



## CITY COUNCIL STAFF REPORT

DATE: March 7, 2012

PUBLIC HEARING

SUBJECT: APPEAL OF THE PLANNING COMMISSION'S DENIAL OF A REQUEST TO WAIVE OBLIGATIONS TO PERFORM UTILITY UNDERGROUNDING AS REQUIRED BY THE MUNICIPAL CODE AND APPROVED CONDITIONS OF APPROVAL FOR CASE 5.0866-B, PDD 267; TRACT 31525; A 70-LOT SUBDIVISION LOCATED ON THE EAST SIDE OF SUNRISE WAY BETWEEN SAN RAFAEL DRIVE AND THE WHITEWATER RIVER.

FROM: David H. Ready, City Manager

BY: Department of Planning Services

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### SUMMARY

The City Council will consider an appeal by K. Hovnanian Companies seeking to overturn the Planning Commission's denial of a request to waive conditions of approval requiring utility undergrounding associated with the Four Season's Development. The appellant is seeking relief from the requirement to complete utility undergrounding that extends across Lot G of Tract Map 31525, an open space and landscape lot.

### RECOMMENDATION:

1. Open the public hearing and receive public testimony.
2. The City Council may,

Adopt Resolution No. \_\_\_\_ "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S DENIAL OF A REQUEST TO WAIVE OBLIGATIONS TO PERFORM UTILITY UNDERGROUNDING ASSOCIATED WITH THE FOUR SEASON'S DEVELOPMENT; CASE 5.0866-B, PDD 267, TM 31525; A 70-LOT SUBDIVISION LOCATED ON THE EAST SIDE OF SUNRISE WAY BETWEEN SAN RAFAEL DRIVE AND THE WHITEWATER RIVER."

ITEM NO. 1B

**PRIOR ACTIONS:**

On January 11, 2012, the Planning Commission voted 6-0 to deny the applicant's request to waive Engineering Condition Number 33 related to a requirement to complete utility undergrounding in accordance with the Municipal Code.

On January 26, 2012, the City received an appeal request from the applicant of the Planning Commission's action of January 11, 2012.

**BACKGROUND:**

On January 18, 2006, the City Council approved tentative tract map 31525 for the subdivision of approximately 24-acre land into 70 single family residential lots and two lettered lots along with the dedication of seven-acre parcel for park purposes. Tract 31525 occupies a triangular portion on the easterly two-thirds of two other tracts; 30054 and 30058. Tracts 30054 and 30058 were previously approved as part of the larger Four Seasons Planned Development Districts 267 and 269.

On September 20, 2010, K. Hovnanian Companies, the applicant, submitted an application requesting a waiver from Engineering Conditions #32 and #33; these conditions required the developer to perform undergrounding of overhead utilities at the Four Seasons Development. Those conditions read, as follows:

Eng. 32: *All proposed utility lines shall be installed underground. The undergrounding of the overhead utilities shall occur in two phases: Phase 1 shall be the residential portion of the site, and Phase 2 shall be the park site.*

Eng. 33: *In accordance with Chapter 8.04.401 of the City of Palm Springs Municipal Code, all existing and proposed electrical lines of thirty-five thousand volts or less and overhead service drop conductors, and all gas, telephone, television cable service, and similar service wires or lines, which are on-site, abutting, and/or transecting, shall be installed underground unless specific restrictions are shown in General Orders 95 and 128 of the California Public Utilities Commission, and service requirements published by the utilities. The existing overhead utilities across the property shall be installed underground. A detailed plan approved by the owner(s) of the affected utilities depicting all above ground facilities in the area of the project to be undergrounded, shall be submitted to the Engineering Division prior to approval of any grading plan building permit. Undergrounding of applicable overhead utility lines on the residential portion shall be completed prior to issuance of a certificate of occupancy. Undergrounding of applicable overhead utility lines on the park site shall be completed in conjunction with the certificate of occupancy for the last construction phase, or eight homes, whichever is larger.*

The conditions in question were imposed by the Public Works Department in accordance with requirements of Chapter 8.04.401 of the City of Palm Springs Municipal Code. Because the City included condition numbers 32 and 33 regarding the utility undergrounding, their deletion must be reviewed by the Planning Commission. The City's requirement for undergrounding utilities (Chapter 8.04.401 of the Municipal Code) was enacted by Ordinance 1306 on September 7, 1988. The Ordinance states:

*"No certificate of occupancy for new buildings or structures shall be issued unless or until 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, are 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. (Ord. 1316 § 1, 1988; Ord. 1306 § 1, 1988; Ord. 1124 § 1 (part), 1981)"*

In the letter of September 25, 2011, the applicant requests the City waive Engineering Condition No. 33 for the following specific reasons:

1. The applicant entered into a land swap with the Desert Water Agency (DWA) in which the applicant was able to develop 3 additional lots within Tract 30058 in exchange for conveying Lot G of Tract 31525 to DWA. Thus, the overhead utility lines in question across Lot G are on property no longer owned by the applicant; and
2. Southern California Edison (SCE) is resisting the applicant's efforts to comply with the City's requirement to underground the overhead utility lines due to a lack of ultimate street improvements along the extension of Sunrise Way and potential future impacts to the utilities to be installed underground. Thus, SCE requested indemnification by the applicant, in addition to financial securities to protect SCE from future relocation costs when the Sunrise Way extension was completed.

The applicant has expressed that SCE's requirements are *"unreasonable and unfair expectations to place on K. Hovnanian in order to satisfy a condition that does not have any impact on our development."*

Staff identified the following specific reasons not to grant the applicant's request:

- K. Hovnanian remains obligated to fulfill its conditions of approval regardless of its decision to sell Lot G to DWA, and it understood at the time it sold Lot G to DWA that the issue of dedicating Lot G to the City for park land and the associated utility undergrounding across it remained unresolved. (See attached e-mail communication dated July 20, 2009, from Marcus Fuller to James Crandall).
- The cost to underground utilities in the subdivision, including existing facilities, is the responsibility of K. Hovnanian, and the obligation was clearly identified in the conditions of approval accepted by K. Hovnanian.

APPEAL AND STAFF ANALYSIS:

In its appeal letter, the applicant outlined 5 specific arguments to support its appeal. Those arguments are stated below followed by staff's response and analysis of each.

Argument 1 "Park Dedication":

*"...Condition No. 33...provided, among other things, that 'Phase 2 shall consist of undergrounding overhead utilities within the dedicated park site...Given that Lot G was not dedicated to the City as a park on the final map...the requirement to underground the overhead utilities 'within the dedicated park site' should be null and void because a dedicated park site does not exist within Tract 31525...Quimby fees were paid in full for all 70 lots associated with Final Map 31525 in compliance with the Conditions of approval...Since K. Hovnanian paid the fees in lieu of dedicating parkland, the requirement to dedicate parkland should be invalid."*

The inclusion of the words "within the dedicated park site" was merely a means of describing Lot G of TTM 31525 where the undergrounding of overhead utilities was located, which were deferred by Council to be undergrounded at a later date defined as "Phase 2". The fact that Lot G was not dedicated to the City as a park site does not change the fact that pursuant to PSMC 8.04.401 the existing overhead utility lines extending across the property subdivided as Lot G of TTM 31525 are required to be installed underground. This argument relates to the issue of dedicating Lot G to the City as a park site. In lieu of dedicating Lot G to the City as a park site, Quimby fees were paid by the applicant. This fact does not change the applicant's requirement to underground the existing overhead utilities that extended across Lot G of TTM 31525, pursuant to PSMC 8.04.401.

Argument 2 "Safety":

*"Southern California Edison issued us a letter stating in essence that they would not agree to install their electric facilities underground until such time that...(i)Sub-grade on proposed streets or roads have been established and SCE inspections have been received; (ii)...top of curb and property lines are provided; (iii)All electric facilities can be installed at verifiable final grades...(iv)SCE will not energize the electrical system without the curb and gutter installed..."*

*The property adjacent to Lot G is not developed...The above ground power lines are adjacent to this undeveloped property...Requiring K. Hovnanian to underground these overhead utility lines before there are curb and gutter is unnecessary and an undue burden to K. Hovnanian...this underground requirement should be imposed on the adjacent development...or on the City itself if/when they develop the land...This would be consistent with the intent and collection of the Quimby fees which is for the 'full' improvements of park land."*

P L A N N E D                      D E V E L O P M E N T                      D I S T R I C T

Staff has not had any conversations with SCE regarding the City's requirements to underground the existing overhead utility lines extending across Lot G. Thus, staff cannot verify the applicant's statements asserting to certain logistical challenges for having SCE complete the required utility undergrounding. However, staff is certain that the City and SCE could come to an agreement that protects SCE's liability for future relocation costs (if any) across Lot G.

The applicant also continues the argument relating to its payment of Quimby fees and that those fees adequately compensate the City for its future costs to develop park sites (which in the case of Lot G would require the City to pay for undergrounding the existing overhead utility lines). The fact is that all developers who have existing overhead utility lines extending across their property are required to install those utilities underground pursuant to PSMC 8.04.401 (unless specifically waived by Council), **and** to pay the appropriate Quimby fees pursuant to City Ordinance No. 1632.

