



# CITY COUNCIL STAFF REPORT

DATE: September 5, 2012

PUBLIC HEARING

SUBJECT: Case No. 5.1273 – ZONE TEXT AMENDMENT RELATED DIRECTOR REFERRALS FOR LAND USE PERMITS, MINOR ARCHITECTURAL APPROVALS AND ADMINISTRATIVE MINOR MODIFICATIONS

FROM: David H. Ready, City Manager

BY: Planning Department

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## SUMMARY

On November 22, 2011, the Planning Commission initiated the Zone Text Amendment to allow the Director of Planning Services the option of referring to the Planning Commission applications for Land Use Permits, Minor Architectural Approvals and Administrative Minor Modifications. Following a public hearing on July 11, 2012, the Planning Commission adopted a recommendation to allow such referrals. A draft ordinance reflecting the Commission's recommendation has been prepared for Council consideration. A public hearing is required.

## RECOMMENDATION:

1. Open the public hearing and receive public testimony;
2. Waive the reading of the ordinance text in its entirety and read by title only; and
3. INTRODUCE ON FIRST READING ORDINANCE NO. \_\_\_\_, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 94.02.01D.3, 94.06.01.B.2 AND 94.04.00.E.2.A OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO DIRECTOR REFERRAL OF MINOR PERMITS TO THE PLANNING COMMISSION"

## BACKGROUND:

The Zoning Code establishes certain permits to address minor development issues:

- *Land Use Permits* for unusual, temporary or accessory land uses;
- *Minor Architectural Approvals* for exterior design changes; and
- *Administrative Minor Modifications* for limited relief of setbacks and other standards.

To assure flexibility in the Code's application as well as provide for its expeditious

ITEM NO. 1.A.

implementation, these permits are assigned to the Director of Planning Services for review and action. Each permit's procedure is summarized below; however, all these permits have a common feature: The Commission may not review any application for one of these permits, unless the Director's decision is appealed. The Commission recommends a set of Zone Text Amendments that would grant the Director authority to refer to the Commission any application for one of these permits.

**ANALYSIS**

Land Use Permits (LUP's)

LUP's are governed by Section 92.04.01.D.2 and D.3, including the following procedural requirements:

2. *The director of planning and building shall cause to be made such investigation as will provide all necessary information to assure that the action on each such application is consistent with the intent and purpose of this chapter.*
3. *After completion of the investigation, the director of planning and building shall approve the land use permit, subject to those conditions of approval he may deem necessary.*

Note that Section 3 states that the Planning Director "shall approve" a Land Use Permit. This means that uses governed by Land Use Permits may be seen as "by right" uses, but subject to conditions of approval to address potential operational or compatibility problems. As a result, uses subject to Land Use Permits can be placed between those uses allowed "by right" (and not subject to any conditions) and those uses subject to a Conditional Use Permit (CUP) – which may not only be conditioned, but may also be denied when individual cases fail to meet the required findings. The following chart shows the continuum of land use types, with the most permissive category on the left:

Allowed, No conditions	Allowed, May be conditioned	May be allowed, May be conditioned	Not allowed
<b>"by right"</b>	<b>Land Use Permit</b>	<b>Conditional Use Permit</b>	<b>Prohibited</b>
May not be prohibited	May not be prohibited	May be prohibited	Must be prohibited

Staff believes that adding a provision that allows the Director to refer Land Use Permit applications to the Planning Commission will not significantly alter the LUP concept. It will, however, allow the Director to respond to specific Land Use Permit applications that raise unusually complex or public issues. By referring unique and difficult applications to the Commission, the Director can assure that the community – through the Planning Commission – has a chance to weigh in on what would otherwise be a staff decision. Like the other permits discussed below, it is anticipated that only a very small percentage of applications would be referred to the Commission.

