This approval is subject to all applicable regulations of the Subdivision Map Act, the Palm Springs Municipal Code, and any other applicable City Codes, ordinances and resolutions.
- ADM 6. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim,

action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 5.1154 SP CZ & TTM 35540. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

- ADM 7. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 8. Time Limit on Approval. Approval of the Tentative Tract Map (TTM) shall be valid for a period of two (2) years from the effective date of the approval. Extensions of time may be approved pursuant to Code Section 9.63.110. Such extension shall be required in writing and received prior to the expiration of the original approval.
- ADM 9. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 10. Public Art Fees. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon the total building permit valuation as calculated pursuant to the valuation table in the Uniform Building Code, the fee being 1/2% for commercial projects or 1/4% for residential projects with first \$100,000 of total building permit valuation for individual single-family units exempt. Should the

public art be located on the project site, said location shall be reviewed and approved by the Director of Planning and Zoning and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.

- ADM 11. Park Development Fees. The developer shall dedicate land or pay a fee in lieu of a dedication, at the option of the City. The in-lieu fee shall be computed pursuant to Ordinance No. 1632, Section IV, by multiplying the area of park to be dedicated by the fair market value of the land being developed plus the cost to acquire and improve the property plus the fair share contribution, less any credit given by the City, as may be reasonably determined by the City based upon the formula contained in Ordinance No. 1632. In accordance with the Ordinance, the following areas or features shall not be eligible for private park credit: golf courses, yards, court areas, setbacks, development edges, slopes in hillside areas (unless the area includes a public trail) landscaped development entries, meandering streams, land held as open space for wildlife habitat, flood retention facilities and circulation improvements such as bicycle, hiking and equestrian trails (unless such systems are directly linked to the City's community-wide system and shown on the City's master plan).
- ADM 12. Community Services District. The Project will bring a significant number of additional residents to the community. The City's existing public safety and recreation services, including police protection, criminal justice, fire protection and suppression, ambulance, paramedic, and other safety services and recreation, library, cultural services are near capacity. Accordingly, the City may determine to form a Community Services District under the authority of Government Code Section 53311 et seq., or other appropriate statutory or municipal authority. Developer agrees to support the formation of such assessment district and shall waive any right to protest, provided that the amount of such assessment shall be established through appropriate study and shall not exceed \$500 annually with a consumer price index escalator. The district shall be formed prior to sale of any lots or a covenant agreement shall be recorded against each parcel, permitting incorporation of the parcel in the district.
- ADM 13. Tribal Fees Required. As the property is Indian reservation land, fees as required by the Agua Caliente Band of Cahuilla Indians Tribal Council, including any applicable habitat conservation plan fees shall be paid prior to consideration of this project by the Planning Commission.
- ADM 14. CC&R's The applicant prior to issuance of building permits shall submit a draft declaration of covenants, conditions and restrictions ("CC&R's") to the Director of Planning for approval in a format to be approved by the City Attorney. These CC&R's may be enforceable by the City, shall not be

amended without City approval, and shall require maintenance of all property in a good condition and in accordance with all ordinances CC&R's.

ADM 22. CC&R's. Prior to recordation of a final Tentative Tract Map or issuance of building permits, the applicant shall submit a draft declaration of covenants, conditions and restrictions ("CC&R's") to the Director of Planning for approval in a format to be approved by the City Attorney. The draft CC&R package shall include:

- a. The document to convey title
- b. Deed restrictions, easements, of Covenant Conditions and Restrictions to be recorded.
- c. Provisions for joint access to the proposed parcels, and any open space restrictions.
- d. A provision, which provides that the CC&R's may not be terminated or substantially amended without the consent of the City and the developer's successor-in-interest.
- e. **ADDED 9-1-10** A provision shall be included establishing and adequate financial reserve fund and assuring the maintenance of all roads and infrastructure from the onset of the development shall be the responsibility of the HOA and that the developer assumes all maintenance responsibilities until such time as the lots have been sold and the HOA turned over to the Association.
- f. **ADDED 9-1-10** A provision in the CC&R's shall be included prohibiting open storage of any kind in carports.

Approved CC&R's are to be recorded following approval of the final map. The CC&R's may be enforceable by the City, shall not be amended without City approval, and shall require maintenance of all property in a good condition and in accordance with all ordinances,

ADM 23. CC&R's Deposits & Fees. The applicant shall submit to the City of Palm Springs, a deposit in the amount of \$3,500, for the review of the CC&R's by the City Attorney. A \$675 filing fee shall also be paid to the City Planning Department for administrative review purposes.

ADM 24. Notice to Tenants. The applicant shall provide all tenants with a copy of the Conditions of Approval for this project.

ADM 25. **ADDED 9-1-10 Performance Agreement**. Pursuant to PSZC Section 92.21.1.05(J) Prior to the issuance of any permit for grading or construction of any improvement on any property within an ESA-SP zone, the developer shall enter into an agreement with the city, in a form approved by the City Attorney, ensuring, should the improvement not be completed as permitted, that the land will be re-naturalized in compliance with the provisions of this section.

The obligations of the developer pursuant to such agreement shall be secured in amounts required by the City Engineer necessary to complete such re-naturalization consistent with the provisions of Chapter 9.65 of the Municipal Code; however, such security shall be in the form of cash, irrevocable letter of credit, assignment of a certificate of deposit, or similar form of security approved by the City Manager and the City Attorney.

ENVIRONMENTAL ASSESSMENT CONDITIONS

- ENV 1. Coachella Valley Multiple-Species Habitat Conservation Plan (CVMSHCP) Local Development Mitigation Fee (LDMF) NOT required.
- ENV 2. California Fish & Game Fees Required. The project is required to pay a fish and game impact fee as defined in Section 711.4 of the California Fish and Game Code. This CFG impact fee plus an administrative fee for filing the action with the County Recorder shall be submitted by the applicant to the City in the form of a money order or a cashier's check payable to the Riverside County Clerk prior to the final City action on the project (either Planning Commission or City Council determination). This fee shall be submitted by the City to the County Clerk with the Notice of Determination. Action on this application shall not be final until such fee is paid. The project may be eligible for exemption or refund of this fee by the California Department of Fish & Game. Applicants may apply for a refund by the CFG at www.dfg.ca.gov for more information.
- ENV 3. Mitigation Monitoring. The mitigation measures of the environmental assessment shall apply. The applicant shall submit a signed agreement that the mitigation measures outlined as part of the negative declaration or EIR will be included in the plans prior to Planning Commission consideration of the environmental assessment. Mitigation measures are defined in the approved project description.
- ENV 4. Cultural Resource Survey Required. Prior to any ground disturbing activity, including clearing and grubbing, installation of utilities, and/or any construction related excavation, an Archaeologist qualified according to the Secretary of the Interior's Standards and Guidelines, shall be employed to survey the area for the presence of cultural resources identifiable on the ground surface.
- ENV 5. Cultural Resource Site Monitoring. There is a possibility of buried cultural or Native American tribal resources on the site. A Native American Monitor shall be present during all ground-disturbing activities. (check for duplication in engineering conditions)
- ENV 6. a). A Native American Monitor(s) shall be present during all ground disturbing activities including clearing and grubbing, excavation, burial of utilities,

planting of rooted plants, etc. Contact the Agua Caliente Band of Cahuilla Indian Cultural Office for additional information on the use and availability of Cultural Resource Monitors. Should buried cultural deposits be encountered, the Monitor shall contact the Director of Planning. After consultation the Director shall have the authority to halt destructive construction and shall notify a Qualified Archaeologist to further investigate the site. If necessary, the Qualified Archaeologist shall prepare a treatment plan for submission to the State Historic Preservation Officer and Agua Caliente Cultural Resource Coordinator for approval.

- b). Two copies of any cultural resource documentation generated in connection with this project, including reports of investigations, record search results and site records/updates shall be forwarded to the Tribal Planning, Building, and Engineering Department and one copy to the City Planning Department prior to final inspection.

PLANNING DEPARTMENT CONDITIONS

- PLN 1. Outdoor Lighting Conformance. Exterior lighting plans, including a photometric site plan showing the project's conformance with Section 93.21.00 Outdoor Lighting Standards of the Palm Springs Zoning Code and the outdoor lighting guidelines of the Desert Palisades Specific Plan, shall be submitted for approval by the Department of Planning prior to issuance of a building permit. Manufacturer's cut sheets of all exterior lighting on the building and in the landscaping shall be included. If lights are proposed to be mounted on buildings, down-lights shall be utilized. No lighting of hillsides is permitted.
- PLN 2. Water Efficient Landscaping Conformance. The project is subject to the Water Efficient Landscape Ordinance (Chapter 8.60.00) of the Palm Springs Municipal Code and any state water efficiency ordinances. The applicant shall submit a landscape and irrigation plan to the Director of Planning for review and approval prior to the issuance of a building permit. Landscape plans shall be wet stamped and approved by the Riverside County Agricultural Commissioner's Office prior to submittal. Prior to submittal to the City, landscape plans shall also be certified by the Desert Water Agency that they are in conformance with the State Water Efficient Landscape Ordinance. Refer to Chapter 8.60 of the Municipal Code for specific requirements. (See Chapter 8.60.020 for exemptions)
- PLN 3. Sign Applications Required. No signs are approved by this action. Separate approval and permits shall be required for all signs in accordance with Zoning Ordinance Section 93.20.00. The applicant shall submit a sign program to the Department of Planning Services prior to the issuance of building permits.

- PLN 4. **REVISED 9-1-10 TO OMIT WHITE ROOFS.** Flat Roof Requirements. Roof materials on flat roofs must conform to California Title 24 thermal standards for "Cool Roofs". Such roofs must have a minimum initial thermal emittance of 0.75 and minimum initial solar reflectance of 0.70. Only matte (non-specular) roofing is allowed in colors such as beige or tan.
- PLN 5. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned.
- PLN 6. Roof-mounted Equipment. Roof mounted mechanical equipment is prohibited.
- PLN 7. Surface Mounted Downspouts Prohibited. No exterior downspouts shall be permitted on any facade on the proposed building(s) that are visible from adjacent streets or residential areas.
- PLN 8. Pool Enclosure Approval Required. Details of fencing or walls around pools (material and color) and pool equipment areas shall be submitted for approval by the Planning Department prior to issuance of Building Permits.
- PLN 9. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 10. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 11. Prior to recordation of the final subdivision map, the developer shall submit for review and approval the following documents to the Planning Department which shall demonstrate that the project will be developed and maintained in accordance with the intent and purpose of the approved tentative map:
- a. The document to convey title.
 - b. Deed restrictions, easements, covenant conditions and restrictions that are to be recorded.
 - c. The approved documents shall be recorded at the same time that the subdivision map is recorded. The documents shall contain provisions for joint access to the proposed parcels and open space restrictions. The approved documents shall contain a provision which provides that they may not be terminated or substantially amended without the consent of the City and the developer's successor-in-interest.
- PLN 12. No Mass Grading. Mass grading to create large, single-level flat pads is prohibited.

- PLN 13 Building Pad Height Limitations. Pad heights are not significantly raised beyond the natural topography. Any pad height more than two (2) feet above natural topography may be deemed significant.
- PLN 14 Drainage. The master plan of drainage shall be implemented.
- PLN 15 Retention basins are prohibited where a sufficient master plan of drainage has been implemented. Street and site plan layout shall follow natural terrain.
- PLN 16 No asphaltic concrete or grey concrete. Streets and paving areas are paved with decorative or colored concrete or pavers to match color of existing terrain. Asphaltic concrete shall not be allowed.
- PLN 17 No street lighting is allowed.
- PLN 18 Restore landscaping. Vegetation removed for utility construction or maintenance is replaced with appropriate landscaped areas.
- PLN 19 Underground Utility Lines. All utility lines are located underground, except screening from public view in a manner that represents natural desert landscaping may be allowed when undergrounding is not feasible.
- PLN 20 Water lines in street right-of-way. All water lines located in public or private street rights-of-way are located within the pavement sections.
- PLN 21 Easement for water lines not in street right-of-way. Water lines located outside of rights-of-way require waterline easements.
- PLN 22 Blend color of water storage facility. Any visible portion of a water storage facility has an exterior color to match surrounding native stone, soil color or backdrop.
- PLN 23 Coordinate with DWA. Location and design of water storage facilities are coordinated in advance with the Desert Water Agency.
- PLN 24 Location of water storage facilities. Water tanks are not located on slopes greater than 3:1.
- PLN 25 Wastewater lines in street right-of-way. All wastewater lines, including force mains, located in public or private street rights-of-way are located within the pavement sections.
- PLN 26 Easement for wastewater lines not in street right-of-way. Wastewater lines located outside of rights-of-way require sewer line easements that include full vehicular and equipment access.

- PLN 27 Exterior Building Colors. All exterior colors, materials and finishes blend with the color and texture of surrounding stone or soil.
- PLN 28 No Reflective Materials. Reflective building materials are not used. Solar panels shall be non-reflective.
- PLN 29 Blend with terrain. The forms of buildings, structures and other improvements are not repetitive, but respect and interpret the forms of the surrounding landscape and present a custom design appearance.
- PLN 30 Avoid massive building forms. Stepped elevations and floor levels are used to avoid massive building forms and wall surfaces.
- PLN 31 Screen mechanical equipment. All exterior mechanical equipment is screened with material that complements the surrounding structures and environment.
- PLN 32 Project gates, if proposed, shall be limited to vehicular access control only.
- PLN 33 Project signage shall be designed to blend with the natural environment.
- PLN 34 Curbs. No curbs shall be allowed.
- PLN 35 Interpretative Center. At least one nature interpretive center in each planning area shall be provided as part of the development of the public trails system, if applicable.
- PLN 36 **ADDED 7-28-10 Planning Commission approval required for common area landscaping, boulder berms and interpretative center(s).** The design of landscaping in all common areas such as the entry feature, trail heads, perimeter boulder berms and open space, as well as the interpretative center(s) required by the ESA-SP zone development standards, shall be submitted to the Planning Commission for approval prior to submission for building permits. The Planning Commission review and approval shall include all landscaping, boulder berms, grading, proposed trails, interpretative center(s), site furnishings and structures, and construction staging areas. Minor changes to approved grading plans caused by unanticipated field conditions will be processed at the staff level. Major changes in grading will be resubmitted to the Planning Commission for approval.
- PLN 37 **ADDED 9-1-10 6,000 square foot lot coverage.** The lot coverage for any lot within the Desert Palisades Specific Plan shall be 6,000, regardless of lot size. Merged or combined lots are not entitled to greater square footage of lot coverage.