Argument 3 "Transfer of Ownership":

*"In August 2009 K. Hovnanian conveyed title of Lot G of Tract 31525 to the Desert Water Agency...This was done so with the City's knowledge...Staff presented this 'land swap' as a one-sided benefit for financial gain to K. Hovnanian and stated that 'K. Hovnanian financially gained from Lot G twice with the selling of their homes and the sale of Lot G and when the City acquires Lot G from the Desert Water Agency we will have to pay for the undergrounding of the utilities.' We vehemently deny those statements as they are inaccurate and were made to persuade the Commission's decision to deny our request...Not only is the financial aspect of our transaction with the Desert Water Agency irrelevant but the statement that the City would have to pay for the undergrounding if the City acquired Lot G is also irrelevant. However, those were key factors in the Commission's decision to deny our request. I reiterate the statements...that the Quimby fees that K. Hovnanian did pay in full were collected for the future acquisition of park land and 'Full Improvement' of parkland."*

The City was made aware by K. Hovnanian of its intent to sell Lot G to DWA sometime in July 2009. However, at that time, staff advised the applicant that its decision to sell Lot G to DWA will not change the applicant's responsibility to underground the existing overhead utilities extending across Lot G; (see attached e-mail communication dated July 20, 2009, from Marcus Fuller to James Crandall).

The assertion by the appellant that "staff presented this 'land swap' as a one-sided benefit for financial gain to K. Hovnanian and that 'K. Hovnanian financially gained from Lot G twice with the selling of their homes and the sale of Lot G and when the City acquires Lot G from the Desert Water Agency we will have to pay for the undergrounding of the utilities'" is incorrect.

During the Planning Commission's questioning of staff, Commissioner Roberts made comments and requested staff clarification of the facts that the applicant: "...traded the

*property for higher density...they then made money by selling the parcel, and when they did that they didn't make an agreement with the new buyer to take down the poles, even though they had agreed...they would remove the poles from the entire property, so they're coming back now after they've benefitted from the property twice and they're trying to get out of undergrounding, is that correct?"*

These were conclusions reached by Commissioner Roberts given the facts as they were presented to the Commission by staff. The applicant continues the argument relating to their payment of Quimby fees. The fact is that all developers who have existing overhead utility lines extending across their property are required to install those utilities underground pursuant to PSMC 8.04.401 (unless specifically waived by Council), **and** to pay the appropriate Quimby fees pursuant to City Ordinance No. 1632.

Argument 4 "Quimby Fees":

*"Condition 7...required K. Hovnanian to either pay parkland mitigation or dedication. The fees for such would be for the 'cost to fully improve parkland.' However, the Planning Commission stated as one of their reasons for denying our request was 'if K. Hovnanian doesn't fulfill the condition then we will need to when we acquire the land from the Desert Water Agency and develop it into a park.'...Requiring K. Hovnanian to underground the overhead lines that 1) don't pertain per the City's waiver of the dedication requirement, and 2) are located in undeveloped land and serve no purpose to be undergrounded is in direct conflict with the State's definition for the collection of Quimby fees. Attempting to require us to underground these lines is an improvement on this lot...If K. Hovnanian is forced to underground these lines by the City...,no work will start without a reimbursement agreement in place to have 100% of all costs...reimbursed to K. Hovnanian."*

The applicant continues the argument relating to their payment of Quimby fees. The fact is that all developers who have existing overhead utility lines extending across their property are required to install those utilities underground pursuant to PSMC 8.04.401 (unless specifically waived by Council), **and** to pay the appropriate Quimby fees pursuant to City Ordinance No. 1632. California Government Code Section 66477 defines the Quimby Act. Section (a)(3) of the Quimby Act states:

*"The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or Community Park or recreational facilities to serve the subdivision"*

Section (a) of the Quimby Act states:

*If the subdivider provides park and **recreational improvements** to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit against the payment of fees or dedication of land required by the ordinance. (Emphasis added).*

# P L A N N E D                    D E V E L O P M E N T                    D I S T R I C T

The Quimby Act allows for the City to impose adequate fees for the development of new parks, or for rehabilitation of existing parks. The applicant's assertion that the undergrounding of overhead utility lines across Lot G (a open space lot identified on the City's General Plan as a potential park site) constitutes an "improvement" for which the applicant is otherwise due reimbursement, is incorrect. The Quimby Act allows a subdivider a credit for "recreational improvements" made to dedicated land for park purposes. It is staff's opinion that utility undergrounding does not constitute a recreational improvement for which a developer may receive a credit against Quimby fees paid. Further, the obligation to perform the utility undergrounding is unrelated to the Quimby Act, and is required pursuant to the City's Building Codes, PSMC 8.04.401.

## Argument 5 "Condition Manipulation":

*"In the conditions of approval that were provided by Staff with the Agenda for the Planning Commission meeting on January 11, 2012, Staff had manipulated the language from Condition No. 33 instead of restating it verbatim from the final conditions that were approved by the City Council on May 3, 2006. In comparing the two very differently worded conditions, it appears that it was made in an attempt to intentionally mislead or manipulate the Planning Commission into denying of our waiver request. There is language that we identify in this appeal pertaining to the 'dedication of parkland' that in Staff's revised but not approved conditions is omitted as well as the entire paragraph being re-worded in what can only be considered in the City's favor."*

The condition was not worded differently, the language and contents of conditions #32 and #33 are consistent with the requirements of the ordinance. At the public hearing meeting of December 14, 2005, a minor revision was made to provide clarifications. The request for an unambiguous language in the condition was made by Ms. Margo Thibeault of MSA Consulting; she represented K. Hovnanian at the meeting.

## CONCLUSION

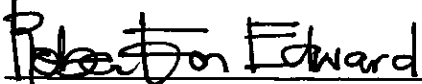
After receiving public testimony, the City Council may adopt the attached resolution denying the appeal and upholding the Planning Commission's denial. Should the Council determine sufficient evidence has been presented to overturn the Planning Commission's denial; a resolution of approval would be presented at the next regular City Council meeting.


## NOTIFICATION


A notice of the scheduling of the appeal hearing was provided to the appellant on February 27, 2012.


FISCAL IMPACT:

In the event the Council considers overturning the Planning Commission's denial, then a potential fiscal impact may occur equal to the cost to perform the utility undergrounding across Lot G. This fiscal impact would only occur at the time the City acquires and develops Lot G as the Whitewater Park.

  
For Roberton Edward  
Craig A. Ewing, AICP  
Director of Planning Services

  
~~Marcus L. Fuller~~ DAVID BARAKIAN  
~~Assistant~~ Director of Public Works

  
Thomas J. Wilson, Asst. City Manager

  
David H. Ready, City Manager

Attachments:

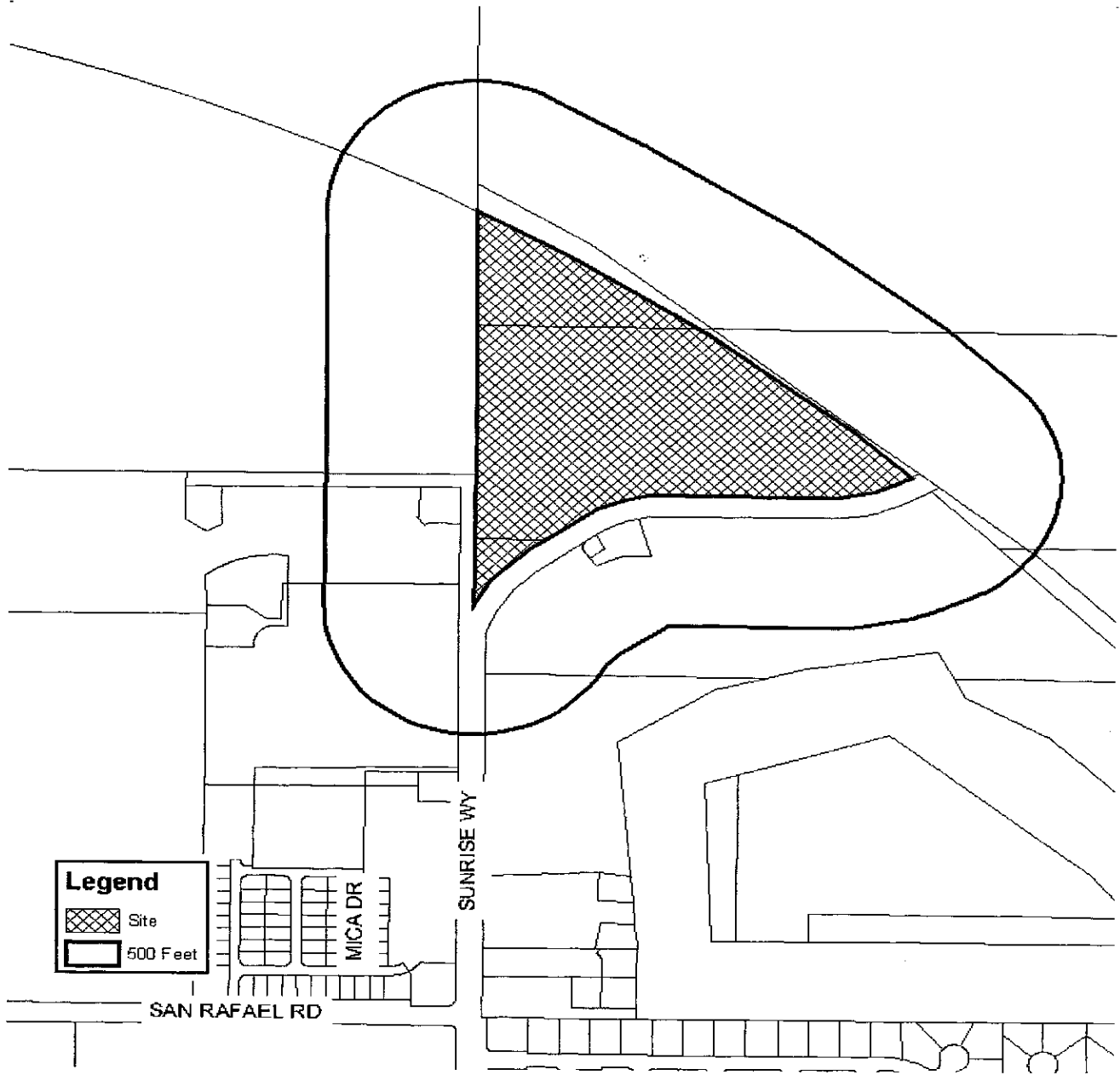
1. Vicinity Map
2. Draft Resolution
3. Appeal letter dated January 16, 2012
4. Excerpt of Planning Commission Draft Minutes dated January 11, 2012
5. Planning Commission Staff Report, Resolution No. \_\_\_\_\_
6. Request letter dated September 25, 2011
7. Request letter dated September 30, 2009
8. Agreement As To Park Land Dedication – TM 31525
9. E-mail dated July 20, 2009, from Marcus Fuller to James Crandall