Minor Architectural Approvals (MAA's)

MAA's are governed by Section 94.04.00.E.2:

- a. *Staff-Level Approvals. Minor architectural applications which are acted upon by the director of planning services, or designee, shall include repaints, reroofs, walls, fences, entry features, signs, sign programs landscaping plans, minor grading plans, exterior lighting plans, and additions which do not increase existing floor area by forty percent (40%) for single-family residential and twenty-five percent (25%) for all other development subject to this section. The director of planning services may consult with the planning commission architectural advisory committee in review of minor architectural applications.*

Minor Architectural Approvals can cover a variety of significant changes to building exteriors, as well as significant additions to non-single family structures. Two recent projects that were processed as MAA's were the Mercedes-Benz automobile dealership expansion / remodel and the Saguaro Hotel repaint / relandscaping. The dealership was unanimously recommended by the Architectural Advisory Committee and subsequently approved by staff. The Saguaro Hotel repaint was initially rejected by the AAC and then received a split recommendation. Staff concluded that Planning Commission action would be appropriate but could only achieve that by denying the request and forcing the applicant to file an appeal, which occurred.

Either project could have warranted Planning Commission review given the highly visible location of each business. Adding a referral option to the Minor Architectural Approval would allow staff the opportunity to involve the community in important design decisions without creating a record of denial and appeal.

Administrative Minor Modifications (AMM's)

AMM's are subject to Section 94.06.01.B.2 of the Palm Springs Zoning Code:

2. *Before the director may approve a minor modification pursuant to the provisions of subsections (A)(9) through (A)(12) of this section, the director shall find, based on evidence presented, that the modification as approved will not have any detrimental effect on neighboring properties. Before the director may approve a minor modification pursuant to the provisions of (A)(4) through (A)(8) of this section, the director shall make all of the following findings, based on evidence presented:*
  - a. *The requested minor modification is consistent with the general plan, applicable specific plan(s) and overall objectives of the zoning ordinance;*
  - b. *The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the minor modification;*
  - c. *The approval or conditional approval of the minor modification will not be detrimental to the health, safety, or general welfare of persons residing or working on the site or in the vicinity; and*

- d. *The approval of the minor modification is justified by environmental features, site conditions, location of existing improvements, or historic development patterns of the property or neighborhood.*

*The director shall make the decision in writing within five (5) days after the filing of a complete application or after approval of the planning commission. One (1) copy shall be mailed to the applicant and one (1) copy shall be filed with the chair of the planning commission and the director.*

In the case the minor variance process known as Administrative Minor Modification, the likelihood of an application raising significant issues for neighbors and the community-at-large is even lower than could occur with LUP's and MAA's. A reduction of lot dimensions or in the number of parking spaces is limited to no more than 10%. Wall height increases and setback (yard) reductions cannot exceed 20% of the standard. The City's experience with AMM's has yielded very few appeals or controversies. Nevertheless, staff supports the referral option here should the need for public review arise.

#### Proposed Amendments

Staff proposes draft zone text amendments to establish a referral option for the following permit:

- Land Use Permits. Amend Section 94.02.01D.3:
  3. *After completion of the investigation, the director of planning and building shall either approve the land use permit, subject to those conditions of approval he may deem necessary, or refer the entire matter to the planning commission for review and action.*
  
- Minor Architectural Approvals. Amend Section 94.04.00.E.2. a:
  - a. *Staff-Level Approvals. Minor architectural applications which are acted upon by the director of planning services, or designee, shall include repaints, reroofs, walls, fences, entry features, signs, sign programs landscaping plans, minor grading plans, exterior lighting plans, and additions which do not increase existing floor area by forty percent (40%) for single-family residential and twenty-five percent (25%) for all other development subject to this section. The director of planning services may consult with the planning commission architectural advisory committee in review of minor architectural applications, or refer the entire matter to the planning commission for review and action.*
  
- Administrative Minor Modifications. Amend Section 94.06.01.B.2:

... *The director shall make the decision in writing within five (5) days after the filing of a complete application or after approval of the planning commission. One (1) copy shall be mailed to the applicant and one (1) copy shall be filed with the chair of the planning commission and the director. The director may also refer the entire matter to the planning commission for review and action.*

Based on a brief review of prior years' activity, staff believes that no more than one or two referrals per year is likely to occur.