- PLN 38 **ADDED 9-1-10 Control of vehicular gates into the Desert Palisades Specific Plan subdivision.** The subdivision may be provided with controlled access vehicular gates at the main entrances to the subdivision, however the gates shall be programmed to remain open during the daytime, from 8:00 a.m. until 8:00 p.m. and closed from 8:00 p.m. until 8:00 a.m. daily. Emergency access gates (Sanborn Road and Tram Way) may remain closed except for emergency access.
- PLN 39 **ADDED 9-1-10 Planning Commission Approval Required** Future development applications for individual homes or changes in the common areas of the Desert Palisades Specific Plan shall require Planning Commission approval pursuant to PSZC Section 94.04.00 (Architectural Approval) and 93.13.00 (Hillside Development).
- PLN 40 **ADDED 9-1-10 Decomposed granite is prohibited in driveways and parking areas.** Decomposed granite may not be used for driveways or parking areas in any part of the Desert Palisades Specific Plan. Driveways and parking areas are to conform to the design standards of PSZC Section 93.06.00 which requires a minimum of 2-1/2 inches of asphaltic concrete or equal.
- PLN 41 **ADDED 9-1-10 Tennis Courts prohibited** Tennis courts are prohibited as an accessory use on all lots in the Desert Palisades Specific Plan.
- PLN 42 (add any additional conditions imposed by the Planning Commission or City Council here)

POLICE DEPARTMENT CONDITIONS

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

BUILDING DEPARTMENT CONDITIONS

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

ENGINEERING DEPARTMENT CONDITIONS

The Engineering Division recommends that if this application is approved, such approval is subject to the following conditions being completed in compliance with City standards and ordinances.

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer.

GENERAL

- ENG 1. The applicant shall comply with all required Standard Conditions and Mitigation Measures identified in the Final Environmental Impact Report, whether or not restated in these conditions of approval. All required plans shall be prepared in conformance with all applicable Standard Conditions and Mitigation Measures.
- ENG 2. Development of the site is subject to all applicable provisions of Chapter 92.21.1.05 "Design Standards" of the Palm Springs Zoning Code, whether or not restated in these conditions of approval. All required plans shall be prepared in conformance with all applicable provisions of the Code.

STREETS

- ENG 3. Any improvements within the public right-of-way require a City of Palm Springs Encroachment Permit.
- ENG 4. Submit street improvement plans prepared by a registered California civil engineer to the Engineering Division. The plans shall be approved by the City Engineer prior to approval of a final map.
- ENG 5. In accordance with Chapter 92.21.1.05 "Design Standards" of the Palm Springs Zoning Code, streets and paved areas shall be paved with decorative or colored concrete or pavers to match color of existing terrain. Asphaltic concrete shall not be allowed. All exterior colors, materials and finishes shall blend with the color and texture of surrounding stone or soil.
- ENG 6. In accordance with Chapter 92.21.1.05 "Design Standards" of the Palm Springs Zoning Code, project gates, if proposed, shall be limited to vehicular access control only. Pedestrian access into and through the site shall be maintained at all times.

TRAM WAY (PRIVATE)

- ENG 7. The applicant shall coordinate with the San Jacinto Winter Park Authority regarding construction scheduling and work occurring on Tram Way.
- ENG 8. The applicant shall be responsible for constructing full width improvements to Tram Way within the boundary of the project, consisting of a 40 feet wide street section with rolled curb and gutter, in accordance with a special street section for Tram Way approved by the San Jacinto Winter Park Authority. As an alternative, if approved by the San Jacinto Winter Park Authority, construction of the improvements may be deferred for completion by others on the condition that the applicant pays an in lieu fee to the San Jacinto Winter Park Authority

representing the cost of the required improvements (subject to review and approval).

ENG 9. A gated entry for emergency access shall be constructed on Tram Way. An Opticom or Tomar system (or approved equal) for automatic operation by emergency vehicles, with uninterrupted power supply (battery back-up), shall be installed, meeting the approval of the Fire Marshall.

ENG 10. All broken or off grade street improvements shall be repaired or replaced.

RACQUET CLUB ROAD

ENG 11. Construct an appropriate taper or other transition as approved by the City Engineer, from the end of Racquet Club Road. The gated Main Entry shall be located on-site with an appropriate turn-around area for vehicles. An Opticom or Tomar system (or approved equal) for automatic operation by emergency vehicles, with uninterrupted power supply (battery back-up), shall be installed, meeting the approval of the Fire Marshall.

ENG 12. All broken or off grade street improvements shall be repaired or replaced.

SANBORN WAY

ENG 13. A gated entry for emergency access shall be constructed on Sanborn Way. An Opticom or Tomar system (or approved equal) for automatic operation by emergency vehicles, with uninterrupted power supply (battery back-up), shall be installed, meeting the approval of the Fire Marshall.

ENG 14. All broken or off grade street improvements shall be repaired or replaced.

ON-SITE PRIVATE STREETS

ENG 15. All centerline radii shall be a minimum of 130 feet.

ENG 16. Dedicate an easement (40 feet wide) over the private streets to the City of Palm Springs for public utility purposes, with the right of ingress and egress for service and emergency vehicles and personnel.

ENG 17. Dedicate an easement over the emergency access roads to the City of Palm Springs for ingress and egress for service and emergency vehicles and personnel.

ENG 18. The alignment of the ingress and egress lanes of the Main Entry is subject to review and approval by the City Engineer. In accordance with Mitigation Measure (MM) 3.15-3(a) of the Final Environmental Impact Report, the gated access shall include adequate vehicle maneuvering and stacking space to avoid

conflicts with internal and external traffic and circulation patterns. Adequate stacking capacity (100 feet minimum) and a turn-around shall be provided in advance of the gate.

ENG 19. Construct a concrete edge band, 12 feet on both sides of centerline along the entire frontages. The on-site streets shall be constructed with an inverted cross-section with a 3 feet wide concrete gutter along centerline. The pavement section shall be constructed using decorative colored concrete or pavers, with a pavement section capable of supporting emergency equipment weighing up to 73,000 pounds. Adjacent 8 feet wide shoulders shall be constructed with crushed native rock.

ENG 20. Construct a concrete edge band, 10 feet on both sides of centerline extending the length of the emergency access roads from Tram Way and Sanborn Way. The emergency access roads shall be constructed with a typical crowned or inverted cross-section with a 3 feet wide concrete gutter along centerline. The pavement shall be constructed using decorative colored concrete or pavers with a pavement section capable of supporting emergency equipment weighing up to 73,000 pounds.

ON-SITE

ENG 21. Dedicate an easement to the City of Palm Springs over the public trails proposed within the project.

ENG 22. **REVISED 7-28-10** ~~The applicant shall provide legal access to that certain 5 acre parcel identified by Assessor's Parcel Number (APN) 504-030-001 which has been excluded from Case 5.1154, TTM 355540. Legal access shall include access extending over Street "A", and an easement across Lots "C" or "D" to provide physical access to the northwest corner of the parcel. Provisions for access to APN 504-030-001 shall be included the Covenants, Conditions, and Restrictions (CC&R's) required for this project. There is currently a dispute regarding the existence of a road right-of-way over the Applicant's property benefiting the neighboring property owned by Mr. Richard Kluszczynski. Prior to recordation of a final map, this dispute shall be resolved, either through mutual agreement of the Applicant and Mr. Kluszczynski or a final judicial determination.~~

ENG 23. The old Chino Canyon Road alignment shall be protected in place and used as a pedestrian trail connecting the Little Tuscany neighborhood westerly through the project.

ENG 24. Hiking trails shall remain open to the public. Provisions for maintaining public access to hiking trails extending through the project shall be included in the Covenants, Conditions, and Restrictions (CC&R's) required for this project. In accordance with Mitigation Measure (MM) 3.13-4 of the Final Environmental

Impact Report, the applicant shall implement additional security measures related to the public trails prior to occupancy of any future homes.

- ENG 25. In accordance with Mitigation Measure (MM) 3.4-1 of the Final Environmental Impact Report, the applicant shall dedicate to the City of Palm Springs approximately 9.4 acres of hillside area within the project boundaries as open space for the Mountains and Canyons Conservation Area (MCCA) of the Tribal Habitat Conservation Plan (THCP).

SANITARY SEWER

- ENG 26. All on-site sewer systems shall be privately maintained by a Home Owners Association (HOA). Provisions for maintenance of the on-site sewer system acceptable to the City Engineer shall be included in the Covenants, Conditions, and Restrictions (CC&R's) required for this project.
- ENG 27. Sewer improvement plans prepared by a California registered civil engineer shall be submitted to and approved by the City Engineer prior to approval of a final map. Sewer design shall meet or exceed public sewer design requirements as established by the City Engineer.
- ENG 28. In accordance with Chapter 92.21.1.05 "Design Standards" of the Palm Springs Zoning Code, all sewer mains located in private street rights-of-way shall be located within the pavement sections. Sewer lines located outside of rights-of-way shall require separate sewer easements that include full vehicular and equipment access.
- ENG 29. Construct an 8 inch vitrified clay pipe sewer main within all on-site streets located 5 feet from centerline or as required by the City Engineer and connect to the existing public sewer system at the west end of Racquet Club Road.

GRADING

- ENG 30. Mass grading of the site shall be prohibited.
- ENG 31. **REVISED 9-1-10 BY ENGINEERING ROCK CRUSHING.** Rock crushing operations shall be limited to off-site locations only, as analyzed within the project's EIR. On-site rock crushing for the individual home sites is not permissible under this Specific Plan. ~~Rock crushing operations shall be limited to development of the Desert Water Agency reservoir site, and shall be confined to the late fall and winter months in accordance with Mitigation Measure (MM) 3.4-1(c) of the Final Environmental Impact Report.~~
- ENG 32. **DELETED 9-1-10 BY ENGINEERING** ~~Rock crushing operations, if used for development of the Desert Water Agency reservoir site, shall be located at least~~

~~1,200 feet from the east property line in accordance with Mitigation Measure (MM) 3.11-1(c) of the Final Environmental Impact Report.~~

- ENG 33. Initial rough grading of the site shall be limited to that which is required for construction of the on-site utility and street infrastructure. In accordance with Mitigation Measure (MM) 3.3-1(a) of the Final Environmental Impact Report, grading of the on-site utility and street infrastructure shall be coordinated with and scheduled not to coincide with grading activities on the Desert Water Agency reservoir site.
- ENG 34. A grading plan for the Desert Water Agency reservoir site shall be submitted to and approved by the City Engineer prior to issuance of a grading permit. In accordance with Mitigation Measure (MM) 3.5-1 of the Final Environmental Impact Report, a Phase 2 investigation of certain archaeological sites shall be completed prior to development of the Desert Water Agency reservoir site.
- ENG 35. Rough grading of residential lots within the project is subject to separate architectural approvals of each individual lot on a case by case basis, in accordance with the development standards for Planning Area 4 of the ESA-SP Zone, as defined by the Desert Palisades Specific Plan (Case 5.1154).
- ENG 36. For the residential portion of the site, the on-site street improvement plans shall identify all required cut and fill slope requirements and shall be used as grading plans for that portion of the site. In accordance with Chapter 92.21.1.05 "Design Standards" of the Palm Springs Zoning Code, the following principles shall apply to the design of the on-site streets:
- a) The vertical profile shall be aligned to closely match the existing natural terrain.
 - b) Curvilinear alignments and gently rolling profiles shall be consistent with site topography.
 - c) Excavations and embankments shall be limited to the greatest extent possible. Maximum slope gradients within ten (10) feet of the roadway edge shall not exceed 4:1 for fill slopes and 3:1 for cut slopes.
 - d) Roadway slopes shall not create a continuous wall or cut/fill condition, but shall vary in height and present an undulating appearance consistent with the natural slope.
 - e) Slopes shall be rounded to blend into the existing terrain to produce a contoured transition.
- ENG 37. The applicant's contractors shall be required to comply with Chapter 8.50 of the City of Palm Springs Municipal Code, and shall be required to utilize one or more

"Coachella Valley Best Available Control Measures" as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met. The applicant's contractor's Fugitive Dust Control Plan shall be prepared by staff that has completed the South Coast Air Quality Management District (AQMD) Coachella Valley Fugitive Dust Control Class. The applicant's contractor shall provide the Engineering Division with current and valid Certificates of Completion from AQMD for staff that have completed the required training. For information on attending a Fugitive Dust Control Class and information on the Coachella Valley Fugitive Dust Control Handbook and related "PM10" Dust Control issues, please contact AQMD at (909) 396-3752, or at <http://www.AQMD.gov>. A Fugitive Dust Control Plan, in conformance with the Coachella Valley Fugitive Dust Control Handbook, shall be submitted to and approved by the Engineering Division prior to approval of plans, which shall be approved by the City Engineer prior to issuance of any permits.

- ENG 38. In accordance with Standard Condition (SC) 3.5-1 of the Final Environmental Impact Report, approved Native American cultural resource monitors and archaeological monitors shall be present during all ground disturbing activities. The applicant shall contact the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760) 699-6800, to coordinate scheduling of monitors prior to construction. No permits shall be issued for ground disturbance activities until evidence is provided to the City Engineer demonstrating that monitoring by approved Native American cultural resource monitors has been coordinated by the applicant.
- ENG 39. In accordance with an approved PM-10 Dust Control Plan, perimeter fencing shall be installed. Fencing shall have screening that is tan in color; green screening will not be allowed. Perimeter fencing shall be installed after issuance of Grading Permit, and immediately prior to commencement of grading operations.
- ENG 40. Perimeter fence screening shall be appropriately maintained, as required by the City Engineer. Cuts (vents) made into the perimeter fence screening shall not be allowed. Perimeter fencing shall be adequately anchored into the ground to resist wind loading.
- ENG 41. Within 10 days of ceasing all construction activity and when construction activities are not scheduled to occur for at least 30 days, the disturbed areas on-site shall be permanently stabilized, in accordance with Palm Springs Municipal Code Section 8.50.022. Following stabilization of all disturbed areas, perimeter fencing shall be removed, as required by the City Engineer.
- ENG 42. Prior to issuance of any permit for ground disturbance activities, the applicant shall provide verification to the City that applicable fees have been paid to the Agua Caliente Band of Cahuilla Indians in accordance with the Tribal Habitat Conservation Plan (THCP).

- ENG 43. Notice of Intent to comply with the California General Construction Stormwater Permit (Water Quality Order 2009-0009-DWQ as modified September 2, 2009) is required for the proposed development via the California Regional Water Quality Control Board (Phone No. (760) 346-7491). A copy of the executed letter issuing a Waste Discharge Identification (WDID) number shall be provided to the City Engineer prior to issuance of a permit.
- ENG 44. Construction of this project must comply with the General Permit for Stormwater Discharges Associated with Construction Activity, and shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). Where applicable, the project applicant shall cause the approved final project-specific WQMP to be incorporated by reference or attached to the project's SWPPP as the Post-Construction Management Plan. A copy of the up-to-date SWPPP shall be kept at the project site and be available for review upon request.
- ENG 45. In accordance with City of Palm Springs Municipal Code, Section 8.50.025 (c), the applicant shall post with the City a cash bond of two thousand dollars (\$2,000.00) per disturbed acre for mitigation measures for erosion/blowsand relating to this property and development.
- ENG 46. Prior to issuance of any permit within an Environmentally Sensitive Area – Specific Plan (ESA-SP) zone, the applicant shall enter into an agreement with the City, as approved by the City Attorney and City Engineer, ensuring that the land will be re-naturalized should the improvement covered by the permit not be completed, in accordance with the City of Palm Springs Zoning Code Section 92.21.1.05. The agreement shall be secured in amounts required by the City Engineer to complete re-naturalization consistent with the provisions of Chapter 9.65 of the Palm Springs Municipal Code; such security shall be in the form of cash, irrevocable letter of credit, assignment of a certificate of deposit, or similar form of security, as approved by the City Manager and City Attorney.
- ENG 47. A Geotechnical/Soils Report prepared by a California registered Geotechnical Engineer shall be required for and incorporated as an integral part of the plans for the project. A copy of the Geotechnical/Soils Report shall be submitted to the Engineering Division with the first submittal of any plans.
- ENG 48. The applicant shall provide all necessary geotechnical/soils inspections and testing in accordance with the Geotechnical/Soils Report prepared for the project. All backfill, compaction, and other earthwork shown on the approved plans shall be certified by a California registered geotechnical or civil engineer, certifying that all construction was performed in accordance with the Geotechnical/Soils Report prepared for the project. Documentation of all compaction and other soils testing are to be provided. No final approval will be issued until the required certification is provided to the City Engineer.