PLANNED DEVELOPMENT DISTRICT





# Department of Planning Services Vicinity Map



## CITY OF PALM SPRINGS

**CASE NO:** TTM 31525

**APPLICANT:** FOUR SEASONS AT  
PALM SPRINGS

**DESCRIPTION:** Appeal of Planning Commission's decision to deny a request to waive obligations to perform utility undergrounding for Tract Map 31525 at the Four Seasons Development by K. Hovnanian Companies.

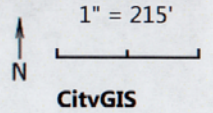


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CitvGIS

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S DENIAL OF A REQUEST TO WAIVE OBLIGATIONS TO PERFORM UTILITY UNDERGROUNDING ASSOCIATED WITH THE FOUR SEASON'S DEVELOPMENT BY K. HOVNANIAN COMPANIES; CASE 5.0866-B, PDD 267, TM 31525; A 70-LOT SUBDIVISION LOCATED ON THE EAST SIDE OF SUNRISE WAY BETWEEN SAN RAFAEL DRIVE AND THE WHITEWATER RIVER

WHEREAS, K. Hovnanian, applicant, has requested an amendment to the previously approved Tract 31525, within Planned Development District 267, to waive obligations to perform utility undergrounding as required by the conditions of approval; and

WHEREAS, on January 14, 2012, a meeting was held by the Planning Commission in accordance with applicable law; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA Guidelines), the proposed project is exempt under Section 15061(c) (General rule); and

WHEREAS, on March 7, 2012, a public hearing was held by the City Council in accordance with applicable law to consider the appeal by K. Hovnanian Companies; and

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

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

Section 1: Chapter 8.04.401 "New Construction" of the Palm Springs Municipal Code states:

No certificate of occupancy for new buildings or structures shall be issued unless or until 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, are 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.

Section 2: Chapter 8.04.401 "New Construction" of the Palm Springs Municipal Code was enacted by Ordinance 1306, adopted by the City Council on September 7, 1988, has existed and is unchanged since its original adoption.

Section 3: Utility undergrounding requirements have been applied equitably and fairly on development projects throughout the City of Palm Springs since the adoption of Ordinance 1306.

Section 4. The City Council hereby upholds the Planning Commission decision to deny K. Hovnanian's request to waive obligations to perform utility undergrounding as required by the Municipal Code and conditions of approval Nos. 32 and 33 for Tract 31525.

ADOPTED this 7th day of March 2012.

ATTEST:

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David H. Ready  
City Manager

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James Thompson, City Clerk



RECEIVED  
CITY OF PALM SPRINGS

2012 JAN 26 PM 1:51

JAMES THOMPSON  
CITY CLERK

SENT VIA EMAIL

January 16, 2012

Mr. Steve Pougnet, Mayor  
City of Palm Springs  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

RE: **K. Hovnanian's Four Seasons at Palm Springs Development  
APPEAL OF PLANNING COMMISSION DECISION  
Request for Condition Waiver of Condition of Approval No. 33**

Mr. Pougnet:

Pursuant to the City of Palm Springs' Municipal Code Section 2.05 we are hereby submitting our request for the appeal of the Planning Commission decision on Wednesday January 11, 2012. In accordance with Section 2.05.030 of the Municipal Code we provide the following:

**Appellant Information:**

K. Hovnanian's Four Seasons at Palm Springs, LLC  
2525 Campus Drive  
Irvine, CA 92612  
Office: (949) 222-7700

**Specific Action Appealed:**

Item 2b. PDD 267-TM 31525 of the  
Planning Commission agenda dated 1/11/2012 at 1:30pm

**Grounds for the Appeal:**

1. Park Dedication

- a. In May 2006 City Council approved our conditions for Tentative Tract Map 31525 (Case No. 5.0866-B). Condition No. 33 of these conditions provided, among other things, that "Phase 2 shall consist of undergrounding overhead utilities *within the dedicated park site*. All undergrounding of overhead utilities shall be completed prior to issuance of any Certificate of Occupancy in the final construction phase, or final eight residences, whichever is greater." (emphasis added)
- i. In a letter from the City Attorney dated June 16, 2008 the City Attorney stated "I would also note that the City typically requires dedication of streets, well sites and parklands at the time of recordation of a final map. As you are aware, the City allowed the final map for Tract 31525 to record without requiring a park dedication and that as result thereof, the City will not enforce the park dedication requirement set forth in the conditions of approval. The City will, however, expect that the requirements related to the payment of park fees be performed as required in the conditions of approval." Given that Lot G was not dedicated to the City as a park on the final map and the City Attorney

acknowledges that the City would not enforce the park dedication requirement set forth in the conditions of approval, the requirement to underground the overhead utilities "within the dedicated park site" should be null and void because a dedicated park site does not exist within Tract 31525.

- ii. Quimby fees were paid in full for all 70 lots associated with Final Map 31525 in compliance with the Conditions of approval.
- iii. See Item 5 below regarding Quimby fee collection for the mitigation in lieu of dedicating parkland.
- iv. Condition No. 40 states "The applicant shall grant all rights, title and interest in Lot "G" to the City of Palm Springs on the final map, free of any covenants, conditions..."

On May 3, 2006 K. Hovnanian and the City of Palm Springs entered into a tolling agreement regarding the foregoing condition as well as Condition No. 7 due to the City requiring parkland mitigation (fees) and the dedication of parklands. Requiring that K. Hovnanian fulfill both these conditions would essentially be "double dipping" by the City (i.e., K. Hovnanian should have only been conditioned to *either* pay the fees *or* dedicate the parkland, not both). Therefore, only one of the conditions should have applied. Since K. Hovnanian paid the fees in lieu of dedicating parkland, the requirement to dedicate parkland should be invalid.

## 2. Safety

- a. On August 4, 2009 as we were approaching build out of Tract 31525 and discussions of undergrounding the utilities were ongoing with the City and K. Hovnanian, Southern California Edison issued us a letter stating in essence that they would not agree to install their electric facilities underground until such time that:
  - i. Sub-grade on proposed streets or roads have been established and SCE inspections have been received;
  - ii. Survey grade stakes at top of curb and property lines are provided at time of SCE inspections;
  - iii. All electric facilities can be installed at verifiable final grades and final locations; and
  - iv. SCE will not energize the electrical system without the curb and gutter installed; nor will SCE pull cable without specific barricades and/or curb and gutter plugs, etc.
- b. The property adjacent to Lot G is not developed and appears to be years away. The above ground power lines are adjacent to this undeveloped property and as stated above by SCE, they would not cable or energize any system that does not have final curb & gutter and grades established.

Requiring K. Hovnanian to underground these overhead utility lines before there are curb and gutter is unnecessary and an undue burden to K. Hovnanian.

As stated to Planning Commission but ignored, this underground requirement should be imposed on the adjacent development when they complete the improvements in the area or on the City itself if/when they develop the land that was dedicated as a park site by another Developer and that is adjacent to Lot G

of Tract 31525. This would be consistent with the intent and collection of the Quimby fees which is for the "full" improvements of park land.

### 3. Transfer of Ownership

- a. In August 2009 K. Hovnanian conveyed title of Lot G of Tract 31525 to the Desert Water Agency in exchange for its conveyance of Lot 178 of Tract 30058 to K. Hovnanian. This was done so with the City's knowledge that K. Hovnanian was executing this "land swap" in an effort to build 3 more homes on Lot 178 and so that the Desert Water Agency would have a larger parcel in which to build future wells.
- b. The Four Seasons at Palm Springs community and the surrounding areas have an extremely low water pressure issue and cannot support any future development as it is currently struggling to provide water pressure as of now. Having a larger lot that could provide more water storage was a key factor in the Desert Water Agency's decision to accept the land swap and is an unquantifiable benefit to the community.

Staff presented this "land swap" as a one-sided benefit for financial gain to K. Hovnanian and stated that "K. Hovnanian financially gained from Lot G twice with the selling of their homes and the sale of Lot G and when the City acquires Lot G from the Desert Water Agency we will have to pay for the undergrounding of the utilities". We vehemently deny those statements as they are inaccurate and were made to persuade the Commission's decision to deny our request.

Not only is the financial aspect of our transaction with the Desert Water Agency irrelevant but the statement that the City would have to pay for the undergrounding if the City acquired Lot G is also irrelevant. However, those were key factors in the Commission's decision to deny our request. I reiterate the statements in Item 2b above and Item 4b below, that the Quimby fees that K. Hovnanian did pay in full were collected for the future acquisition of parkland and "Full Improvement" of parkland.

### 4. Quimby Fees.

- a. Condition 7 in the Administrative section of the approved conditions required K. Hovnanian to either pay parkland mitigation or dedication. The fees for such would be for the "cost to acquire and fully improve parkland." However, the Planning Commission stated as one of their reasons for denying our request was "if K. Hovnanian doesn't fulfill the condition then we will need to when we acquire the land from the Desert Water Agency and develop it into a park".

To restate the condition, quite simply the purpose for the collection of Quimby fees is for THE CITY to be able to acquire and "fully" improve parkland..

- b. Requiring K. Hovnanian to underground the overhead lines that 1) don't pertain per the City's waiver of the dedication requirement, and 2) are located in undeveloped land and serve no purpose to be undergrounded is in direct conflict with the State's definition for the collection of Quimby fees. Attempting to require us to underground these lines is an improvement on this lot. By the City continuing to call this site a Park and requiring undergrounding work to occur, even though they waived the condition to dedicate the site, would therefore at a minimum qualify the undergrounding as a reimbursable work. If K. Hovnanian is forced to underground these lines by the City of Palm Springs, no work will start without a reimbursement agreement in place to have 100% of all costs associated with this work reimbursed to K. Hovnanian.

### 5. Condition Manipulation

- a. In the conditions of approval that were provided by Staff with the Agenda for the Planning Commission meeting on January 11, 2012, Staff had manipulated the language from Condition No. 33 instead of restating it verbatim from the final conditions that were approved by the City Council on May 3, 2006.

In comparing the two very differently worded conditions, it appears that it was made in an attempt to intentionally mislead or manipulate the Planning Commission into denying of our waiver request. There is language that we identify in this appeal pertaining to the "dedication of parkland" that in Staff's revised but not approved conditions is omitted as well as the entire paragraph being re-worded in what can only be considered in the City's favor.

Relief Sought:

1. We are seeking to overturn the Planning Commission's decision on January 11, 2012 to deny our request to waive Condition No. 33 and request the City Council's approval of the waiver based on the facts provided above.
2. The immediate release of our Letter of Credit No. 63653164 in favor of the City of Palm Springs in the amount of \$71,500.00.

We feel that we have met all of the requirements for an appeal to the City of Palm Springs City Council and are herewith providing the fee required for submittal and prior to the 15 day (January 26, 2012) deadline requirement for appeal following the date of the action.

Thank you for your assistance and please feel free to contact my cell at (909) 208-8743 or email below if you need anything further.

Sincerely,



Chris Courtney  
Land Planning Manager  
**K. Hovnanian Homes**  
Email: [ccourtney@KHOV.com](mailto:ccourtney@KHOV.com)  
Direct: (949) 222-7711  
Cell: (909) 208-8743

CC: Michelle Nguyen-Legal Staff, K. Hovnanian Homes  
Chad Fuller-Chief Legal Officer, K. Hovnanian Homes  
John Jessup-Division President, K. Hovnanian Homes  
David Ready-City Manager, City of Palm Springs  
Craig Ewing-Planning Director, City of Palm Springs  
Edward Robertson-Principal Planner, City of Palm Springs



~~Vice Chair Hudson and Commissioner Munger expressed a preference for sign no. 10 to be changed to a pole-mounted sign and relocated to the Tahquitz Canyon Way entryway.~~

~~Commissioner Klatchko commented that he is not necessarily opposed to illumination of the signs.~~

~~Commissioner Munger noted the "temporary" appearance of sign no. 10 and expressed a preference for a more permanent sign.~~

~~ACTION: To continue to a date certain of February 8, 2012, to allow the applicant to address concerns from the Commission and make changes to the sign program amendment.~~

~~Motion Tracy Conrad, seconded by Leslie Munger and carried 5-1 on a roll call vote.~~

~~AYES: Leslie Munger, Tracy Conrad, Philip Klatchko, Chair Donenfeld, Vice Chair Hudson~~

~~NOES: J.R. Roberts~~

2B. ~~PD 267, TM 31525~~ A request by K. Hovnanian Companies to waive obligations to perform utility undergrounding as required by the Municipal Code and approved conditions of approval for the Four Seasons Development within Tract 31525 located at the East side of Sunrise Way and Whitewater Wash, Zone PD 267, Section 36. (~~Edward O. Robertson, Principal Planner~~)

Edward O. Robertson, Principal Planner, provided background information as outlined in the staff report dated January 11, 2012.

Marcus Fuller, Assistant Director of Public Works, provided background information on the conditions of approval for Tentative Tract Map 31525; noting that the City reduced the development standards (increased density) to facilitate their proposed development.

Commissioner Klatchko commented on the developer's trade-off to allow for more density for the required open-space.

ACTION: To deny the request to waive the applicant's obligations to perform utility undergrounding at the Four Seasons Development within Tract 31525.

Motion Leslie Munger, seconded by Tracy Conrad and unanimously carried on a roll call vote.

AYES: Leslie Munger, Tracy Conrad, Philip Klatchko, J.R. Roberts, Chair Donenfeld, Vice Chair Hudson



## Planning Commission Staff Report

Date: January 11, 2012

To: Planning Commission

Case: PDD 267 / TTM 31525

Application Type: Planned Development District Amendment

Location: East side of Sunrise Way, between San Rafael Drive and Whitewater Wash.

Applicant: K-Hovnanian Companies

APN: 669-460-005, 669-70-030, 669-470-031

Zoning: PDD 267

General Plan Designation: L-4 (Low Density Residential)

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

Project Planner: Edward O. Robertson, Principal Planner

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### **DESCRIPTION AND ANALYSIS:**

The applicant, K. Hovnanian Companies is requesting the Planning Commission to waive obligations to perform utility undergrounding as required by the Municipal Code and approved conditions of approval for the Four Seasons Development within Tract 31525. The proposed request will change previously approved conditions of approval requiring undergrounding of utilities on a planned park site denoted as Lot G of Tract 31525.

### **RECOMMENDATION:**

That the Planning Commission deny the request to waive the applicant's obligations to perform utility undergrounding at the Four Seasons Development within Tract 31525.

## **BACKGROUND:**

On January 18, 2006, the City Council approved tentative tract map 31525 for the subdivision of approximately 24-acre land into 70 single family residential lots and two lettered lots along with the dedication of seven-acre parcel for park purposes. Tract 31525 occupies a triangular portion on the easterly two-thirds of two other tracts; 30054 and 30058. Tracts 30054 and 30058 were previously approved as part of the larger Four Seasons Planned Development Districts 267 and 269.

On September 20, 2010, K. Hovnanian Companies, the applicant, submitted an application requesting a waiver from Engineering Conditions #32 and #33; these conditions required the developer to perform undergrounding of overhead utilities at the Four Seasons Development. Those conditions read, as follows:

Eng. 32: *All proposed utility lines shall be installed underground. The undergrounding of the overhead utilities shall occur in two phases: Phase 1 shall be the residential portion of the site, and Phase 2 shall be the park site.*

Eng. 33: *In accordance with Chapter 8.04.401 of the City of Palm Springs Municipal Code, all existing and proposed electrical lines of thirty-five thousand volts or less and overhead service drop conductors, and all gas, telephone, television cable service, and similar service wires or lines, which are on-site, abutting, and/or transecting, shall be installed underground unless specific restrictions are shown in General Orders 95 and 128 of the California Public Utilities Commission, and service requirements published by the utilities. The existing overhead utilities across the property shall be installed underground. A detailed plan approved by the owner(s) of the affected utilities depicting all above ground facilities in the area of the project to be undergrounded, shall be submitted to the Engineering Division prior to approval of any grading plan building permit. Undergrounding of applicable overhead utility lines on the residential portion shall be completed prior to issuance of a certificate of occupancy. Undergrounding of applicable overhead utility lines on the park site shall be completed in conjunction with the certificate of occupancy for the last construction phase, or eight homes, whichever is larger.*

The conditions in question were imposed by the Public Works Department in accordance with requirements of Chapter 8.04.401 of the City of Palm Springs Municipal Code. Because the City included condition numbers 32 and 33 regarding the utility undergrounding, their deletion must be reviewed by the Planning Commission. The City's requirement for undergrounding utilities (Chapter 8.04.401 of the Municipal Code) was enacted by Ordinance 1306 on September 7, 1988. The Ordinance states:

*No certificate of occupancy for new buildings or structures shall be issued unless or until 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, are 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. (Ord. 1316 § 1, 1988; Ord. 1306 § 1, 1988; Ord. 1124 § 1 (part), 1981)*

This Ordinance has been in place and is unchanged since its original adoption. The Engineering Department is required to defer the implementation of this obligation to the Planning Commission and/or City Council, as there is no discretionary waiver or deferral of the obligation allowed to staff specific to "new development".