WATER QUALITY MANAGEMENT PLAN

- ENG 49. A Final Project-Specific Water Quality Management Plan (WQMP) shall be submitted to and approved by the City Engineer prior to issuance of a permit. The WQMP shall address the implementation of operational Best Management Practices (BMP's) necessary to accommodate nuisance water and storm water runoff from the site. Direct release of nuisance water to adjacent properties is prohibited. Construction of operational BMP's shall be incorporated into required plans.
- ENG 50. Prior to issuance of any permit, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument on a standardized form to inform future property owners of the requirement to implement the approved Final Project-Specific WQMP. Other alternative instruments for requiring implementation of the approved Final Project-Specific WQMP include: requiring the implementation of the Final Project-Specific WQMP in Home Owners Association or Property Owner Association Covenants, Conditions, and Restrictions (CC&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the Final Project-Specific WQMP; or equivalent. Alternative instruments must be approved by the City Engineer prior to the issuance of any permit.
- ENG 51. Prior to any final City approvals, the applicant shall: (a) demonstrate that all structural BMP's have been constructed and installed in conformance with approved plans and specifications; (b) demonstrate that applicant is prepared to implement all non-structural BMP's included in the approved Final Project-Specific WQMP, conditions of approval, or grading/building permit conditions; and (c) demonstrate that an adequate number of copies of the approved Final Project-Specific WQMP are available for the future owners (where applicable).

DRAINAGE

- ENG 52. The project site design does not provide for retention of the incremental increase of stormwater runoff due to development of the entire site. Grading plans of individual home sites within the project, subject to separate architectural approval on a case by case basis, and the grading plan for the Desert Water Agency reservoir site, shall incorporate on-site retention as required by the City Engineer.
- ENG 53. In accordance with Chapter 92.21.1.05 "Design Standards" of the Palm Springs Zoning Code, development of the site shall preserve existing drainage patterns, natural streams and local watershed boundaries. Future residential development of individual lots shall be required to preserve existing drainage channels that may extend across the lot. Provisions for protecting existing drainage channels and maintaining natural drainage systems, acceptable to the City Engineer, shall

be included in the Covenants, Conditions, and Restrictions (CC&R's) required for this project.

- ENG 54. This project includes and is subject to the design and construction of the upper segment of Line 2, as identified on the Master Drainage Plan for the Palm Springs Area. The applicant proposes, subject to Riverside County Flood Control & Water Conservation District (RCFC) approval, to construct that portion of Line 2 extending through the project site as an on-site stormwater detention facility until such time as Line 2 is fully extended in accordance with the Master Drainage Plan. At the time that Line 2 is extended in the future to convey on-site storm water runoff to the Whitewater River, the applicant shall be required to remove and replace, modify or otherwise improve the segment of Line 2 extending through the project site to function as a permanent flood control facility as required by RCFC.
- ENG 55. The design and construction of Line 2, as identified on the Master Drainage Plan for the Palm Springs Area, is subject to the review and approval by Riverside County Flood Control & Water Conservation District (RCFC). The alignment of Line 2 shall be revised as required by RCFC, and the northerly end of Line 2 adjacent to Street "A" shall be relocated to the east property line to facilitate future extension of Line 2 as shown on the Master Drainage Plan. Submit storm drain plans prepared by a California registered civil engineer to RCFC for review and approval.
- ENG 56. On a final map, the applicant shall provide an irrevocable offer of dedication to the City of Palm Springs for an easement for storm drainage purposes over the alignment of Line 2 as approved by RCFC and the City Engineer. The offer of dedication shall be rejected, and pursuant to California Government Code Section 66477.2 (a), the City shall rescind the rejection and accept the offer of dedication at such time as Line 2 is fully extended in accordance with the Master Drainage Plan, and Line 2 is reverted from use as a privately maintained on-site stormwater detention facility to a publicly maintained storm drain facility.
- ENG 57. All stormwater runoff passing through the site shall be accepted and conveyed across the property in a manner acceptable to the City Engineer. For all stormwater runoff falling on the site, on-site retention or other facilities approved by the City Engineer shall be required to contain the increased stormwater runoff generated by the development of the property, as described in the Preliminary Hydrology Report for TTM35540, prepared by MSA Consulting, Inc., dated July 1, 2009 (or as may be amended). Final retention basin sizing and other stormwater runoff mitigation measures shall be determined upon review and approval of the hydrology study by the City Engineer and may require redesign or changes to site configuration or layout consistent with the findings of the final hydrology study.

- ENG 58. This project will be required to install measures in accordance with applicable National Pollution Discharge Elimination System (NPDES) Best Management Practices (BMP's) included as part of the NPDES Permit issued for the Whitewater River Region from the Colorado River Basin Regional Water Quality Control Board (RWQCB). The applicant is advised that installation of BMP's, including mechanical or other means for pre-treating stormwater runoff, will be required by regulations imposed by the RWQCB. It shall be the applicant's responsibility to design and install appropriate BMP's, in accordance with the NPDES Permit, that effectively intercept and pre-treat stormwater runoff from the project site, prior to release to the City's municipal separate storm sewer system ("MS4"), to the satisfaction of the City Engineer and the RWQCB. Such measures shall be designed and installed on-site; and provisions for perpetual maintenance of the measures shall be provided to the satisfaction of the City Engineer.
- ENG 59. Until such time as Line 2 is fully extended in accordance with the Master Drainage Plan, and while Line 2 extending through the project site is used as an on-site stormwater detention facility, Line 2 shall be privately maintained. Provisions for maintenance of Line 2, including obligations to remove and replace, modify or otherwise improve the segment of Line 2 extending through the project site to function as a publicly maintained storm drain facility as required by RCFC, shall be included in Covenants, Conditions and Restrictions (CC&R's) required for this project.
- ENG 60. The project is subject to flood control and drainage implementation fees. The drainage fee at the present time is \$6,511.00 per acre per Resolution No. 15189. Costs related to the design and construction of Line 2, if Line 2 will ultimately be operated and maintained by RCFC, may be credited against drainage fees otherwise due.

GENERAL

- ENG 61. Any utility trenches or other excavations within existing asphalt concrete pavement of off-site streets required by the proposed development shall be backfilled and repaired in accordance with City of Palm Springs Standard Drawing No. 115. The developer shall be responsible for removing, grinding, paving and/or overlaying existing asphalt concrete pavement of off-site streets as required by and at the discretion of the City Engineer, including additional pavement repairs to pavement repairs made by utility companies for utilities installed for the benefit of the proposed development (i.e. Desert Water Agency, Southern California Edison, Southern California Gas Company, Time Warner, Verizon, etc.). Multiple excavations, trenches, and 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 62. All proposed utility lines shall be installed underground.
- ENG 63. 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 south side of Tram Way extending through the project site 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.
- ENG 64. All existing utilities shall be shown on the improvement plans required for the project. The existing and proposed service laterals shall be shown from the main line to the property line.
- ENG 65. Upon approval of any improvement plan by the City Engineer, the improvement plan shall be provided to the City in digital format, consisting of a DWG (AutoCAD 2004 drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variation of the type and format of the digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.
- ENG 66. The original improvement plans prepared for the proposed development and approved by the City Engineer shall be documented with record drawing "as-built" information and returned to the Engineering Division prior to issuance of final approvals. Any modifications or changes to approved improvement plans shall be submitted to the City Engineer for approval prior to construction.
- ENG 67. Nothing shall be constructed or planted in the corner cut-off area of any intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance per City of Palm Springs Zoning Code Section 93.02.00, D.

MAP

- ENG 68. On the final map, the applicant shall make and provide for all required dedications and easements as required in these conditions of approval.
- ENG 69. In accordance with Mitigation Measure (MM) 3.5-1 of the Final Environmental Impact Report, a Phase 2 investigation of certain archaeological sites shall be completed prior to approval of a final map.
- ENG 70. A final map shall be prepared by a California registered Land Surveyor or qualified Civil Engineer and submitted to the Engineering Division for review and approval. A Title Report prepared for subdivision guarantee for the subject property, the traverse closures for the existing parcels and all lots created therefrom, and copies of record documents shall be submitted with the final map to the Engineering Division as part of the review of the final map. The final map shall be approved by the City Council prior to issuance of building permits.
- ENG 71. In accordance with Section 66434 (g) of the Government Code, the existing public right-of-way for Chino Canyon Road extending through the property may be abandoned upon the filing of a final map identifying the abandonment of the right-of-way granted to the City of Palm Springs.
- ENG 72. In accordance with Mitigation Measure (MM) 3.6-5(b) of the Final Environmental Impact Report, all applicable Standard Conditions and Mitigation Measures related to future individual home construction shall be included in Covenants, Conditions, and Restrictions (CC&R's) required for the project. A copy of draft CC&R's shall be submitted to the City Attorney for review and approval prior to approval of a final map.
- ENG 73. In accordance with Standard Condition (SC) 3.13-2(a) and 3.13-11, the applicant shall annex the property into City of Palm Springs Community Facilities District (CFD) 2005-1 to fund future emergency services, in conjunction with the recordation of a final map.
- ENG 74. Upon approval of a final map, the final map shall be provided to the City in G.I.S. digital format, consistent with the "Guidelines for G.I.S. Digital Submission" from the Riverside County Transportation and Land Management Agency." G.I.S. digital information shall consist of the following data: California Coordinate System, CCS83 Zone 6 (in U.S. feet); monuments (ASCII drawing exchange file); lot lines, rights-of-way, and centerlines shown as continuous lines; full map annotation consistent with annotation shown on the map; map number; and map file name. G.I.S. data format shall be provided on a CDROM/DVD containing the following: ArcGIS Geodatabase, ArcView Shapefile, ArcInfo Coverage or Exchange file (e00), DWG (AutoCAD 2004 drawing file), DGN (Microstation drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variations of the type and format of G.I.S. digital

data to be submitted to the City may be authorized, upon prior approval of the City Engineer.

TRAFFIC

- ENG 75. Prior to approval of a final map, the applicant shall pay a fair share contribution of \$14,610 (equivalent to 4.87%) for design and construction of a future traffic signal at the intersection of N. Palm Canyon Drive and Via Escuela.
- ENG 76. Construction signing, lighting and barricading shall be provided during all phases of construction as required by City Standards or as directed by the City Engineer. As a minimum, all construction signing, lighting and barricading shall be in accordance with Part 6 "Temporary Traffic Control" of the California Manual on Uniform Traffic Control Devices for Streets and Highways, dated September 26, 2006, or subsequent editions in force at the time of construction.

FIRE DEPARTMENT CONDITIONS

These conditions are subject to final plan check and review. Initial fire department conditions have been determined on the preliminary site plan dated received 12/26/07. Additional requirements may be required at that time based on revisions to site plans.

- FID 1. Plot Plan: Prior to completion of the project, a 8.5"x11" plot plan shall be provided to the fire department. This shall clearly show all access points & fire hydrants.
- FID 2. Fire Hazard Severity Zone: Applicant's project is located in a Fire Hazard Severity Zone determined by the State of California. Wild land Building Standards and Wild land Urban Interface requirements will need to be included in this project.
- FID 3. Secondary Fire Department Access: The secondary access point from Tram Way Road meets fire department requirements.
- FID 4. Fire Department Access: Fire Department Access Roads shall be provided and maintained in accordance with Sections 901 and 902 CFC. (902.1 CFC)

Minimum Access Road Dimensions:

- a. The Palm Springs Fire Department requirements for two-way private streets, is a minimum width of 24 feet, unless otherwise allowed by the City engineer. No parking shall be allowed in either side of the roadway.

- FID 5. Access Gates: Fire/Police/Ambulance access gates shall be at least 14' in width when in the open position and equipped with a Knox (emergency access) key switch. A Knox key operated switch shall be installed at every automatic gate. Show location of switch on plan. Show requirement in plan notes.
- FID 6. Fire Apparatus Access Roads/Driveways: Fire department access roads/driveways shall be provided so that no portion of the exterior wall of the first floor of any building will be more than 150 feet from such roads. (902.2.1 CFC)
- FID 7. Vertical Fire Apparatus Clearances: Palm Springs fire apparatus require an unobstructed vertical clearance of not less than 13 feet 6 inches. This will include clearance from vegetation and trees. (902.2.2.1 CFC)
- FID 8. Road Design: Fire apparatus access roads shall be designed and constructed as all weather capable and able to support a fire truck weighing 73,000 pounds GW. (902.2.2.2 CFC) The minimum inside turning radius is 30 feet, with an outside radius of 45 feet.
- FID 9. Operational Fire Hydrant(s): Operational fire hydrant(s) shall be installed within 250 feet of all combustible construction. No landscape planting, walls, or fencing is permitted within 3 feet of fire hydrants, except groundcover plantings. (1001.7.2 CFC)
- FID 10. Water Systems and Hydrants: Underground water mains and fire hydrants shall be installed, completed, tested. Installation, testing, and inspection will meet the requirements of NFPA 24 1995 edition. Prior to final approval of the installation, contractor shall submit a completed Contractor's Material and Test Certificate to the Fire Department. (9-2.1 NFPA 24 1995 edition)
- FID 11. Fire hydrant systems: Following Fire Department selection of hydrant locations, plans and specifications for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction. (901.2.2.2 CFC). All fire hydrants shall be installed in accordance with Desert Water Agency specifications and standards. No landscape planting, walls, fences, signposts, or aboveground utility facilities are permitted within 3 feet of fire hydrants, or in line with hose connections
- FID 12. **ADDED 9-1-10; Chemical Rock Splitting.** Nonex, along with other "high energy" explosives used for blasting operations is currently prohibited by the Palm Springs Fire Department. The fire department will approve non-explosive methods for rock splitting. Crackamite and Rock Frac have been deemed as acceptable products to perform rock splitting procedures by

the Palm Springs Fire Department. There may be others that perform in a similar manner.