The applicant requests the waiver of the two conditions because of a land swap agreement between K-Hovnanian Four Seasons Development and the Desert Water Agency (DWA) in which the title of the park site, Lot G of Tract 31525 was deeded to DWA. The applicant is claiming that since the existing utility poles in question are now located on the DWA property, they are no longer obligated to the conditions. There has been no communications between the City and DWA regarding this matter. The applicant also claimed that K. Hovnanian is unable to perform undergrounding of the utilities due to the "encountered resistance" from Southern California Edison (SCE). The encountered resistance according to the applicant includes the request for numerous indemnifications and letters of credit by Southern California Edison. K. Hovnanian is claiming that these requirements *"are unreasonable and unfair expectations to be placed on them in order to satisfy a condition that does not have any impact on their development"*. (See attached letter dated September 25, 2011)

Staff is not in agreement with the above-stated assertions. Lot G was and is a part of Tract 31525. The Developer objected to the dedication of Lot G as a park site on the basis the requirement was excessive under the City's Code the overall acreage exceeded their calculation of the in-lieu fees otherwise due; and was not otherwise lawfully required. The City disagreed with K. Hovnanian, in that in its conditional approval of Tentative Tract 31525, the City approved reduced development standards (increased density) to facilitate their proposed development. Tract 31525 was ultimately recorded without the dedication of the park site; however, Lot G was created as a lot of record with the recordation of Tract 31525. Lot G was included in the CC&Rs as an Association Property Lot, an open space lot required to be landscaped and maintained in perpetuity by the Developer and ultimately the homeowners' association.

The City's position is that K. Hovnanian remains obligated to fulfill its conditions of approval regardless of its decision to sell Lot G to DWA; the Developer understood at the time Lot G was sold to DWA that it was required to install utility undergrounding across Lot G. The cost to underground the existing utilities across Lot G is the responsibility of K. Hovnanian, and the obligation was clearly identified in the conditions of approval accepted by K. Hovnanian.

#### **CONCLUSION:**

Staff generally will recommend deferral of utility undergrounding for small, individual commercial projects, and single family home projects. In this case, however, it is our recommendation that Lot G remains a part of the Tract 31525, the Developer has received the benefit of the recordation and the sale of lots within Tract 31525, and the

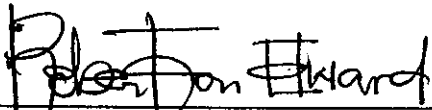
Developer should therefore comply with all of the conditions of approval, including the undergrounding of utilities within the boundaries of the Tract. Consequently, staff recommends that the Commission retain the existing conditions and deny the request.

### RECOMMENDATION

Staff recommends that the Planning Commission deny the applicant's request, and require the applicant to perform undergrounding of utilities as required by the conditions of approval for TTM 31525 consistent with Section 8.04.401 of the City of Palm Springs Municipal Code.

### NOTIFICATION

Review of minor changes to a Final Development Plan does not require public notice.



Edward O. Robertson  
Principal Planner



Craig A. Ewing, AICP  
Director of Planning Services

Attachments:

- A. Vicinity Map
- B. Draft Resolution
- C. Letter from the applicant dated September 30, 2009

*file*

RESOLUTION NO. 6247

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, DENYING THE REQUEST TO WAIVE OBLIGATIONS TO PERFORM UTILITY UNDERGROUNDING AS REQUIRED BY CONDITIONS OF APPROVAL NOS. 32 AND 33 FOR TRACT 31525; FOUR SEASONS DEVELOPMENT BY K. HOVNANIAN LOCATED ON THE EAST SIDE OF SUNRISE WAY NORTH, BETWEEN SAN RAFAEL DRIVE AND WHITEWATER WASH, ZONE PD-267, SECTION 36.

WHEREAS, K. Hovnanian, applicant, has requested an amendment to the previously approved Tract 31525, within Planned Development District 267, to waive obligations to perform utility undergrounding as required by the conditions of approval; and

WHEREAS, on January 14, 2012, a meeting was held by the Planning Commission in accordance with applicable law; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) Guidelines, the proposed project is exempt under Section 15061(c) (General rule); and

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

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: Chapter 8.04.401 "New Construction" of the Palm Springs Municipal Code states:

No certificate of occupancy for new buildings or structures shall be issued unless or until 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, are 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.

Section 2: Chapter 8.04.401 "New Construction" of the Palm Springs Municipal Code was enacted by Ordinance 1306, adopted by the City Council on September 7, 1988, has existed and is unchanged since its original adoption.

**Section 3:** Utility undergrounding requirements have been applied equitably and fairly on development projects throughout the City of Palm Springs since the adoption of Ordinance 1306.

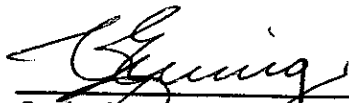
NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby denies the applicant's request to waive obligations to perform utility undergrounding as required by the Municipal Code and conditions of approval Nos. 32 and 33 for the K. Hovnanian Four Seasons Development within Tract 31525.

ADOPTED this 14th day of January 2012.

AYES: 6, Munger, Conrad, Klatchko, Roberts, Vice Chair Hudson and Chair Donenfeld  
NOES: None  
ABSENT: None  
ABSTAIN: None

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA



---

Craig A. Ewing, AICP  
Director of Planning Services



**VIA HAND DELIVERY AND EMAIL**

September 25, 2011

Edward Robertson  
City of Palm Springs, Planning Department  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92263

**RE: K. Hovnanian's Four Seasons at Palm Springs, LLC  
Tract Map 31525 Condition of Approval No. 33  
Request for Waiver of Condition**

Dear Mr. Robertson:

In connection with our letter dated as of September 30, 2009 in which we requested the City to waive condition number 33 "Utility Underground Sunrise Way" and per our recent phone conversations in which you requested we submit a letter stating the reason we could not satisfy this condition, we offer the following:

As you are aware, we entered into a land swap with the Desert Water Agency ("DWA") in which we were able to develop 3 additional lots in Tract 30058 in exchange for deeding title of Lot G of Tract 31525 to DWA. The utility poles in question are currently located on the DWA property known as Lot G ("PIQ, Lot G"). When we approached Southern California Edison ("SCE") about the possibility of undergrounding these lines in order to satisfy the City's condition, we encountered resistance from SCE. SCE did not want to proceed with undergrounding those lines because the adjacent development, which at the time was in bankruptcy, had not done any street improvements. When street improvements are not installed the ultimate designs have a high risk of changing.

In order to satisfy SCE, they were requesting numerous indemnifications as well as letters of credit that would be in effect until the adjacent property was developed and the continuation to Sunrise Way was completed so that SCE had certainty that there would be no impact on the undergrounded lines. These are unreasonable and unfair expectations to place on K. Hovnanian in order to satisfy a condition that does not have any impact on our development.

As such, we request to have this condition waived as originally requested in our letter dated September 30, 2009 and have our letter of credit posted with the City of Palm Springs immediately released.

Should you require any additional information, please feel free to contact my cell at (909) 208-8743.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Courtney".

Chris Courtney, Land Planning Manager  
**K. Hovnanian Homes**  
Email: [ccourtney@KHOV.com](mailto:ccourtney@KHOV.com)  
Cell: (909) 208-8743

cc:



## AGREEMENT

### AS TO PARK LAND DEDICATION – TM 31525

THIS AGREEMENT is made by and between the City of Palm Springs, a charter city ("City"), and K. Hovnanian's Four Seasons at Palm Springs, LLC, a California limited liability company ("Hovnanian") effective this ~~30~~ day of May, 2006.

#### RECITALS

- A. Hovnanian is the owner and developer of a parcel of land in the City of Palm Springs (the "Property"), which is approximately 23.9 acres and more particularly described in Exhibit A attached hereto and incorporated herein. Hovnanian is the applicant for Tentative Tract Map 31525 ("TM 31525") for the Property, including 70 residential lots. TM 31525 is within PD 267. PD 267 was approved by the City as Case No. 5.0866 on January 16, 2002. TM 30054 was approved concurrently with the PD 267. The City approved revised conditions of approval on January 15, 2003. Hovnanian is also the developer of TM 30058 within the separate PD 269.
- B. On or about August 13, 2003, the City adopted a Quimby Ordinance (Section 1632 of the City Municipal Code) pursuant to Government Code Section 66477 ("§66477"). The Quimby Ordinance requires developers to dedicate land or pay an in-lieu fee to provide and maintain park sites within the City. Section 66477 mandates that prior to requiring Quimby dedications or payment of in-lieu fees, the City has adopted standards for determining the appropriate dedication or fees. The Quimby Ordinance establishes such standards.
- C. At all times relevant to this Agreement, the City's adopted General Plan designates a park within the Property.
- D. Hovnanian submitted its initial application for TM 31525 to the City in October of 2004.
- E. At its regular meeting on December 14, 2005, the Planning Commission of the City determined to recommend TM 31525, subject to Conditions of Approval. At the meeting, however, there was unresolved discussion regarding the Conditions of Approval (Administration No.7; Engineering No. 40). Condition No. 7 required Hovnanian to pay a fee or dedicate land prior to issuance of building of permits, pursuant to the Quimby Ordinance. Engineering Condition No.40 required Hovnanian to dedicate a seven (7) acre park site ("Lot G"). In making its

resolution, the Planning Commission directed staff to prepare language which addresses the Quimby issues.

F. Staff has recommended that the Council modify Administrative Condition of Approval No. 7 for TM 31525 by eliminating the requirement to comply with the City's Quimby ordinance and that Engineering Condition No. 40 remain in effect.

G. The City has asserted it has the right to require the dedication of land for open space, park, and recreational purposes where the City has approved reduced development standards that preserve Hovnanian's development opportunities for the Property. Hovnanian disputes the City's legal authority and factual basis for requiring dedication of park land in excess of what would be required under the Quimby Ordinance without compensation for the fair market value thereof.

H. Hovnanian is amenable to dedication of the park land with compensation for excess contribution under the Quimby Ordinance, either upon dedication or pursuant to reservation agreement (as provided in the Quimby Ordinance) or, in the alternative, to an election by the City to determine that the park site is not desirable.