END OF CONDITIONS

Memorandum

Date: August 12, 2010
To: Palm Springs Planning Commission
From: Scott Ventura, Fire Department
Subject: Case 5.1154 & TTM35540 Desert Palisades Specific Plan

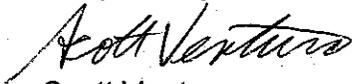
The purpose of this memo is to provide you background to the information on page 41 of the Desert Palisades final EIR. **E-26 Response** discusses "non-hazardous, non-explosive demolition agents for the fracturing of large rocks or boulders when necessary. Where necessary, the product options for boulder breaking include Crackamite, RockFrac, and Nonex".

Nonex is considered to be an explosive and is not permitted to be used for blasting or rock splitting by the Palm Springs Fire Department.

Crackamite and Rock Frac are both non-explosive products that are used for rock splitting procedures. Both of these products are approved by the Palm Springs Fire Department for the purpose of rock splitting procedures.

I have attached detailed information sheets on both products for your review.

Respectfully,



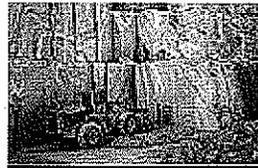
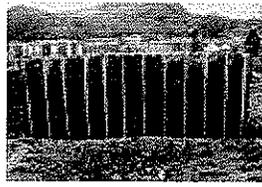
Scott Ventura
Deputy Fire Chief/Fire Marshal

**City of Palm Springs
Fire Department**

CRACKAMITE, a **Non-Explosive Expansive Silent Cracking Agent**, is a highly expansive powder composition for stone breaking, granite and marble quarrying, concrete cutting and demolition. CRACKAMITE is safe, environment friendly and a good and viable alternative to explosives and other traditional methods of quarrying and demolition. CRACKAMITE is mixed with clean water and poured into pre-drilled holes on rock and concrete. The diluted CRACKAMITE swells and exerts significant expansive thrust on the hole-wall, fracturing the wall and splitting the rock across the line of the drill holes.



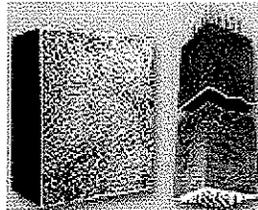
Granite Cutting



Marble Quarrying



Rock Breaking



Concrete Demolition

Benefits of using Crackamite

Crackamite can be used in an almost unlimited range of applications. It's particularly used for breaking, cutting or demolishing stones, concrete and reinforced concrete. Endless benefits of Crackamite can be listed against explosives and other methods of breaking, cutting or demolishing.

I. CRACKAMITE IS A SAFE SUBSTANCE

Crackamite is not controlled by any legal regulation such as explosives and explosive agents, etc. **It is non-explosive**, therefore supervision of trained personnel is not essential. Crackamite requires no special precautions if kept in a dry place. The product is not sensitive to electrical discharge or currents. Demolition can be easily and safely performed anywhere.

II. CRACKAMITE IS A SOUNDLESS CRACKING AGENT

Unlike the existing methods of demolition by explosives or breaking equipment, Crackamite does not make any noise, vibration, flying debris, dust or gas. Crackamite quietly and gradually demolishes rock or concrete with its expansive stress caused by hydration reaction. Rocks and reinforced concrete may be demolished safely without environmental pollution. Furthermore, Crackamite's expansive stress continues even after crack initiation, the crack opening distance becomes wider as time passes.

III. CRACKAMITE® HANDLES EASILY

No lid (or cap) is necessary after Crackamite is poured into a hole of rock or reinforced concrete, nor is tamping required as with explosives. Crackamite exerts its strength in a short time. Due to Crackamite's strong adhesion and frictional resistance to inner surface of the hole, spurs due to heat-generation (blown-out shot) do not occur when used within the parameters as noted in the conditions. The expansive stress along the hole depth is almost constant except for that near the entrance of the hole. Generally the expansive stress loss from the hole entrance has little effect on the demolition work when hole depth is long.

IV. CRACKAMITE® IS EASY TO USE - JUST Mix It, Fill It, Crack It

Just mix with water, pour into holes, then it expands to crack. Neither capping with mortar, sand, etc. nor tamping with a bar is necessary after Crackamite mixed with water is poured into drilled holes in rock or concrete. Using Crackamite does not require a special license unlike explosives, explosive agents, etc. **It is environmentally friendly.** It releases no toxic or harmful substances of any kind.

V. CRACKAMITE® HAS AN EXPANSIVE STRESS MORE THAN 11 Mt/m²

Generally, the compressive fracture stress of rocks is 500 to 2500 T/m² and that of concrete 300 to 500 T/m². However, the tensile fracture stress is very small, i.e., it ranges from 40 to 70 T/m² in concrete, respectively. Since demolition by using Crackamite is based on a fracture due to a tensile stress, all kinds of rocks and concrete can be cracked and broken by using Crackamite when appropriate holes are properly drilled.

VI. CRACKAMITE® DOES SYSTEMATICAL HIGH-EFFICIENCY DEMOLITION WORK

Crackamite makes it very easy to control the shape of to-be-cracked objects after being broken according to requirements; it can be demolished or can remain unharmed. Crackamite cracks reinforced concrete, rock, limestone, granite and marble safely and quietly. Being a non-explosive material, it works without noise, vibration, dust, toxic gases and flying rock. Cracked rock or concrete can then easily be broken with breakers remarkably reducing time and cost required for breaking. Crackamite can demolish rock or concrete systematically, and also demolition work in water is possible.

Crackamite provides the most technically suitable and cost-effective solution in:

- Restricted demolition of stone and concrete structures where nearby structures must be protected from vibration generated by explosions
- Pre-splitting of stone formations, to create isolated blocks that can then be more easily demolished
- Cutting blocks of marble and granite more economically than that of the traditional wire saw method
- Excavations and demolition of stone or concrete structures where the use of explosives would be expensive due to long operating times, special transport, storage, handling precautions and the need to comply with public safety regulations.

RockFrac is environmental friendly Non-Explosive Demolition Agent, which is popular in the international quarrying and demolition market. When mixed with clean, cold water turns to mortar and poured into pre-drilling holes in rock and concrete, it swells and exerts expansive capabilities on the hole-wall at a unit value of more than 50 Mpa (500kg/cm² or 1,058,203.00 pounds/inch²) which is strong enough to cut and crack concrete, marble and granite after a certain period with no noise, no vibration, no ash, no toxic gas and no flying rocks. It is safe, environmental friendly, non-explosive, no need to train professional personnel, easy to use and controllable.

RockFrac with its unique composition is the latest technical innovation and development, which greatly improves the production efficiency, simplifies the operation at the job site, applies to all-weather condition, and yields stronger expansive strength and faster reaction with water. It is no need for customers to purchase and store various specifications for different temperatures. After repeated trial tests, the quality properties of RockFrac, like performance ratio, consumption ratio, cracking efficiency and so on, prove to be remarkably good and some are even better than those of traditional products from top international suppliers. It is an excellent alternative to the traditional non-explosivedemolitioncement.

Rock Splitting Mortar is the answer when your job calls for the demolition of rock or concrete by non-explosive or low vibration means. Rock Outcroppings, Boulders or reinforced concrete can be easily split and fractured, speeding its removal.

- RockFrac® has proven to be more reliable than Bristar, Betonamit, FRACT.AG, S-Mite, Dexspan and Da-Mite.
- Eliminate: vibration from blasting, fly rock, permitting, seismic and explosives monitoring.
- Minimize vibration from large breakers.
- Exploits the Tensile strength of even the hardest rock.
- Reduces removal time, saving time and money.
- The Fracturing increases productivity of equipment.
- Environmentally friendly.



CITY OF PALM SPRINGS

DEPARTMENT OF PLANNING SERVICES

MEMORANDUM

Date: July 29, 2010

To: Marvin Roos, MSA Consulting, for Pinnacle View, LLC (Applicant)

Cc: Craig Ewing, AICP Director of Planning

From: Ken Lyon, Associate Planner *Ken Lyon*

Subject: Case 5.1154 Desert Palisades Specific Plan (DPSP), Zone Change & TTM 35540 – Commissions' direction from 7-28-10 hearing

At its meeting of July 28, 2010, the Planning Commission reviewed the responses from staff and the applicant and gave direction on each item. The PC action/direction is shown for each item in the matrix below.

Please review these, and incorporate the Commissions actions and directions into a draft track changes version of the Desert Palisades Specific Plan for their review and possible approval at the meeting of September 1, 2010. This track change version must have the table of development standards as discussed previously provided therein.

KINDLY HAVE THIS DRAFT TRACK CHANGES VERSION AVAILABLE FOR STAFF REVIEW NO LATER THAN MONDAY AUGUST 16TH 2010. We will promptly turn around a final set of review comments/corrections of the document by Thursday, August 19 and you will need to submit a final draft to the Planning Department for submission to the Commission **NO LATER THAN MONDAY, AUGUST 23, 2010.**

Please let me know if you have questions.

ITEM	QUESTION OR CONCERN	SOLUTION/RESPONSE PROPOSED BY APPLICANT AND STAFF RECOMMENDATION
1.	All future development applications in the DPSP should have Planning Commission review & approval PC ACTION: CONCURRENCE WITH STAFF RECOMMENDATION.	Applicant prefers to process approvals at the staff level except in cases where staff determines that a proposed design does not conform to the suggested guidelines and development standards of the DPSP then it would be scheduled for PC approval. Applicant argues that these homes are not seen from public areas or streets and Planning Commission approval does not serve a public purpose. Staff recommends review and approval of all future development

		<p>applications by the PC, including the common area landscape projects. Added text is proposed in SP procedures section requiring all projects to be subject to PSZC 94.04 (Architectural Review) and 93.13 (Hillside Development) and 92.21.1.00 et al (ESA-SP) with approval of only minor projects at staff level as currently defined in those zoning sections. If PC elects to delegate full approval authority to staff, it is recommended the "suggestive" words be amended "required" words throughout the development standards and Design guidelines.</p> <p>Further Planning Commission direction is requested.</p>
2.	<p>Concern about landscaping and boulder buffers in common open space areas. (slope, visual appearance, avoid "looming rock wall" appearance.</p> <p>PC ACTION: CONCURRENCE WITH STAFF RECOMMENDATION; AD TEXT TO DENOTE THAT FIELD CONDITION-CAUSED CHANGES TO BE HANDLED CONSISTENT WITH CITY PROCEDURES - AS REVISIONS TO APPROVED GRADING PLANS FOR APPROVAL BY STAFF, MAJOR REVISIONS TO GO BACK TO PC FOR APPROVAL.</p>	<p>Staff recommends adding a condition of approval and text in SP requiring that landscape/boulder plans, staging areas, etc., be submitted for PC approval prior to approval of the final grading plan and tract map. (Applicant concurs)</p> <p>Would be submitted in final tracked change version of the SP.</p>
3.	<p>What was the extent of the public outreach effort made to adjacent neighborhoods?</p> <p>PC ACTION - CONCURRENCE WITH STAFF RECOMMENDATION</p>	<p>Applicant has provided a written summary of outreach efforts (attached) that will be included in the SP.</p> <p>Staff recommends adequacy of the outreach be further clarified with specific dates and locations of the outreach efforts.</p> <p>Requires further response from applicant.</p>
4.	<p>Concern about building heights; Single story is preferred, would not want to see 25 foot high single story spaces, for example. Need greater description and regulations where 25 feet would be permissible and what is "standard" height.</p> <p>PC ACTION - CONCURRENCE WITH STAFF RECOMMENDATION</p>	<p>Applicant provided amended text for Design Guidelines Section and page 14 (attached).</p> <p>Staff recommends further text revision and placement in a table of development standards. The proposed amended text conflicts in height (15 feet and 18 feet) and does not resolve ambiguity.</p> <p>Requires further response from applicant including a full table of development standards.</p>
5.	<p>Concern about EIR analysis of "no impacts" relative to no development or by right of zone development compared to proposed development.</p> <p>PC ACTION; CONCURRENCE WITH STAFF RECOMMENDATION, HOWEVER STAFF WILL CONDUCT FURTHER FOLLOW UP WITH COMMISSIONER CONRAD WHO STILL APPEARED TO HAVE CONCERNS.</p>	<p>The EIR states that any of the alternatives will have some impact on the environment. The discussion in the EIR starting on page 405 summarizes relative impacts associated with each Alternative. The conclusion of the EIR is that the No Project Alternative, General Plan Clustered Housing Alternative, and the General Plan Resort Alternative would result in lower impacts than the Proposed Project primarily due to less overall site disturbance. The analysis of the General Plan Residential Subdivision Alternative (full General Plan density of 2 units per acre) was concluded to result in higher impacts due to the need to mass grade the site.</p> <p>The EIR conclusion on the Proposed Project is that with all mitigation measures being implemented that all identified impacts would be reduced to Less than Significant.</p>

		Staff recommends acceptance.
6.	<p>Provide assurance that the private roadways, in addition to the trails, are open to public pedestrian access</p> <p>PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION</p>	<p>Applicant provided amended text (attached).</p> <p>Staff recommends approval, however revise text to eliminate reference to gates on the pedestrian access points to conform to ESA-SP that limits gates only to vehicular access.</p> <p>Requires further response/text revision from applicant.</p>
7.	<p>Concern about status of flooding and levee recertification by FEMA</p> <p>PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION, HOWEVER ENGINEERING ADVISES NO FORMAL FEMA RE-CERTIFICATION IS GRANTED, BUT CONTINUATION OF PROTECTED STATUS ON FEMA MAPS DEMONSTRATES CONTINUED CERTIFICATION OF LEVEE; APPLICANT TO CLARIFY IN TEXT IN THE DPSP ON THIS TOPIC.</p>	<p>Applicant states levee was recertified. Staff recommends the applicant provide updated text clarifying this issue.</p> <p>Requires further response/text revision from applicant.</p>
8.	<p>Status of access easement to adjacent privately-owned 5 acre parcel</p> <p>PC ACTION – DEFER TO CITY ATTORNEY ADVICE ON REVISED ENG 22 TEXT.</p>	<p>Letter from Hemphill received 7-22-10 states applicant's position regarding access easement; Requires further review and advisement by Legal Counsel.</p> <p>This matter has been turned over to the City Attorney for review and response.</p>
9.	<p>How is maintenance of the roads, landscape and other infrastructure addressed prior to establishment of the HOA?</p> <p>PC ACTION – CONCURRENCE OF STAFF RECOMMENDATION. APPLICANT TO CLARIFY METHODOLOGY FOR ESTABLISHMENT OF 'ADEQUATE' RESERVE FUND AMOUNT.</p>	<p>The State Department of Real Estate mandates that maintenance funding is essential to the establishment of the HOA. The developer represents all unsold lots and pays all dues and assessments until the property is sold, at which time the new owner picks up these costs. In addition, the DRE requires the establishment of a reserve to ensure funding for the common area improvements is available from the onset of the development. This structure will be provided in the CC&R's which are approved by the City Attorney.</p> <p>Staff recommends acceptance of this and will provide additional COA relative to the CC&R's.</p>
10.	<p>Concern about 12k sf homes resulting from merging lots; visual aesthetics</p> <p>PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION OF MAX 6K SF HOMES</p>	<p>Applicants states that the SP provides that combined lots will allow the cumulative total building coverage of the combined lots.</p> <p>Staff recommends that the maximum lot coverage of 6,000 sf, as limited in the ESA-SP be the maximum building coverage, regardless of resultant lot size of any lot mergers.</p> <p>Requires revision of text in the DPSP.</p>
11.	<p>Request for update of the fiscal analysis reflecting current downturn in economy and clarification of City's share of financing of project</p> <p>PC ACTION- CONCURRENCE</p>	<p>Updated fiscal analysis provided for review.</p> <p>Requires further clarification in DPSP text clearly stating there will be no fiscal assistance from City for any part of the project.</p>
12.	<p>Clarify grading for individual homes during Bighorn Sheep lambing period.</p>	<p>Applicant notes that cut and fill is required to some extent on all lots. The DPSP guidelines require that each site be assessed</p>

	Request to create formulaic method for limiting cut and fill. PC ACTION – CONCURRENCE W/APPLICANT RESPONSE & RECOMMENDATION.	individually in order to determine how best to work with the features of that site to create a house design, "with minimal site disturbance.". Clarify EIR discussion on impacts of individual home construction during lambing period. Requires further response from applicant on EIR mitigation discussion in EIR. Staff recommends acceptance of current DPSP language relative to cut and fill and grading.
13.	Consider prohibition of parking of motor homes and commercial vehicles on parcels within the DPSP. PC ACTION – CONCURRENCE WITH APPLICANT'S RECOMMENDATIONS.	Applicant proposes amended text in the DPSP prohibiting the storage of motor homes and large commercial vehicles. Language allowing owners to park a motor home or commercial vehicle for up to 24 hours was also proposed. Enforcement becomes responsibility of the HOA. Staff recommends acceptance of this proposed amended text to be shown in the tracked changes version of the DPSP.
14.	Question regarding State Code requirement for financing plan. PC ACTION – CONCURRENCE WITH PROPOSED ACTION.	Applicant to add text to SP noting that the project his wholly applicant-financed. No financial participation or assistance is anticipated by the City. Staff recommends acceptance of this text amendment to be shown in the tracked changes version of the DPSP.
15.	Question on lot coverage as a percentage of lot area. PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	ESA-SP only defines that maximum allowable building coverage shall not exceed 6,000 sf. Staff recommends acceptance of this criteria limit as is, with 6,000 as maximum size of lot/building coverage regardless of lot size.
16.	Better define relationship between SP and Zone standards; which apply, which take precedent – suggest a checklist of development standards. PC ACTION - CONCURRENCE	Staff will add a condition of approval requiring the applicant to develop a comprehensive table incorporating all development and design standards. Requires further response from applicant.
17.	Stain or patinate stones in landscape areas? PC ACTION – CONCURRENCE FOR NO PATINATION.	Applicant to address; prefers not to patinate. Staff recommends acceptance of no patination of rocks.
18.	Revise Planning Condition 4 to delete white and off white PC ACTION - CONCURRENCE	Will be revised in final COA's by Staff and noted in development standard of DPSP Staff recommends acceptance of this proposed amended text to be shown in the tracked changes version of the DPSP.
19.	Consider prohibiting tennis courts PC ACTION – DIRECT STAFF/APPLICANT TO AMEND TEXT TO PROHIBIT TENNIS COURTS	Applicant prefers to allow unlighted tennis courts, however acknowledges topography and lot size will make approval of tennis courts unlikely. Staff recommends permitting unlighted tennis courts subject to Planning Commission approval of the site design; Would require text revision in DPSP.
20.	Consider prohibiting grading, cut and fill; create formulaic limitations for the amount of grading	See item 12 above.
21.	Consider prohibiting Bermuda Roofs,	Applicant prefers to retain these materials subject to review and

	Spanish Tile, and foam roofs PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	approval by the HOA. Staff recommends text as is, assuming the PC has final approval authority on all major applications.
22.	Consider prohibiting brick, masonry, cultured stone, wood siding and decorative patterned stucco PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	Applicant prefers to retain these materials subject to review and approval by the HOA. Staff recommends text as is assuming the PC has final approval authority on all major applications.
23	Concern about views impacts and visibility of the project from adjacent points including Chino Canyon Road, and Tram Way PC ACTION – CONCURRENCE WITH STAFF, HOWEVER STAFF/APPLICANT WILL FURTHER COORDINATE WITH COMMISSIONER HUDSON TO CLARIFY AND POSSIBLY AMEND VIEW STUDIES.	Visual simulations in the EIR depict conceptual buildout of the project from 10 different perspectives. The homesite visible from Chino Canyon Road is simulated in Image 3.1-12. The boulder/landscape buffer berm along Tram Way is subject to AAC/PC review and approval for shape, size, placement of boulders and other landscape plants and materials. Staff recommends approval of EIR and associated text on this topic.
24	Concern about adverse visual impacts from open carports; consider prohibition of carports PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	Applicant asserts carports are aesthetically appropriate for modern architecture. No carports will be visible from any public streets. Maintenance and control of storage in carports is an HOA issue. Staff recommends approval of the text as is, and retainage of carports as an acceptable form of covered parking for vehicles. Assure prohibition of open storage in carports is in the CC&R's.
25	Consider elimination of the vehicular gates PC ACTION – PC PREFERS ELIMINATION OF GATES, HOWEVER DIRECTED STAFF AND APPLICANT TO COME BACK WITH PROPOSED ALTERNATIVE RECOMMENDATION WRT VEHICLE GATES – POSSIBLE COA TO BE OPEN DURING DAY, CLOSED AT NIGHT, OR GATES PERMITTED UNTIL CERTAIN PERCENTAGE OF PROJECT BUILT OUT, THEN REMOVE GATES.	Vehicular gates are permitted in the ESA-SP. Applicant's concern is for security during the long development period of the overall subdivision, and wear and tear on the private streets by potential unlimited public vehicular use if there were no gates, which is an HOA expense. Staff seeks direction from Commission.
26	Any ability for the City to limit construction activity overlap with other developments in the vicinity? PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	The City Council imposed a condition on the Boulders and Crescendo projects that they cannot be built at the same time. The DPSP applicant does not propose to build the individual houses, there is a shorter construction timeframe for site infrastructure only, also a biological mitigation measure is imposed in the EIR that limits construction time and duration. Applicant prefers no further construction schedule constraints. Staff recommends acceptance of the construction limitations already imposed by the EIR and the Mitigation Monitoring Program.

28	Consider painting the tops of the DWA tanks to blend with the adjacent landscape PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	DWA has indicated they require white tops on the tanks to reduce heat build-up inside the tanks. Water tanks and distributions systems are not subject to local zoning authority. The EIR review does apply and there are mitigation measures relative to the tanks as a project included therein. The EIR analyzed the view of the top of the tanks, noted they would be visible from passing hikers on trails above the tanks and did not identify this as a significant impact. Staff recommends acceptance of the condition as is.
29	Concern about storm water retention on individual lots PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	Applicant notes it will be part of AQMD requirements Staff recommends reference in DPSP discussion of stormwater handling.
30	Discussion of flood control; and timing of the construction of Line 2 of the City's Master Plan of Drainage. PC ACTION – CONCURRENCE WITH STAFF RECOMMENDATION.	Requires reference to section in DPSP for further PC review.

Lastly, let's coordinate on review of the Minter to PC letter dated July 23, 2010 to determine what, if any responses are warranted as well as any other matters that you feel need to be resolved. Thank you for your continued efforts to respond to the City's comments and direction on this project.

From: Ken Lyon

Sent: Thursday, July 29, 2010 12:13 PM

To: 'Roos, Marv'

Cc: Craig Ewing; Witherspoon, Michelle; 'Ed Freeman'

Subject: 5.1154 Desert Palisades - Commission Direction from 7-28-10 meeting

Hi Marvin,

Attached is a memo from me to you outlining the Commission's actions and directions on each item from yesterday's PC meeting.

Kindly review it, paying particular note to the timeframes for deliverables so we can have a good product for their (hopeful) final and affirmative review and action on 9-1-10.

I will contact Commissioners Hudson and Conrad and set up meetings as necessary with Michelle Witherspoon from your Environmental group to address any residual concerns they may have on the EIR.

In addition to their direction on the memo, the following additional items of concern were expressed by the commissioners and needs to be worked out:

1. Proposed language relative to their request for limitations/restriction/guidance on amount of paved area on each homesite. This is tough, I think, since it has the potential to be too restrictive, but I appreciate your team taking a stab at some draft language in the track change document for PC consideration on the 1st.
2. Let's review the exhibits and associated text that you are proposing wrt height and finalize that as part of the track change edition, and what you want to convey in that regard.
3. Give some thought (perhaps with Lance) on some text to be inserted in the DPSP track change edition related to their concerns to limit/prohibit the artificial historicism-based architectural styles.

Let me know if you have questions. Please also go back to my e mail to you dated July first and incorporate/shift around where necessary, items from that list into the track change edition. Thanks and talk to you soon.

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

August 24, 2010

RECEIVED

AUG 25 2010

City Planning Commission
C/O Mr. Ken Lyon, Associate Planner
CITY OF PALM SPRINGS
Department of Planning Services
3200 East Tahquitz Canyon Way
Palm Springs, CA 92263-2743

PLANNING SERVICES
DEPARTMENT

Email: Ken.lyon@palmspringsca.gov

SUBJECT: September 01, 2010 Planning Commission Meeting continued agenda
Item Case 5.1154 SP / TTM 35540 ("Desert Palisades")

Dear Planning Commission Members,

As you know, I am the owner of the vacant (undeveloped) 5-acre property assigned assessor parcel number 504-030-001 that is surrounded on three sides by the proposed TTM 35540. Specifically, my parcel is located in the vicinity of the southeast corner of the proposed tract. I am also the owner of a road right-of-way crossing over the TTM 35540 site from Chino Canyon Road as granted in Grant Deed Doc # 2002-424289 official records of Riverside County, the Parcel 2 description therein (see attached). Said right-of-way is filed under Right-of-Way Index number 375, file number 394, records of the office of the Bureau of Indian Affairs.

Regarding the City proposed revisions, in response to my concerns, to the Engineering Condition 22 as follows:

~~ENG 1. The applicant shall provide legal access to that certain 5 acre parcel identified by Assessor's Parcel Number (APN) 504-030-001 which has been excluded from Case 5.1154, TTM 35540. Legal access shall include access extending over Street "A", and an easement across Lots "C" or "D" to provide physical access to the northwest corner of the parcel. Provisions for access to APN 504-030-001 shall be included the Covenants, Conditions, and Restrictions (CC&R's) required for this project. *There is currently a dispute regarding the existence of a road right-of-way over the Applicant's property benefiting the neighboring property owned by Mr. Richard Kluszczynski. Prior to recordation of a final map, this dispute shall be resolved, either through mutual agreement of the Applicant and Mr. Kluszczynski or a final judicial determination.*~~

This revision appears to be substantially lacking.

Firstly the proposed condition seems to only address resolving whether the right of way is valid or not prior to recording the final map. It appears the condition is indicating the map can record either way, only requiring it be determined one way or the other. Marcus subsequently indicated in an e-mail that:

If it is determined by mutual agreement or by a court that the easement remains valid, then the applicant will be required to accommodate that access and show it on the final map in its current alignment, or show a revised easement acceptable to you that accommodates their current development plan and access to your 5 acre parcel. If it is determined by a court that the easement is not valid, then approval and recording of a final map for the development in its present form can proceed without showing access to your 5 acre parcel.

We are requesting that some of this verbiage from Marcus be added to the condition to make it clear. A condition hidden in an email is likely never to be read or implemented. We are asking that this portion be added:

If it is determined by mutual agreement or by a court that the easement remains valid, then the applicant will be required to accommodate that access and show it on the final map in its current alignment, or show a relocated easement acceptable to the owner of apn 504-030-001 that accommodates the applicants current development plan and access to the 5 acre parcel, apn 504-030-001.

Also we are asking that the recording information of the right of way in question be included in the proposed Condition of Approval to properly identify it. (ie. Road right-of-way crossing over the TTM 35540 site from Chino Canyon Road as granted in Grant Deed Doc # 2002-424289 official records of Riverside County, the Parcel 2 description therein (see attached). Said right-of-way is filed under Right-of-Way Index number 375, file number 394, records of the office of the Bureau of Indian Affairs.)

Additionally, as previously mentioned we are requesting that my interest, the right of way, be plotted on the Tentative Tract Map as is typical City policy, with notes indicating it is to be relocated through an agreement with me, the owner of apn 504-030-001, or otherwise proven invalid in court, or if the easement is to remain at its current location, for the TTM to be amended by the applicant to resolve the resulting substantial conflicting land uses.

Please, I ask that this easement not be assumed invalid unless otherwise proven in court. Rather it should be assumed valid unless otherwise proven in court. The attorney for the Title Company insuring my right of way has researched this matter thoroughly and has written an opinion letter insisting the right of way is valid in spite of the applicant's assertions that it is not.

Another very important issue is that I did not initially object to the abandonment of Chino Canyon Road Right of Way that runs from the east side of the site westerly to Tram Way Road.

The initial provision, in Engineering Condition 22, of access to my parcel over the applicants Street A, and then across Lots C and/or D seemed to help **mitigate** the abandonment of the Chino Canyon Road right of way. I was under the impression that this is why it was inserted. (although no access width was specified, and we requested at least 40 feet, plus provision for side slopes to daylight)

But City Staff have now stricken this provision from the Condition. This does not make sense to me, as the applicant is being required to mitigate everything from dust to lizards. But me, an adjacent affected property owner is not mitigated anymore, I'm asking that Planning Commission reconsider this proposed deletion.

The abandonment of this approximately 2,000 lineal foot portion of Chino Canyon Road Right of Way adversely affects my property for the following reasons:

The installation of Chino Canyon Road improvements at the time of property development would have provided an improved public street (with presumably utilities) just northerly, along the entire north line of my property.

My connection distance to this public street along my private right of way would have only been approximately 50 to 70 lineal feet. With the public street's abandonment my connection distance to a public street along my private right of way would now be increased to approximately 360 feet. Quite an impact!

Also with the Chino Canyon Road improvement along with the development build out, I would have had two points of access to my property, one from Via Monte Vista to Chino Canyon Road, and one from the Tramway road to Chino Canyon Road. This second point of access, for at least emergency ingress and egress would be lost with this abandonment. Another substantial impact on my property.

Even if my recorded right of way is not valid, if I obtained an access easement over the applicants property, hopefully by agreement, or by necessity, the same impacts indicated above would apply.