I. The Parties are amenable to working together to resolve their differences regarding the dedication of Lot G while allowing TM 31525 to move forward with the approval of the tentative map and preparation and ultimate approval of a final subdivision map for TM 31525 so long as the parties can preserve their rights regarding the dedication condition of approval.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. All recitals set forth above are incorporated herein by reference and are a material part of this Agreement.

2. TM 31525 was presented to the City Council on May 3, 2006 at its regular meeting. The City Council approved TM 31525 subject to Conditions of Approval, with Condition No. 7 and Engineering Condition No. 40 revised to provide that each is subject to further negotiation between the City and Hovnanian pursuant to the terms of this Agreement.

3. The City and Hovnanian understand and agree that except as otherwise expressly provided in this Agreement, neither this Agreement nor approval of TM 31525 (or any final map filed thereafter) shall be construed as a waiver of rights or remedies by either party as to objection to or enforcement of Condition No. 7 or Engineering Condition of Approval No. 40. This Agreement merely suspends and tolls all requirements and timelines so that the parties can work toward a satisfactory resolution of the issues as opposed to compelling

legal action. Upon expiration of this Agreement or termination by either party pursuant to Section 6, below, all parties are restored to their prior positions with respect to the objection to or enforcement of Condition No. 7 or Engineering Condition of Approval No. 40, retaining all rights they each had at the time of the City Council approval on May 3, 2006, and the parties acknowledge that Hovnanian shall be deemed to have exhausted its administrative remedies, including but not limited to any protest requirement under Palm Springs Municipal Code or under Government Code Section 66020, and may thereafter pursue any and all available judicial remedies.

4. The City and Hovnanian agree to continue discussions in good faith to achieve a fair and lawful resolution regarding dedication or re-designation of the park site and to possibly facilitate the development of more appropriate park resources to serve the City and its residents.

5. In the event the parties are unable to reach agreement as to the matters set forth in this Agreement before Hovnanian is prepared to present its Final Map for City Approval, a Final Map may, at Hovnanian's election, be submitted for all of the Property except reserving Lot G for potential park purposes and subject to the following conditions:

a. The reservation of Lot G shall be subject to this Agreement which shall be noted on the recorded Final Map and shall survive recordation of the Final Map through final acceptance of all improvements to be dedicated to the City (not including Lot G) and/or any other governmental entity.

b. Hovnanian shall be entitled to obtain building permits, certificates of occupancy and other approvals required for TM 31525, without regard to resolution of the matters set forth herein, provided other standard conditions are satisfied.

c. Hovnanian shall neither permanently alter nor improve said Lot G except in connection with and as reasonably convenient or required for the development of the remainder of the Property, including but not limited to grading onto Lot G, construction of an interim retention basin on Lot G, and other activities reasonably necessary to satisfy requirements imposed by the City, until resolution of the matters set forth herein by agreement or final judicial order, subject to rights of appeal.

d. Following recordation of the Final Map through final acceptance of any improvements to be dedicated to the City (not including the Lot G) and/or any other governmental entity, the City may elect to enforce dedication of Lot G following not less than thirty (30) days written notice to Hovnanian. Hovnanian shall, within such notice period, have the right to take any and all actions Hovnanian deems necessary to contest Condition No. 7 and Engineering Condition No. 40 and dedication requirement, including but not

limited to filing a legal action challenging such Condition of Approval and dedication requirement. City waives any defense of the failure of Hovnanian to timely appeal such Condition of Approval and dedication requirement so long as Hovnanian commences its appeal on or before the date thirty (30) days after Hovnanian's receipt of written notice from the City unequivocally indicating that the City has elected to enforce dedication of Lot G and notifying Hovnanian that it must commence appeal proceedings, if at all, on or before the date thirty (30) days after its receipt of such notice. Such notice shall be required to be personally delivered to the persons at the appropriate addresses set forth below (in which event such notice shall be deemed effective only upon such delivery), delivered by air courier next-day delivery (e.g. Federal Express), delivered by mail, sent by registered or certified mail, return receipt requested, or sent via telecopier, as follows:

Attn: Mr. Damon Gascon, Area President  
K. Hovnanian's Four Seasons at Palm Springs, LLC  
1867 California Avenue  
Corona, CA 92881  
Facsimile No.: (951) 520-4799

With a copy to:

Attn: Joseph M. Manisco, Esq.  
K. Hovnanian Companies of California, Inc.  
2525 Campus Drive  
Irvine, CA 92612  
Facsimile No.: (949) 757-0458

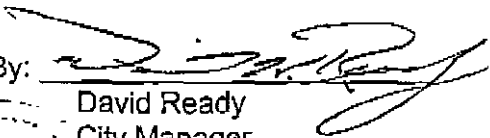
Notices delivered by air courier shall be deemed to have been given the next business day after deposit with the courier and notices mailed shall be deemed to have been given on the third day following deposit of same in any United States Post Office mailbox in the state to which the notice is addressed or on the fourth day following deposit in any such post office box other than in the state to which the notice is addressed, postage prepaid, addressed as set forth above. Notices sent via telecopy shall be deemed delivered the same business day transmitted provided that an original is mailed first class postage prepaid to the recipients.

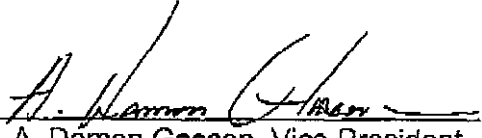
6. The provisions of this Agreement pertaining to the agreement of the parties to continue negotiations may be terminated by either party following thirty (30) days written notice, if to Hovnanian as provided in Section 5.d., above, and if to the City, then to the City Manager at City Hall, 3200 E Tahquitz Canyon Way, Palm Springs, CA 92263 or by facsimile at (760) 323-8207, and time periods specified for Hovnanian's objection or action as described in Section 3 shall commence upon such termination.

Effective the date first written above.

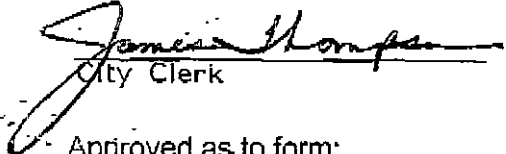
CITY OF PALM SPRINGS

K. Hovnanian's Four Seasons at  
Palm Springs, LLC, a California  
limited liability company


By:   
David Ready  
City Manager

By:   
A. Damon Gascon, Vice President  
K. Hovnanian Companies of  
California, Inc., Authorized Agent

ATTEST:

  
Janice Thompson  
City Clerk

Approved as to form:

  
Douglas Holland  
City Attorney

APPROVED BY CITY COUNCIL

Res 21601 5.3.06 A5284

# EXHIBIT A

Order Number: NHRV-1093365

Page Number: 10

## LEGAL DESCRIPTION

Real property in the City of Palm Springs, County of Riverside, State of California, described as follows:

TENTATIVE TRACT NO. 31525, BEING A SUBDIVISION OF THE FOLLOWING:

PARCEL 1 AS SHOWN ON LOT LINE ADJUSTMENT NO. LLA 03-04 RECORDED APRIL 24, 2003 AS INSTRUMENT NO. 2003-290365 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, DESCRIBED IN SAID DOCUMENT AS FOLLOWS:

A PARCEL OF LAND, SITUATED IN THE CITY OF PALM SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA LYING OVER PORTIONS OF SECTION 36, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID SECTION 36, SAID POINT LYING, NORTH 0° 15' 30" EAST 1345.23 FEET ALONG SAID WESTERLY LINE FROM THE SOUTHWEST CORNER OF SAID SECTION 36, SAID POINT ALSO BEING ON THE CENTERLINE OF THE 80.00 FOOT WIDE RIGHT-OF-WAY GRANTED TO THE CITY OF PALM SPRINGS RECORDED OCTOBER 10, 1968 AS INSTRUMENT NO. 97819, OF OFFICIAL RECORDS OF SAID RIVERSIDE COUNTY AND THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 500.00 FEET; THENCE, LEAVING SAID WESTERLY LINE, NORTHEASTERLY 471.25 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 54° 00' 04"; THENCE, TANGENT FROM SAID CURVE, NORTH 54° 15' 34" EAST 217.77 FEET TO A TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 500.00 FEET; THENCE, EASTERLY 313.98 FEET ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35° 58' 44"; THENCE, TANGENT FROM SAID CURVE, SOUTH 89° 45' 42" EAST 503.01 FEET TO A TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 600.00 FEET; THENCE NORTHEASTERLY 330.26 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 31° 32' 17" TO THE SOUTHWESTERLY RIGHT-OF-WAY OF THE WHITEWATER RIVER CHANNEL, AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 95, PAGES 14 THROUGH 18, INCLUSIVE, RIVERSIDE COUNTY RECORDS, AND ON A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 7500.00 FEET; A RADIAL LINE TO SAID POINT BEARS NORTH 41° 46' 34" EAST; THENCE NORTHWESTERLY 1817.48 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13° 53' 04" TO SAID WESTERLY LINE OF SECTION 36; THENCE, ALONG SAID WESTERLY LINE, NON-TANGENT FROM SAID CURVE, SOUTH 0° 15' 30" WEST 1745.79 FEET TO THE POINT OF BEGINNING;

EXCEPT AN UNDIVIDED ONE-HALF INTEREST IN AND TO ALL OIL, GAS AND OTHER MINERALS IN OR UNDER SAID LAND, AS RESERVED IN DEED FROM FERGUS HATHORN HEISIG AND ROMAYNE EDITH HEISIG HUSBAND AND WIFE, DATED FEBRUARY 28, 1956 AND RECORDED JANUARY 2, 1957 IN BOOK 2018 PAGE 326 OF OFFICIAL RECORDS, RIVERSIDE COUNTY RECORDS;

ALSO EXCEPTING THAT PORTION INCLUDED WITHIN THE NORTHWEST QUARTER AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 36, ONE-HALF INTEREST IN ALL OIL, GAS AND OTHER MINERALS IN AND UNDER SAID LAND, AS RESERVED TO TERRY RAY AND HELEN RAY, HUSBAND AND WIFE, IN DEED RECORDED JANUARY 2, 1957 AS INSTRUMENT NO. 140 IN BOOK 2018, PAGE 320 OF OFFICIAL RECORDS, RIVERSIDE COUNTY RECORDS.