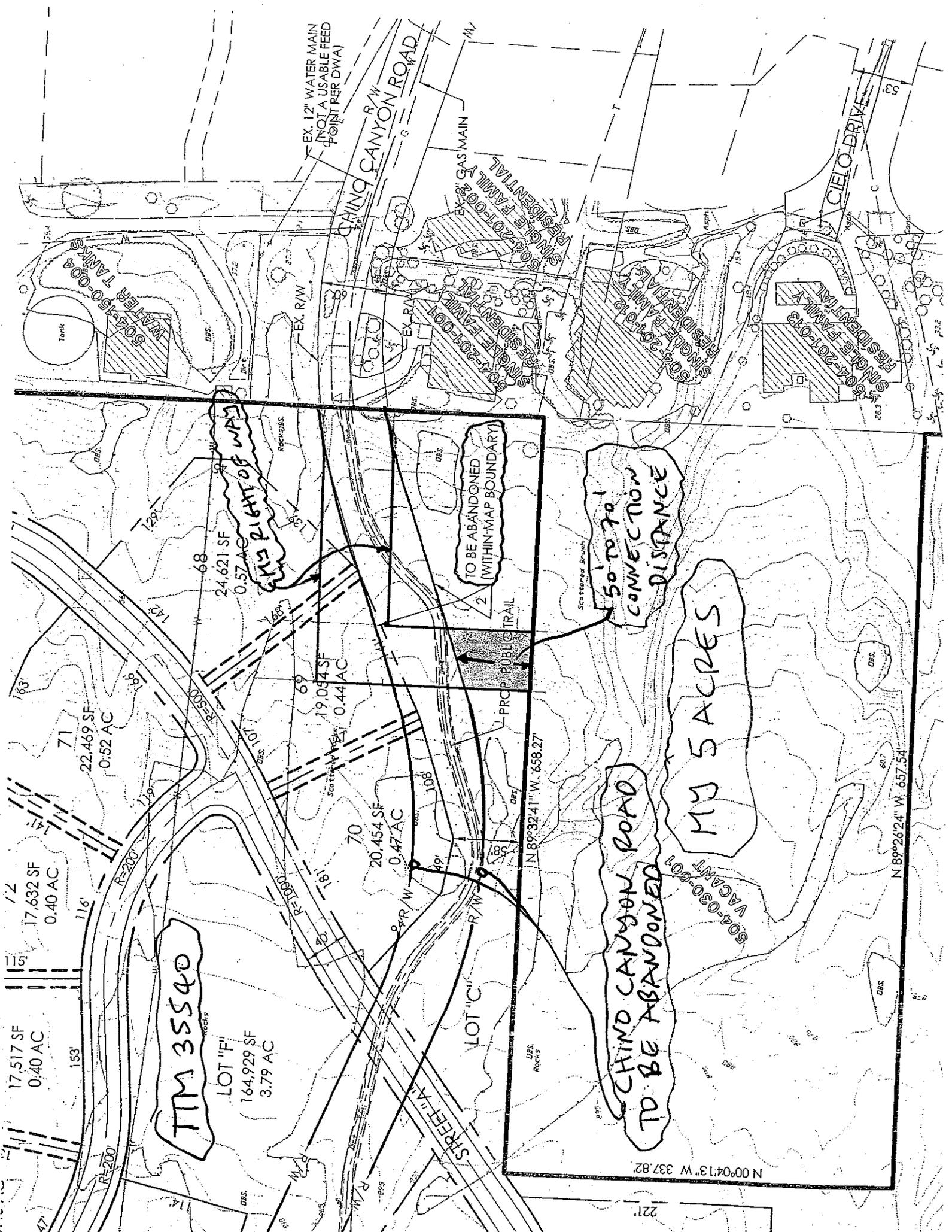
Hence I am requesting proper mitigation for the above indicated impacts, if this project is approved with the indicated Chino Canyon Road abandonment on the Tentative Tract Map.

Thank you for your consideration in this regard.

Best regards,

RICHARD KLUSZCZYNSKI
1090 West Cielo
Palm Springs, CA 92262

Enclosures



TIM 35540

LOT 'F'
164,929 SF
3.79 AC

LOT 'G'
20,454 SF
0.47 AC

LOT 'H'
19,054 SF
0.44 AC

LOT 'I'
24,621 SF
0.57 AC

LOT 'J'
22,469 SF
0.52 AC

LOT 'K'
17,632 SF
0.40 AC

LOT 'L'
17,517 SF
0.40 AC

TO BE ABANDONED
(WITHIN MAP BOUNDARY)

50 TO 70
CONNECTION
DISTANCE

MY 5 ACRES

CHIND CANYON ROAD
TO BE ABANDONED

EX. 12" WATER MAIN
(NOT A USABLE FEED
POINT PER DWA)

EX. 2" GAS MAIN

EX. 2" WATER MAIN

N 89°32'41" W 658.27'

N 89°26'24" W 657.54'

N 00°04'13" W 337.82'

221'

SF

LOT 'C'

LOT 'D'

LOT 'E'

LOT 'F'

LOT 'G'

LOT 'H'

LOT 'I'

LOT 'J'

LOT 'K'

LOT 'L'

LOT 'M'

LOT 'N'

LOT 'O'

LOT 'P'

LOT 'Q'

LOT 'R'

LOT 'S'

LOT 'T'

LOT 'U'

LOT 'V'

LOT 'W'

LOT 'X'

LOT 'Y'

LOT 'Z'

LOT 'AA'

LOT 'AB'

LOT 'AC'

LOT 'AD'

LOT 'AE'

LOT 'AF'

LOT 'AG'

LOT 'AH'

LOT 'AI'

LOT 'AJ'

LOT 'AK'

LOT 'AL'

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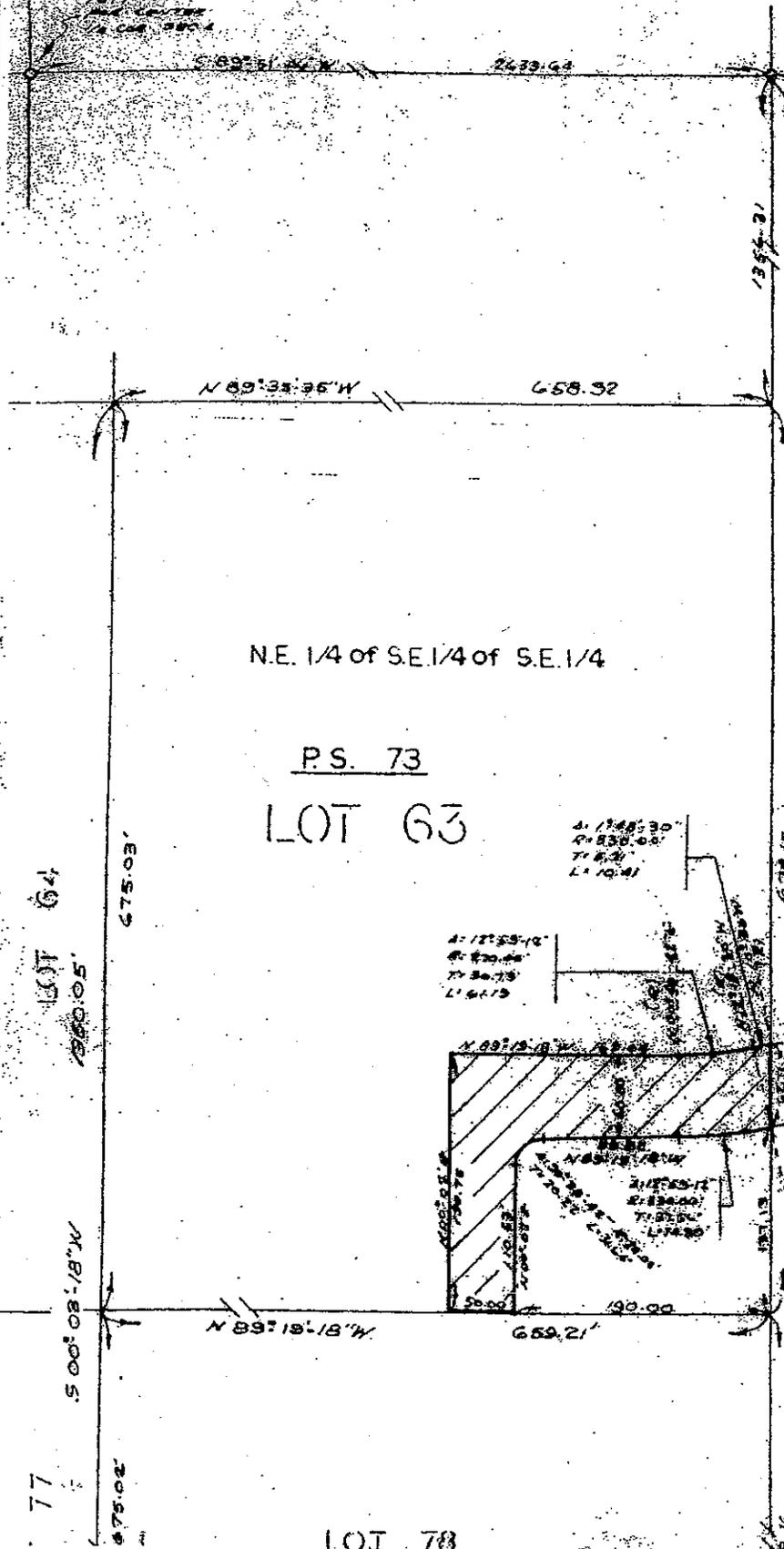
LOT 'IV'

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166-100



NE. 1/4 of SE 1/4 of S.E. 1/4

P.S. 73

LOT 63

LOT 64
50.00
50.00
N. 81° 50' 00\"/>

A: 174° 30'
P: 838.00'
T: 8.4'
L: 10.4'

A: 17° 55' 10\"/>

N. 89° 18' 18\"/>

SE CORNER 200' N
140' W
FOR THE 200' 200' 200' 200'

Scale 1"=100'



LEGAL DESCRIPTION

A Road Right-of-Way cross
 Alignment to be located by
 Cornering of the South
 N 00° 02' E along the east
 line of the Surveyed corner
 N 89° 18' 18\"/>

LOT 78



Fidelity National Title

INSURANCE COMPANY

July 27, 2010

City of Palm Springs
Planning Commission
3200 East Tahquitz Canyon Way
Palm Springs, CA 92262

Re: Right-of-Way over Desert Palisades Project, Agenda Item #2, July 28th meeting
Our Claim No.: 380010
Insured: Richard Kluszczyński
Insured Property: Vacant land in Palm Springs, CA (APN 504-030-001)

Dear Planning Commission Members:

By way of introduction, my name is Tamar Schiller and I am the claims attorney assigned to administer this matter. Richard Kluszczyński obtained a title insurance policy from Lawyers Title Insurance Corporation, to which Fidelity National Title Insurance Company ("Fidelity") is the successor-in-interest. I am making this request on behalf of Fidelity, not Mr. Kluszczyński, at this juncture, although we may retain an attorney to represent the insured at a later date if necessary.

We have recently been informed that the Planning Commission may approve a Specific Plan, Tentative Tract Map and Change of Zone for the subdivision project known as Desert Palisades at the meeting scheduled for July 28th. Although the current recommendation is that the Planning Commission continues this agenda item for the next meeting, I am concerned that if it is somehow approved that the City and developer may be exposing themselves to liability and thereby request that everyone looks carefully at the facts before proceeding.

It appears that a right-of-way was granted by the Bureau of Indian Affairs (BIA) in 1968, in which the dominant parcel is known as APN 504-030-001 and the servient parcel as APN 504-030-011. The servient parcel is part of the planned Desert Palisades subdivision. In a letter to Ken Lyon dated July 21, 2010, Emily Hemphill, attorney for the developer, makes several assertions which are incorrect. She claims that the alleged road easement was never granted, and that BIA is unable to find the grant. After receiving this letter I spoke with the same BIA employee as Ms. Hemphill, and was told that the BIA did in fact grant the right-of-way. She also claims that even if the easement were validly granted, it is extinguished. However, 25 CFR § 169.20 clearly states that rights-of-way can only be terminated by written notice from the Secretary of the Interior. Neither the landowner nor the City (nor the County, State or possibly even a court) has the ability to unilaterally declare that the right-of-way has been extinguished.

Ms. Hemphill requests that "no conditions be imposed on the Desert Palisades project which would burden it with an invalid easement and the costs that go along with it." However, this is not a matter that the City has the authority to decide.

City of Palm Springs Planning Commission
July 27, 2010
Page 2

I urge that this agenda item be tabled until we are able to determine the legal status of the right-of-way. I have also enclosed copies of the various documents referred to this letter. If you have any questions please feel free to contact me. Thank you for your time and attention to this matter.

Sincerely,



Tamar Schiller, Esq.
Claims Counsel
Fidelity National Title Group
6601 Frances Street
Omaha, NE 68106
Main Tel: (888) 453-4095
Direct Tel: (402) 970-3949
Fax: (402) 498-7892
Tamar.Schiller@fnf.com

Enc.

Ken Lyon

From: Craig Ewing
Sent: Wednesday, August 11, 2010 5:23 PM
To: Bill Scott (SCOTTINPS@aol.com); Doug Donenfeld; Douglas Hudson (doughud@aol.com); Jon Caffery; Leslie Munger (lesliemunger@yahoo.com); Phillip Klatchko (klatchkolaw@onemain.com); Tracy Conrad
Cc: Ken Lyon; 'roxann'
Subject: FW: Desert Palisades

To All,

The e-mail below regarding Desert Palisades is from Roxann Ploss who asked that I forward a copy to the Commission. Let me or Ken Lyon know if you have any questions, but do not use the Reply All function. Thank you.

Craig A. Ewing, AICP
Director of Planning Services
 City of Palm Springs
 3200 E. Tahquitz Canyon Way
 Palm Springs, CA 92262
 760-323-8269

"Go all the way, then come back."
 - Harley Earl

From: roxann [mailto:riploss@gmail.com]
Sent: Wednesday, August 11, 2010 4:47 PM
To: Craig Ewing
Cc: Jay Thompson
Subject: Fw: Desert Palisades

Hi,

Could I ask please that this be forwarded to all members of the Planning Commission? I'd appreciate it. Hopefully they have addresses other than at City Hall; I have found in the past that they are more likely to read it if it goes to a personal e-mail. In lieu of that, could they get a hard copy?

Thank you so much,

roxann

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

From: roxann
Date: 8/11/2010 4:40:14 PM
To: [steve pognet](#); [ginny foat](#); [ginny foat](#); [Rick Hutcheson](#); [chris mills](#); [lee weigel](#)
Subject: Desert Palisades

Just when you thought it was safe to hold out hope for the future (of PS).....a long comes

8/11/2010

Desert Palisades!!!

After years of repeated warnings, the media have finally confirmed the following:

- 1) Our air, here and throughout Riverside County, isn't just bad; it's health endangering.
- 2) Our water is no longer "ours"; it's shipped in replete with contaminants not just water-borne but from leeching and the air!
- 3) A state mandate will demand we cut our water use by 20%. It's illogical to ask residents to re-school themselves about responsible water usage....only to increase the number of users without limits.
- 4) After decades of continued drought, there is further dangerous settling on the desert floor and in the foothills. This further jeopardizes existing utilities and makes us even more susceptible to any 5.0-plus quake.
- 5) Utility providers inform residents that in order to provide more services to more people, rates must go up....again. Soon, summer rates will outstrip the ability of year-round residents to pay. Winter rates, unaffected by scorching temperatures, are great for seasonal residents....but not much of a consolation for people who sustain the community 24/7.
- 6) Those voicing real concerns about the strip-mine approach to the "Pedregal" development directly across from our Visitors' Center were ignored. Now the ugly scars of terracing and dislocation of boulders are a blight the satellite photos of the area should give ALL of us pause!
- 7) Much time, money and angst went into the guidelines for the Chino Canyon cone. Despite this AND two successful ballot propositions, we're nonetheless faced with a proposal negating those efforts.

When City Council convenes in September, it'll be asked to adopt a proposal threatening us all. Again. The supposed "boon to the economy" simply won't be realized from buyers who'll be part-time residents at best.

Palmera stands empty. Tangerine never sold a unit. And there are other "new" complexes which have been just as unsuccessful. Yet all of these (sold or not) consume water, add more pollution to the Valley. Income from building permits won't BEGIN to offset the costs to human health, animal habitat or the environment in general.

It's timely to follow the teachings of any number of "green" organizations which stress the foolhardiness of demolition vs. The rewards of adaptive re-use of existing buildings. As to our foothills, need it be repeated that the boulder fields are there for a reason???

Indeed, they're a safeguard against devastating floods which occur in sun-baked desert areas. They provide watershed protection for wildlife and much more.

Once upon a time injuries to the environment were absorbed by surrounding areas or given time, self-corrected. But we no longer live in a fairy-tale world. Projects such as "Desert Palisades" will not only hurt us but as other developers who've attempted to build on bedrock to "underground" utilities have painfully discovered aren't cost-effective.

Just say "no".

Ken Lyon

From: Jeff Wein [jeff@tantrika.net]
Sent: Saturday, July 31, 2010 12:20 AM
To: Steve Pougnet; Rick Hutcheson; Lee Weigel; Ginny Foat; Chris Mills
Cc: Ken Lyon
Subject: Keep the Desert Palisades project from getting off the ground!

letters of fire
the Hebrew letters and the Kabbalah

Dear friends on the Palm Springs City Council,

Please do what you can to keep the Desert Palisades project from getting off the ground.

It is a thoughtless project in a sensitive area. The voters of Palm Springs have already gone on record as to their opposition to this kind of development.

Thank you.



Jeff Wein, workshop leader
« letters of fire »
the Hebrew letters and the Kabbalah
<http://feu.tantrika.net>



Ken Lyon

From: bill burgess [billandjohn2@yahoo.com]

Sent: Friday, July 30, 2010 7:39 PM

To: Ken Lyon

Subject: Desert Palisades

Dear Mr. Lyon - as a long time resident and homeowner here in Palm Springs, I beg you to refuse approval for this outlandish property. Remember when the community voted down a similar project not that long ago. It will happen again and cause yet another division in our community. We are surrounded by blighted building sites, including right downtown Palm Springs. Please don't add to the problem and cause a further rift through the community. Thank you, John Hansen

Outreach Meetings For Desert Palisades**Date of Meeting*****Organization meetings***

Committee for the Presevation of Little Tuscany and Chino Cone Neighborhoods	Feb. 8, 2007 Feb. 15, 2007 & June 10, 2010
Palm Springs Economic Development Corp.	June 10, 2010
Friends of the Palm Springs Mountains	Mar. 1, 2007
Chino Cone Neighborhood Association	Aug. 14, 2007
Palm Springs Board of Realtors	Aug. 9, 2007
Palm Springs Hospitality Association	Aug. 10, 2007
Palm Springs Chamber of Commerce	Sept. 5, 2007

Individual meetings

Peter Dangermond, President of the Riverside County Land Conservancy	Apr. 26, 2007
Vic Gainer, President, Palm Springs HOA President's Organization	Jan. 25, 2007
Tom Davis, Director of Planning, Agua Caliente Band of Cahuilla Indians	May 24, 2007
David Luker, General Manager, Desert Water Agency	Aug. 15, 2007
Fred Bell, Executive Officer, Building Industry Association	July 10, 2007
Wes Ahlgren, Director, Coachella Valley Economic Partnership	Apr. 27, 2007
Blake Goetz, Fire Chief, City of Palm Springs	June 26, 2007
Rob Parkins, General Manager, Mount San Jacinto Winter Park Authority (Aerial Tramway)	July 27, 2007
Tim Evans, La Sierra University	Apr. 28, 2007
John Pavelack, Century Vintage Homes	Aug. 8, 2007
John Wessman and Michael Braun, Wessman Development	Oct. 3, 2007
Donald Wexler, Architect	June 15, 2010



August 24, 2010

Craig A Ewing, AICP,
Director of Planning Services
CITY OF PALM SPRINGS
3200 E Tahquitz Canyon Way
Palm Springs CA 92262

Subject: Chatten Brown letter of July 23, 2010 regarding The Desert Palisades project.

Dear Craig:

The city received a second letter on behalf of the Friends of the Desert Mountains concerning Case 5.1154 SP on July 23, 2010 after the FEIR was prepared. This response should be added to the record regarding the Specific Plan application for Desert Palisades. The letter is attached for reference. The majority of the issues raised were previously answered in the FEIR in response to the first Friends of the Desert Mountains letter that was submitted during the CEQA Public Response Period.

I. Assertion that findings cannot be made.

Answer: This comment was previously addressed in Response to Comments E-1, E-2 and E-3. Please see FEIR pages 15-17.

The Desert Palisades Specific Plan (DPSP) on pages 112 through 116 outlines each of the findings and how the project has been designed to be able to make the necessary findings. The Specific Plan text and the resulting implementing project have adopted the Chino Cone ESA-SP standards to a high degree; therefore the findings as expressed in the staff report of June 23, 2010 are accurate and appropriate.

II.A. Assertion that Construction could have Significant Aesthetic Impacts.

Answer: This comment was previously addressed in the FEIR in response to comments E-14, E-15, E-16E-17 and E-18. Please see pages 30-32.

The visual simulations that depict the project fully built out show no significant visual impact, therefore the visual impacts with roadway only will have even less impact.

A nearby example of a long term build out of a project that still has some vacant lots can be seen in the Little Tuscany Estates originally subdivided between 1936 and 1948.

II.B. Assertion that information regarding Retention Basins is not included.

Answer: This question was a portion of Question E-17 and answered in the FEIR. Please see pages 31 and 32.

Further Clarification: the Tentative Tract Map and the Preliminary Hydrology Report for the project delineates the approximate locations and depths of the proposed retention basins. The major retention for the project will actually be underground within the future Line 2 Storm Drain required by the City's Master Plan of Drainage. The final design of these features will be part of the Planning Commission review and approval of the common area plans.

II.C. Inadequate Preservation of the Peninsular Big Horn Sheep Habitat.

Answer: This is a rewording of several questions raised in the Friends original letter, E-7, E-8 and E9. Please see pages 20-23 of the FEIR.

Further Clarification: The property in question falls within the Agua Caliente Habitat Management Plan. The project proponents and consulting biologist have met with Tribal planning staff and the project was modified to be consistent with their plan and meet their approval. The Tribe has offered no further comments or objections to the application.

II.D.1. Assertion that 12,000 s.f. homes are prohibited by the ESA-SP Ordinance.

Answer: This comment was addressed in Response to Comments E-5. Please see pages 19 and 20 of the FEIR.

Further Clarification: The ESA-SP Ordinance suggests a series of development standards including a limit of 6,000 s.f. for a residence if the property is developed without a Specific Plan. It does not specifically prohibit larger dwellings from projects implementing a Specific Plan and leaves open the opportunity of applicants to propose a modified requirement in the Specific Plan document.

II.D.2. Assertion that FEIR Contains Inadequate Information Regarding Undeveloped Open Space.

Answer: This comment was addressed in Response to Comments E-4. Please see pages 17 - 19 of the FEIR.

The public is guaranteed access through the development on trails, streets and the wash areas and will have visual access to the buffer areas between homes.

E. Assertion that the Impacts Associated with Crackamite, RockFrac and Nonex Must be Analyzed.

Answer: A portion of this question was answered in the FEIR Response to Comments E-26. Please see pages 40 and 41 of the FEIR.

Further Clarification: A discussion with the Fire Chief indicates that two of these rock reduction technologies are approvable by the Fire Department who has regulatory authority. The Fire Department now prohibits the use of any explosives including Nonex. The use of these technologies is expected to be limited, particularly as only 10% of the site will be initially graded for the roads and infrastructure and the initial grading analysis shows that all of the boulders taken from that phase of construction will be used in the perimeter berm proposed as required by the ESA-SP Ordinance. Based on the Fire Department's information about Nonex, the use of that technology will be prohibited throughout the Desert Palisades and DWA construction.

F. Assertion that the DWA Water Tanks Could Induce Growth.

Answer: This question was previously responded to from the Friends first letter in the Response to Comments E-33. Please see page 47 and 48 of the FEIR.

G.1. Assertion that FEMA has not Certified the Chino Cone Levee.

Answer: According to Mark Willis, PE of the Riverside County Flood Control District, the Chino Cone Levee was never de-certified. As mentioned by the City Engineer at the last meeting and confirmed in a call to Mr. Willis, P.E. the Chino Creek levee is Provisionally Accredited. RCFC submitted Certification documentation to FEMA in August 2009. The District has submitted all required data to FEMA to finalize the FEMA analysis and is expecting a final FEMA certification documentation in late 2010.

G.2. Assertion that the Project Should be Reviewed for Compliance with Alluvial Task Force Recommendations (AFTF.)

Answer: A task force draft report was released in July, 2010 which generally discusses development on alluvial fans in California. It was produced under the aegis of the University of California San Bernardino by a committee of experts to provide guidance to Counties to help them carefully consider the manner in which development should be approached with a particular aim at sustainable practices. The Draft form of the Model Ordinance Document was submitted to the State for approval, which is still pending. Following State approval, Cities and Counties with alluvial fans in their jurisdictions may consider the Model Ordinance or portions of the Ordinance for local adoption.

While it is not binding on Palm Springs, the City has the opportunity to review the report and consider the various recommendations that are proposed. A review of the background information collected by the Task Force reveals that the City of Palm Springs Subdivision Ordinance and Chino Cone, ESA-SP Ordinance were cited as good examples of how to approach development on alluvial fans.

Among the main recommendations in the Task Force were:

- Properly designed structural solutions such as levees and debris basins to control the meandering nature of fan flooding
- Working with the Federal Emergency Management Agency (FEMA) to map the flood hazards of fans
- Limited or no dependence on mass grading
- Preservation of natural drainage pathways where possible and consideration of debris/sedimentation content of drainage flows in site design.
- Proper anchoring of structures
- Consideration of biology, archaeology, natural systems and the like in a project design

As is apparent from the citations in the Task Force materials, the City of Palm Springs is already operating in concert with the major recommendations found in the report including updated FEMA mapping. The DPSP and the implementing TTM have incorporated all of the City requirements in place through the General Plan, the ESA-SP Ordinance, the Subdivision Ordinance and the City Department of Engineering review and comments.

H. Assertion that the Cumulative Construction Impacts are not considered.

Answer: This question was previously answered in the FEIR in Response to Comments E-22, pages 37 and 38. Additionally Temporary Traffic impacts were addressed in Response to comments E-32, page 47.

Furthermore, Response to Comments for the Sierra Club FEIR letter address this issue in F-7 and F-8, Pages 54-57 in relation to temporary disturbed acreage allowance Response to Comments F-12 page 58 in relation to prohibition of grading and boulder splitting during the 6 month Bighorn Sheep lambing period.

Further Clarification: The roadway grading and boulder splitting and DWA tank grading and boulder splitting will be prohibited from occurring during the same 6 month period. The residential grading and boulder splitting portion of the project will not take place consecutively with either the roadway construction or the DWA tank construction. The roadway construction will be limited to disturbance of 4 acres at one time, the residential construction will be limited to the disturbance of 4 acres at one time and the DWA tank site consists of less than 2 acres total. At no one time will more than 4 acres be actively disturbed, thereby reducing associated temporary impacts during construction to less than significant.

I. Assertion that the EIR fails to Provide Evidence of Infeasibility of Reduced Density Alternative.

Answer: This question was previously answered in Response to Comment E-34 on pages 48 and 49 of the FEIR.

Further Clarification: Friends letter claims that the FEIR has failed to analyze a reasonable range of alternatives because it did not provide a full analysis of a requested reduced density alternative. However, an examination of the FEIR shows that it analyzes the very lowest density allowed on the property by right of zone, that being 1 dwelling unit per 40 acres, resulting in 2 home sites on the Property. This dramatically reduced density alternative is analyzed as part of the "No Project" Alternative (summarized in pages 405 and 406 of the DEIR text).

CEQA requires that the EIR analyze a reasonable range of feasible alternatives, it does not require that every conceivable range of alternatives be considered. Having analyzed an alternative at the very bottom of the allowable development range (2 DU), the very top of the allowable development range (206 DU) and precisely in the middle of the allowable development range (110 DU,) the EIR has fulfilled the requirement to analyze a reasonable range of alternative.

Very truly yours,



Michelle Witherspoon, LEED AP, R.E.
Director of Planning and Environmental Services

Encl: Chatten-Brown Comment Letter Dated 07.23.10

CHATTEN-BROWN & CARSTENS

3250 OCEAN PARK BOULEVARD

SUITE 300

SANTA MONICA, CALIFORNIA 90405

www.cbcearthlaw.com

TELEPHONE: (310) 314-8040

FACSIMILE: (310) 314-8050

E-MAIL:

ACM@CBCEARTHLAW.COM

July 23, 2010

Via Email; Original to Follow

Planning Commission

City of Palm Springs

3200 E. Tahquitz Canyon Way

Palm Springs, CA 92263

Re: Comments on Final Environmental Impact Report for Desert Palisades
Project Case 5.1154; Desert Palisades Specific Plan; and Tentative Tract
Map 35540

Honorable Commissioners:

On behalf of the Friends of the Palm Springs Mountains (Friends), we provide these additional comments on the Desert Palisades Specific Plan and the Final Environmental Impact Report (FEIR) prepared for this project, as well as the additional information provided in the Planning Commission staff report. The proposed Desert Palisades Specific Plan would allow development of 110 residential lots on 100 acres of a 117 acre site that is currently undeveloped desert land within the Chino Canyon, a large alluvial fan at the base of the San Jacinto Mountains (the Project). The Project would also allow construction of two 35 foot high 500,000 or 1,000,000 gallon water storage reservoirs for the Desert Water Authority (DWA), designed to serve existing, approved, and yet to be proposed homes.

Friends greatly appreciates the careful review the Commission gave this Project at the June 23, 2010 Planning Commission hearing, demonstrating your understanding of how sensitive and important this area of the City is. As you know, Friends is a non-profit organization, dedicated to the protection and preservation of Palm Springs' Chino Canyon. Chino Canyon is an alluvial fan formed over thousands of years by periodic torrential rains and violent floods rushing down from the San Jacinto Mountains. These deluges cut deep canyons that eventually broaden into floodplains covered hundreds of feet deep with boulders that were deposited over time. These boulders, many the size of a bus, trap sediments that purify snow and rainwater runoff, and channel water directly into the aquifer which supplies precious water to much of the Coachella Valley.

This unique and beautiful area provides a dramatic transition from desert floor to

the peaks of the San Jacinto Mountains and is visible throughout the Coachella Valley. It is also a fragile habitat that provides a home for many sensitive plant and animal species.