APN: 669-460-005 AND 669-470-030 AND 669-470-031

*First American Title*

## Marcus Fuller

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**From:** Marcus Fuller  
**Sent:** Monday, July 20, 2009 9:03 AM  
**To:** Crandall, James  
**Cc:** Carol Templeton; Edward Robertson; Craig Ewing; Douglas C. Holland  
**Subject:** RE: TTM31525, Lot G, Utility Undergrounding

James, please contact the City Attorney's office to discuss the matter further. The City's Municipal Code requires utility undergrounding, which remains an obligation of TTM31525. Whether or not SCE requires the undergrounding is not at issue here. The matter of the park site has not yet been resolved, the following is a statement made by the City Attorney:

In my letter of June 16, 2008, I believe I opined that the City, after approving the recordation of the final map, could not enforce the park dedication requirement that had been set forth in the conditions of approval of Tract 31525. We actually addressed the "park site parcel" in the Supplemental Declaration for Tract 31525 which specifically recognized that Lot G, the park site parcel, is an "Association Property Lot" covered by the Declaration. Lot G is part of the subdivision and is required to be landscaped and maintained in the manner required under the provisions of the CC&Rs.

The requirement to underground the remaining overhead power lines within Lot G of TM31525 can only be waived by formal action taken by the City Council.

Sincerely,

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

[www.palmsprings-ca.gov](http://www.palmsprings-ca.gov)  
[Marcus.Fuller@palmsprings-ca.gov](mailto:Marcus.Fuller@palmsprings-ca.gov)

---

**From:** Crandall, James [mailto:jcrandall@khov.com]  
**Sent:** Friday, July 17, 2009 3:08 PM  
**To:** Marcus Fuller  
**Cc:** Carol Templeton; Edward Robertson; Craig Ewing  
**Subject:** FW: TTM31525, Lot G, Utility Undergrounding

Marcus -

Your response on the Rule 20 for Tract 31525 was forwarded to me while I was on vacation. I would like to meet with you and Planning Staff if possible to discuss. I feel there may have been some miscommunication. We are requesting removal of the condition because Edison does not require removal (see attached email). Also without an adjacent park site and Sunrise veering to the West we see no reason to underground the poles. Please let me know if you have some time next week to meet preferably the afternoon of Thursday 7/23. Thank you.

James Crandall  
Land Planning Manager  
K. Hovnanian Homes  
Office: (909) 937-3270  
Cell: (909) 772-8670  
Fax: (909) 390-5686

**From:** Courtney, Christopher  
**Sent:** Thursday, July 09, 2009 12:38 PM  
**To:** Crandall, James  
**Cc:** Wilson, Angela  
**Subject:** FW: TTM31525, Lot G, Utility Undergrounding

Here is the City's response to having the condition waived for the Rule 20. Would you like me to prepare a response?

Thanks.

Chris

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**From:** Marcus Fuller [mailto:Marcus.Fuller@palmsprings-ca.gov]  
**Sent:** Wednesday, July 08, 2009 5:21 PM  
**To:** Courtney, Christopher  
**Cc:** Carol Templeton; Douglas C. Holland; Edward Robertson  
**Subject:** TTM31525, Lot G, Utility Undergrounding

Chris, I spoke with the City Attorney today regarding your message to me yesterday, which requested that I reconsider my determination that we would not recommend waiver of the utility undergrounding of the existing overhead power lines that extend across Lot G of TM31525. You have requested the waiver due to the fact that K. Hovnanian has subsequently sold Lot G to Desert Water Agency.

The City Attorney confirmed my determination that the obligation remains whether or not K. Hovnanian currently owns Lot G, as the condition of approval applied to the entire property within the boundaries of the approved TTM 31525.

Please contact the City Attorney's office to discuss the matter further.

Sincerely,

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

[www.palmsprings-ca.gov](http://www.palmsprings-ca.gov)  
[Marcus.Fuller@palmsprings-ca.gov](mailto:Marcus.Fuller@palmsprings-ca.gov)





RECEIVED  
CITY OF PALM SPRINGS

2012 FEB 29 AM 7:06

JAMES THOMPSON  
CITY CLERK

**SENT VIA EMAIL**

February 27, 2012

Ms. Kathie Hart, CMC  
Chief Deputy City Clerk  
Office of the City Clerk  
City of Palm Springs  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

**RE: K. Hovnanian's Four Seasons at Palm Springs Development  
APPEAL OF PLANNING COMMISSION DECISION  
Request to Waive Condition No. 33 of Conditions of Approval**

Dear Ms. Hart:

On January 26, 2012, we filed an appeal of the Planning Commission's decision of January 11, 2012.

It is my understanding this item will be presented to the City Council for consideration on Wednesday, March 7, 2012. At this time we wish to waive the 10-day notification requirement as set forth in the Palm Springs Municipal Code Section 2.05.050.

Please feel free to contact Chris Courtney via email: [ccourtney@khov.com](mailto:ccourtney@khov.com) or on his cell at (909) 208-8743 if there are any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John Jessup".

John Jessup  
Division President  
**K. Hovnanian's Four Seasons at Palm Springs, LLC.**  
Ofc: (949) 222-7700

CC:

**Kathie Hart**

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**From:** Kathie Hart  
**Sent:** February 09, 2012 5:38 PM  
**To:** Craig Ewing  
**Cc:** Edward Robertson; Jay Thompson; Tom Wilson  
**Subject:** Appeal filed by K Hovnanian (PDD 267 TM)  
**Attachments:** 2455\_001.pdf

On 01-26-2012 K. Hovnanian filed an appeal of the Planning Commission's decision of 01-11-2012. It should be noted we have 45-days to bring this item to the City Council for consideration. This appeal hearing shall be held on or before Sunday, March 11, 2012. I will placed it on the tentative schedule to be hear it on March 7, 2012, unless we received written notice from the appellant that it may be heard at a later date.

*Kathie*

**Kathie Hart, CMC**


Chief Deputy City Clerk


City of Palm Springs

3200 E. Tahquitz Canyon Way

Palm Springs, CA 92262

Please note that City Hall is open 8 a.m. to 6 p.m. Monday through Thursday, and closed on Fridays at this time.

 (760) 323-8206

 (760) 322-8332

 [Kathie.Hart@PalmSpringsCA.gov](mailto:Kathie.Hart@PalmSpringsCA.gov)

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**From:** City Clerk [mailto:iR4570-cm@ci.palm-springs.ca.us]

**Sent:** February 09, 2012 5:24 PM

**To:** Kathie Hart

**Subject:** Attached Image



RECEIVED  
CITY OF PALM SPRINGS

2012 JAN 26 PM 1:51

JAMES THOMPSON  
CITY CLERK

SENT VIA EMAIL

January 16, 2012

Mr. Steve Pougnet, Mayor  
City of Palm Springs  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262

RE: **K. Hovnanian's Four Seasons at Palm Springs Development  
APPEAL OF PLANNING COMMISSION DECISION  
Request for Condition Waiver of Condition of Approval No. 33**

Mr. Pougnet:

Pursuant to the City of Palm Springs' Municipal Code Section 2.05 we are hereby submitting our request for the appeal of the Planning Commission decision on Wednesday January 11, 2012. In accordance with Section 2.05.030 of the Municipal Code we provide the following:

Appellant Information:

K. Hovnanian's Four Seasons at Palm Springs, LLC  
2525 Campus Drive  
Irvine, CA 92612  
Office: (949) 222-7700

Specific Action Appealed:

Item 2b. PDD 267-TM 31525 of the  
Planning Commission agenda dated 1/11/2012 at 1:30pm

Grounds for the Appeal:

1. Park Dedication

a. In May 2006 City Council approved our conditions for Tentative Tract Map 31525 (Case No. 5.0866-B). Condition No. 33 of these conditions provided, among other things, that "Phase 2 shall consist of undergrounding overhead utilities **within the dedicated park site**. All undergrounding of overhead utilities shall be completed prior to Issuance of any Certificate of Occupancy in the final construction phase, or final eight residences, whichever is greater." (emphasis added)

i. In a letter from the City Attorney dated June 16, 2008 the City Attorney stated "I would also note that the City typically requires dedication of streets, well sites and parklands at the time of recordation of a final map. As you are aware, the City allowed the final map for Tract 31525 to record without requiring a park dedication and that as result thereof, the City will not enforce the park dedication requirement set forth in the conditions of approval. The City will, however, expect that the requirements related to the payment of park fees be performed as required in the conditions of approval." Given that Lot G was not dedicated to the City as a park on the final map and the City Attorney

acknowledges that the City would not enforce the park dedication requirement set forth in the conditions of approval, the requirement to underground the overhead utilities "within the dedicated park site" should be null and void because a dedicated park site does not exist within Tract 31525.

- ii. Quimby fees were paid in full for all 70 lots associated with Final Map 31525 in compliance with the Conditions of approval.
- iii. See Item 5 below regarding Quimby fee collection for the mitigation in lieu of dedicating parkland.
- iv. Condition No. 40 states "The applicant shall grant all rights, title and interest in Lot "G" to the City of Palm Springs on the final map, free of any covenants, conditions...".