The City has recognized the importance of the Chino Canyon by designating it a Special Policy Area and only allowing development at a density of one residential unit per 40 acres by right of zone. Development at a higher density is allowable only if the open, rural character of the area would be preserved and significant environmental impacts can be eliminated. Because the Desert Palisades Project fails to meet these requirements and would allow yet another development to sprawl into this pristine desert open space, Friends urges the Commission to recommend development at no greater than one unit per 40 acres.

I. Findings for Specific Plan Approval Cannot be Made.

The City's General Plan has designated the Desert Palisades Project site as a part of the Chino Canyon's Special Policy Area because of its environment and visual importance. (General Plan Land Use Element p. 2-8.) Pursuant to the requirements of the General Plan, the City's zoning ordinance has designated the Chino Canyon as an Environmentally Sensitive Area-Specific Plan Zone (ESA-SP). The ESA-SP designation is intended to allow for sensitive development while still preserving the open, rural character of the area. Development of the site at a density higher than one residential unit per 40 acres is only allowed if all of the following findings can be made:

1. The development provided in the specific plan is harmonious with, adapted to, and respectful of, the natural features with minimal disturbance of terrain and vegetation.
2. The development within the specific plan is properly located to protect sensitive wildlife habitat and plant species, and avoids interference with watercourses, arroyos, steep slopes, ridgelines, rock outcroppings and significant natural features.
3. The development provided in the specific plan will be constructed with respect to buildings, accessory structures, fences, walls, driveways, parking areas, roadways, utilities and all other features, with natural materials, or be screened with landscaping, or be otherwise treated so as to blend in with the natural environment.
4. The development provided in the specific plan utilizes landscaping materials, including berms, boulders and plant materials which, insofar as possible,

are indigenous and drought-tolerant native species.

5. The grading of land within the specific plan will be terrain sensitive and excessive building padding and terracing is avoided to minimize the scarring effects of grading on the natural environment.
6. The specific plan preserves open space areas to the maximum extent permitted by this section and in accordance with the conservation plan, and adequate assurances are provided for the permanent preservation of such areas.
7. The specific plan provides the maximum retention of vistas and natural topographic features including mountainsides, ridgelines, hilltops, slopes, rock outcroppings, arroyos, ravines and canyons.
8. The development provided in the specific plan has been adequately designed to protect adjacent property with appropriate buffers to maximize the enjoyment of property within the specific plan and surrounding properties.
9. The development provided in the specific plan will not have a negative fiscal impact on the city or its citizens.

(ESA-SP section 92.21.1.05(D).)

Many of these required findings cannot be made. First, the Project fails to protect rock outcroppings: the EIR acknowledges the Project will remove many rocks from their current locations on the site, which would leave large, unsightly craters. (Finding 2 and 7.) There is no condition in the Specific Plan requiring either the use of only natural materials for construction or screening of the development by natural materials. (Finding 3.) There is no assurance that the Project would adequately blend into the natural environment; the true visual impacts of berms and retention basins have not been included in renderings for the Project. (Findings 1 and 3.) As discussed in more detail below, the Project fails to provide the required amount of undeveloped open space. (Finding 6.)

Because the required findings cannot be made, Friends urges the Commission to recommend denial of the proposed Project.

II. The FEIR Fails to Adequately Respond to Many of the Project Impacts Raised in Comments.

A. Construction Could Have Significant Aesthetic Impacts.

The aesthetic impacts of the 10 to 50 year construction period for the Project have not been adequately analyzed. The EIR contains no renderings of what the Project site would look like with only the infrastructure and no housing in place, which could be the configuration of the site for many years due to the current downturn in the housing market. Development on even a small portion of the Desert Palisades site could have significant aesthetic impacts due to the high boulder content. The EIR completely fails to analyze the visual impacts of removing a boulder the size of a house to construct the infrastructure. At the June 23, 2010 Planning Commission hearing, a consultant for the developer acknowledged that the timing and visual impacts they have assessed did not take into account what would happen if they "hit the mother lode of boulders." This is exactly what has happened at the directly adjacent Tuscany Heights site. The number and size of the boulders encountered on the Tuscany Heights site significantly lengthened the construction timeline and severely scarred the hillside with giant craters. Although the Desert Palisades Project does not include mass grading, many extremely large boulders would need to be removed before any infrastructure could be installed. The large craters that would remain after these boulders are removed would result in a significant eyesore that has not been disclosed in the EIR.

Additionally, the renderings included in the EIR fail to show the boulder berms proposed as part of the Project. The Specific Plan does not include a limit on the height or width of such berm, which could end up being massive due to the numerous and large boulders that would need to be relocated to the berm to allow for construction. The staff report does recommend future Planning Commission approval of any boulder berms as part of a grading plan; however, renderings of the berms and the Project site with only infrastructure constructed should be prepared now to analyze all potentially significant aesthetic impacts as required by CEQA.

B. Information Regarding Retention Basins Has Not Been Properly Disclosed.

The FEIR contains inadequate information regarding the retention basins proposed for the Project site: how many will there be; where exactly will they be located; how deep will they be? The developer provided inadequate responses to the Commission's questions regarding the retention basins, estimating they would probably be two to three feet deep, but giving no guarantee this is all that would be required.

The FEIR's response to comments claims the retention basins would be incorporated into the site's naturally appearing open spaces, but without renderings that include the retention basins or specific conditions of approval regarding the size, number and location of the retention basins, there is no support for this claim.

C. Inadequate Preservation of Peninsular Bighorn Sheep Habitat.

The response to comments fails to adequately respond to Friends' comments regarding the inadequate amount of Peninsular Bighorn Sheep habitat preservation. The Project site is located on land within the Agua Caliente Indian Band of Cahuilla Indians reservation. Areas within the reservation are covered by the Habitat Conservation Plan adopted by the Tribe (Tribal Habitat Conservation Plan or THCP). The THCP designates land within the plan area as either Mountains and Canyons Conservation areas or Valley Floor Conservation areas. The THCP also includes a designated Peninsular Bighorn Sheep Use area. No development or site disturbance is allowed in the designated Peninsular Bighorn Sheep Use areas. Development in the designated Mountains and Canyons Conservation areas is limited to 15 percent, leaving 85 percent of the habitat undisturbed.

A small portion of the southwestern corner of the Project site is within the THCP's designated Peninsular Bighorn Sheep Use area. The Project proposes to locate the DWA water storage tanks and several residential lots within the Peninsular Bighorn Sheep Use area instead of preserving 100 percent of this land as required by the THCP. The ecological consultant for the Project has opined that the area on the Desert Palisades site currently designated for Peninsular Bighorn Sheep is not the appropriate habitat for the species and the designation should be removed. The FEIR indicates that the Tribal staff has approved this proposed change to the THCP. What the FEIR fails to address is the fact that even if the southern portion of the Project site is no longer within the Peninsular Bighorn Sheep Use area, it would still be designated as a Mountains and Canyons Conservation area, requiring 85 percent instead of 100 percent conservation. Although a precise delineation of development and undisturbed areas has not been calculated, it appears the Project would allow site disturbance on more than 15 percent of the area designated as a Mountain and Canyons Conservation area.

D. The Project Would Violate the ESA-SP Ordinance.

1. 12,000 Square Foot Homes Are Prohibited by the ESA-SP Ordinance.

The ESA-SP ordinance specifically limits the size of residences to 6,000 square feet, regardless of the size of the lot. (ESA-SP section 92.21.1.04.) The Desert Palisades Specific Plan would allow residences of up to 12,000 square feet if two lots are combined. Not only does this allowance violate the specific requirements of the ESA-SP, it could also result even more significant aesthetic impacts from the development of very large houses, much more visible from scenic locations.

2. The FEIR Contains Inadequate Information Regarding Undeveloped Open Space.

The ESA-SP requires the Project include 35 percent undeveloped open space. (ESA-SP section 92.21.1.04(B)(2).) Undeveloped open space is limited to natural and re-naturalized land and hiking trails; this land must also be dedicated for public access. Under the ESA-SP, Desert Palisades is required to preserve 40.95 acres of the site (35% of 117 acres) as undeveloped open space. In response to Friends' comment regarding inadequate undeveloped open space for the Project, the FEIR states that there would be open space easements for the areas between the residential lots, which should be included in the calculation of undeveloped open space, as should what it refers to as re-naturalized parkways.

The Specific Plan does propose open space easements for the areas between the residential lots, but does not require it as a condition of approval. Additionally, it is unclear whether there would be public access to these areas (a requirement for undeveloped open space designation) even if an easement is obtained. Thus, there is inadequate information to ascertain whether these areas should be considered undeveloped open space.

The same is true for the re-naturalized parkways. It is unclear what re-naturalized parkways are and whether these areas are already included in the undeveloped open space calculations for Lots A through G. The Specific Plan does not include discussion of re-naturalized parkways, so the acreage of these areas cannot be adequately assessed.

E. The Impacts Associated with Crackamite, RockFrac and Nonex Must be Analyzed.

The FEIR states that instead of using a rock crusher, the Project would rely on boulder implosion compounds such as Crackamite, RockFrac, or Nonex. These compounds are poured into holes drilled in large boulders and cause the boulders to split into pieces over a several hour period. The environmental impacts associated with these methods of rock breakage could be substantial and thus must be evaluated in a recirculated draft EIR to allow the public the opportunity to comment. (Public Resources Code section 21092.1.)

The potential for significant impacts was shown in an experimental use of boulder implosion compounds conducted by the developer of the Pedregal project, also located in Chino Canyon, and the City's Fire Chief. The use of Nonex caused boulder fragments to shoot erratically through the air; one of the fragments crashed through the roof of a neighboring home nearly hitting a resident. It is Friends' understanding that after this experiment, the Fire Chief vowed to never again issue a permit for boulder implosion compounds.

The noise and air quality impacts of these compounds could also be significant. Additionally, although the FEIR includes a one sentence conclusion that these compounds would not result in environmental hazards, evidence is required to support that conclusion.

F. The DWA Water Tanks Could Induce Growth.

The response to comments states that the DWA water tank would not be growth inducing since they have been included in the DWA's planning since 1980. That the construction of water tanks in the general Project vicinity were included in the 1980 DWA General Plan does not mean they would not induce growth. First, there have been several policy changes regarding this area of Palm Springs since 1980, most significantly the implementation of the ESA-SP ordinance that places many new limits on allowable development in the area. Thus, the planned development these tanks were intended to serve in 1980 may no longer be allowed.

Additionally, while some of the capacity of these tanks is designed to serve this Project, existing homes, and other approved Projects, the EIR acknowledges the water tanks would serve at least 600 homes that have not yet been proposed. (DEIR p. 392.) By removing a barrier to development of the surrounding undeveloped lands, the construction of these water tanks could induce development. The size of the tanks should

be reduced so that they serve only existing and approved development. If any additional growth is approved in the future, additional tanks could be added at that time.

G. The EIR Fails to Adequately Analyze Flooding Impacts.

1. Project Approval Should be Conditioned Upon FEMA Certification of the Chino Cone Levee.

The Project site is protected from flooding risks in part by the Chino Cone Levee. The City and the Riverside County Flood Control agency were recently notified of the need to evaluate this levee's compliance with current FEMA standards. If the Chino Cone Levee is not re-certified, portions of the Desert Palisades site could be within the 100 year flood plain. A member of Friends contacted the Riverside County Flood Control agency last week and was informed that the Chino Cone Levee has not yet been re-certified as meeting these standards. In contrast, the developer has represented to the Planning Department staff that this re-certification has already taken place. The developer should be required to provide evidence to the Commission to provide certainty on whether or not the levee has been re-certified. If the developer is unable to provide concrete evidence that the re-certification has taken place, the EIR should analyze and mitigate the potential impacts of the Project site being within a 100 year flood plain, or approval of construction on this site should be conditioned upon FEMA certification of the Chino Cone Levee.

2. The Project Should be Reviewed for Compliance with Alluvial Fan Task Force Recommendations.

The Project would be constructed on the Chino Canyon alluvial fan. The hazards associated with development on alluvial fans are so great that California passed Assembly Bill 2141 in 2004, requiring the development of an Alluvial Fan Task Force. The designated mission of the Task Force is to study alluvial fans and prepare recommendations relating the management of alluvial fan floodplains. The Alluvial Fan Task Force released its draft findings and recommendations in April of 2010. (Alluvial Fan Task Force Findings and Recommendations Report, found at aftf.csusb.edu/documents/FR_PUBLICreview.pdf, p. 28-29, incorporated by reference.)

The Task Force found that merely considering impacts on areas shown in the Flood Insurance Rate Maps as 100 year floodplains is not adequate to analyze potential flooding impacts. The 100-year flood event and the 100-year flood hazard boundary depicted on these maps "were never intended to imply that these are the only areas where flood hazard risks may be present. Unfortunately, it has become a common

misconception and mapped floodplains are often misconstrued as definite boundaries.” (*Id.* at pp. 28-29.) The EIR for the Project relies upon the Flood Insurance Rate Maps to determine that the site would not have significant flooding impacts. (DEIR p. 215.) Instead, the EIR should take a more comprehensive look at the area as recommended by the Task Force: “Local flood management agencies should consider higher levels of flood management protection above the 100-year FEMA regulatory standard in planning for development in alluvial fan areas.” (aftf.csusb.edu/documents/FR_PUBLICreview.pdf, p. 28-29.)

H. Cumulative Construction Impacts.

The EIR fails to adequately analyze and mitigate the cumulative construction impacts of this Project and the seven other developments proposed or approved within a one mile radius of the site. There is no assessment of combined air emissions if all of these potential projects are constructed at the same time. The updated analysis in the staff report dismisses this potential impact, claiming the development of infrastructure would have little impact. First, there is inadequate evidence to support this claim. Additionally, the Project would allow construction of 25 homes at one time, which could occur at the same time as the several other development projects in the area (with the exception that Boulders and Crescendo projects could not be constructed at the same time). This potential simultaneous construction could result in significant cumulative air quality impacts that have not been analyzed.

Likewise, traffic impacts of cumulative construction activities have not been analyzed. While the number of daily trips for construction traffic may be less than the number of trips for the completed residential developments, construction traffic could cause additional impacts due to the slow speed of many of the vehicles and the hazards associated with construction materials falling off of hauling trucks.

I. The EIR Fails to Provide Evidence of Infeasibility of Reduced Density Alternative.

In comments on the draft EIR, Friends requested a reduced density alternative be analyzed. In response to Friends request, the FEIR claims that a reduced density alternative is not feasible and thus no analysis is required. However, the FEIR fails to provide any evidence regarding the infeasibility of a reduced density alternative. By failing to analyze a reduced density alternative, which would reduce air quality, biology, and noise impacts without increasing aesthetic impacts, the EIR has failed to analyze a reasonable range of alternatives. (*Laurel Heights Improvement Association v. Regents of the University of California* (1993) 47 Cal.3d 376.)

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Conclusion

For all of these reasons, Friends urges the Commission to recommend denial of the proposed Project. Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy Minter".

Amy Minter