On May 3, 2006 K. Hovnanian and the City of Palm Springs entered into a tolling agreement regarding the foregoing condition as well as Condition No. 7 due to the City requiring parkland mitigation (fees) and the dedication of parklands. Requiring that K. Hovnanian fulfill both these conditions would essentially be "double dipping" by the City (i.e., K. Hovnanian should have only been conditioned to *either* pay the fees *or* dedicate the parkland, not both). Therefore, only one of the conditions should have applied. Since K. Hovnanian paid the fees in lieu of dedicating parkland, the requirement to dedicate parkland should be invalid.

## 2. Safety

- a. On August 4, 2009 as we were approaching build out of Tract 31525 and discussions of undergrounding the utilities were ongoing with the City and K. Hovnanian, Southern California Edison issued us a letter stating in essence that they would not agree to install their electric facilities underground until such time that:
  - i. Sub-grade on proposed streets or roads have been established and SCE inspections have been received;
  - ii. Survey grade stakes at top of curb and property lines are provided at time of SCE inspections;
  - iii. All electric facilities can be installed at verifiable final grades and final locations; and
  - iv. SCE will not energize the electrical system without the curb and gutter installed; nor will SCE pull cable without specific barricades and/or curb and gutter plugs, etc.
- b. The property adjacent to Lot G is not developed and appears to be years away. The above ground power lines are adjacent to this undeveloped property and as stated above by SCE, they would not cable or energize any system that does not have final curb & gutter and grades established.

Requiring K. Hovnanian to underground these overhead utility lines before there are curb and gutter is unnecessary and an undue burden to K. Hovnanian.

As stated to Planning Commission but ignored, this underground requirement should be imposed on the adjacent development when they complete the improvements in the area or on the City itself if/when they develop the land that was dedicated as a park site by another Developer and that is adjacent to Lot G

of Tract 31525. This would be consistent with the intent and collection of the Quimby fees which is for the "full" improvements of park land.

### 3. Transfer of Ownership

- a. In August 2009 K. Hovnanian conveyed title of Lot G of Tract 31525 to the Desert Water Agency in exchange for its conveyance of Lot 178 of Tract 30058 to K. Hovnanian. This was done so with the City's knowledge that K. Hovnanian was executing this "land swap" in an effort to build 3 more homes on Lot 178 and so that the Desert Water Agency would have a larger parcel in which to build future wells.
- b. The Four Seasons at Palm Springs community and the surrounding areas have an extremely low water pressure issue and cannot support any future development as it is currently struggling to provide water pressure as of now. Having a larger lot that could provide more water storage was a key factor in the Desert Water Agency's decision to accept the land swap and is an unquantifiable benefit to the community.

Staff presented this "land swap" as a one-sided benefit for financial gain to K. Hovnanian and stated that "K. Hovnanian financially gained from Lot G twice with the selling of their homes and the sale of Lot G and when the City acquires Lot G from the Desert Water Agency we will have to pay for the undergrounding of the utilities". We vehemently deny those statements as they are inaccurate and were made to persuade the Commission's decision to deny our request.

Not only is the financial aspect of our transaction with the Desert Water Agency irrelevant but the statement that the City would have to pay for the undergrounding if the City acquired Lot G is also irrelevant. However, those were key factors in the Commission's decision to deny our request. I reiterate the statements in Item 2b above and Item 4b below, that the Quimby fees that K. Hovnanian did pay in full were collected for the future acquisition of parkland and "Full Improvement" of parkland.

### 4. Quimby Fees.

- a. Condition 7 in the Administrative section of the approved conditions required K. Hovnanian to either pay parkland mitigation or dedication. The fees for such would be for the "cost to acquire and fully improve parkland." However, the Planning Commission stated as one of their reasons for denying our request was "if K. Hovnanian doesn't fulfill the condition then we will need to when we acquire the land from the Desert Water Agency and develop it into a park".

To restate the condition, quite simply the purpose for the collection of Quimby fees is for THE CITY to be able to acquire and "fully" improve parkland..

- b. Requiring K. Hovnanian to underground the overhead lines that 1) don't pertain per the City's waiver of the dedication requirement, and 2) are located in undeveloped land and serve no purpose to be undergrounded is in direct conflict with the State's definition for the collection of Quimby fees. Attempting to require us to underground these lines is an improvement on this lot. By the City continuing to call this site a Park and requiring undergrounding work to occur, even though they waived the condition to dedicate the site, would therefore at a minimum qualify the undergrounding as a reimbursable work. If K. Hovnanian is forced to underground these lines by the City of Palm Springs, no work will start without a reimbursement agreement in place to have 100% of all costs associated with this work reimbursed to K. Hovnanian.

### 5. Condition Manipulation

- a. In the conditions of approval that were provided by Staff with the Agenda for the Planning Commission meeting on January 11, 2012, Staff had manipulated the language from Condition No. 33 instead of restating it verbatim from the final conditions that were approved by the City Council on May 3, 2006.

In comparing the two very differently worded conditions, it appears that it was made in an attempt to intentionally mislead or manipulate the Planning Commission into denying of our waiver request. There is language that we identify in this appeal pertaining to the "dedication of parkland" that in Staff's revised but not approved conditions is omitted as well as the entire paragraph being re-worded in what can only be considered in the City's favor.

Relief Sought:

1. We are seeking to overturn the Planning Commission's decision on January 11, 2012 to deny our request to waive Condition No. 33 and request the City Council's approval of the waiver based on the facts provided above.
2. The immediate release of our Letter of Credit No. 63653164 in favor of the City of Palm Springs in the amount of \$71,500.00.

We feel that we have met all of the requirements for an appeal to the City of Palm Springs City Council and are herewith providing the fee required for submittal and prior to the 15 day (January 26, 2012) deadline requirement for appeal following the date of the action.

Thank you for your assistance and please feel free to contact my cell at (909) 208-8743 or email below if you need anything further.

Sincerely,



Chris Courtney  
Land Planning Manager  
**K. Hovnanian Homes**  
Email: [ccourtney@KHOV.com](mailto:ccourtney@KHOV.com)  
Direct: (949) 222-7711  
Cell: (909) 208-8743

CC: Michelle Nguyen-Legal Staff, K. Hovnanian Homes  
Chad Fuller-Chief Legal Officer, K. Hovnanian Homes  
John Jessup-Division President, K. Hovnanian Homes  
David Ready-City Manager, City of Palm Springs  
Craig Ewing-Planning Director, City of Palm Springs  
Edward Robertson-Principal Planner, City of Palm Springs

CITY OF PALM SPRINGS

REC'D BY: CA  
PAYOR: K HONANIAN CD  
TODAY'S DATE: 02/01/12  
REGISTER DATE: 02/01/12  
01000047705  
TIME: 09:06

DESCRIPTION  
OTHER CHARGES SUCC  
CUST ID: APPEAL HEARING

AMOUNT  
\$436.18  
TOTAL DUE: \$436.18

CHECK PAID: \$436.18  
CHECK NO: 13802  
TENDERED:  
CHANGE: \$ .00

RECEIVED - REQUEST FOR TREASURER'S RECEIPT  
CITY OF PALM SPRING

2012 JAN 26 PM 1:50  
TO: FINANCE DEPARTMENT, CASHIER  
JAMES THOMPSON  
FROM: CITY CLERK'S OFFICE

DATE: 1.26.12

PLEASE ACCEPT \$ 546.<sup>00</sup> + TAX

FROM: K. Hovanian

FOR: Appeal Planning Decision of 1.11.12

MAPS & PUBLICATIONS - 001-34106

OTHER CHARGES - CURRENT SERVICE - 001-34110

CREDIT ACCOUNT NO. - CIRCLED ABOVE

BY ORDER OF Kdh

Contigent on pmt of \$436!<sup>18</sup>  
note Only: \$436!<sup>18</sup> notification fee will be paid by wed. Feb. 1, 2012.  
Per Jay - ok.





2525 Campus Drive  
Irvine CA 92612

**K. Hovnanian Companies of California, Inc.**

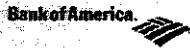
CITY OF PALM SPRINGS  
3200 E TAHQUITZ CANYON WAY  
P. O. BOX 2743  
PALM SPRINGS CA 92263

INVOICE #	DATE	PO #/ REFERENCE/ JOB COST CODE	GROSS AMOUNT	DISCOUNT	NET AMOUNT
CKR001132012	01/13/12	Bond Reserve Base/setup f	546.00		546.00
CHECK NUMBER	DATE	NAME	VENDOR NO.	TOTAL AMOUNT	
137991	01/17/12	City of Palm Springs	700361	\$546.00	

THE FACE OF THIS DOCUMENT HAS A BLUE AND WHITE BACKGROUND WITH A STEP AND REPEAT PATTERN. A TRUE WATERMARK. HOLD TO LIGHT TO VIEW.



2525 Campus Drive  
Irvine CA 92612



**K. Hovnanian Companies of California, Inc.**

CHECK NO.  
00137991

64-1278 / 611 GA

DATE OF CHECK  
01/17/12

CHECK AMOUNT  
\$546.00

PAY: FIVE HUNDRED FORTY SIX DOLLARS AND 00/100

TO THE ORDER OF  
CITY OF PALM SPRINGS  
3200 E TAHQUITZ CANYON WAY  
P. O. BOX 2743  
PALM SPRINGS CA 92263

*Paul M. Vukovich*  
Authorized Signature