#### Required Findings

In accordance with Section 94.07.01.A.2, any zone text amendment must be evaluated to determine if it is, "...consistent with the intent of this Zoning Code and the general plan..."

#### Zoning Code Consistency

The proposed zoning code amendments are consistent with the intent of the zoning code, because, according to Section 91.00.00, the Zoning Code is adopted "For the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources...". The amendments propose to allow Planning Commission review of those rare applications for minor permits (LUP's, MAA's and AMM's) that in the opinion of the Director of Planning Service have potentially significant impact on the neighborhood or community. Staff believes that these additional review options will enhance community involvement in land use and thereby directly promote and protect the public welfare and improve the orderly planned use of land resources.

#### General Plan Consistency

The proposed zoning code amendment is consistent with the intent of the general plan, as follows: The intent of the General Plan is expressed in "The Palm Springs Vision" contained in the opening pages of the 2007 Palm Springs General Plan:

##### *The Palm Springs Vision*

- *A world-renowned desert resort community where residents and visitors enjoy safe neighborhoods, an exciting social environment and a relaxing leisure experience.*
- *We enhance our natural, cultural, and historical resources with sustainable economic growth and high style.*
- *We provide responsive, friendly and efficient public services within a government that fosters unity among all our citizens;*

The proposed amendments will help provide responsive and efficient government by assuring that minor projects receive appropriately simpler reviews, while major projects – even while processed under minor permits – receive greater scrutiny in the most efficient and expedited manner.

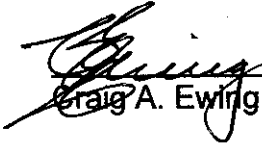
#### ENVIRONMENTAL DETERMINATION

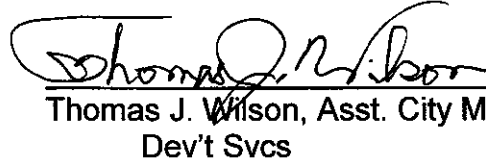
Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the proposed Zone Text Amendments have been deemed a "project". Staff has determined that the propose zone text amendments (Case 5.1280 ZTA) may be deemed Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act. The

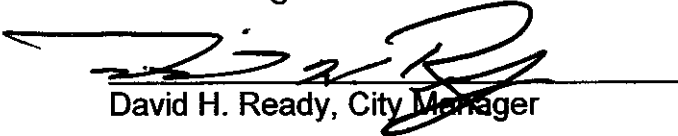
proposed zone text amendments propose only insignificant changes to the procedural requirements of minor permits, and do not result in any increase in land use densities.

FISCAL IMPACT:

None.

  
\_\_\_\_\_  
Craig A. Ewing, AICP, Dir. of Plng Svcs

  
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Thomas J. Wilson, Asst. City Manager,  
Dev't Svcs

  
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David H. Ready, City Manager

Attachments:

1. Draft Ordinance – Zone Text Amendment – Director Referrals of Minor Permits
2. Planning Commission Meeting Minutes, excerpt (July 11, 2012)
3. Planning Commission Resolution No. 6234
4. Planning Commission Staff Report (July 11, 2012)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PALM SPRINGS,  
CALIFORNIA, AMENDING SECTIONS 94.02.01D.3,  
94.06.01.B.2 AND 94.04.00.E.2.a OF THE PALM SPRINGS  
MUNICIPAL CODE, RELATING TO DIRECTOR  
REFERRAL OF MINOR PERMITS TO THE PLANNING  
COMMISSION (CASE 5.1273 ZTA).**

City Attorney's Summary

*This Ordinance amends the procedural requirements for Land Use Permits, Minor Architectural Approvals and Administrative Minor Modifications to allow the Director of Planning Services to refer applications for these permits to the Planning Commission for action.*

The City Council of the City of Palm Springs hereby finds:

- A. On November 22, 2011, the Planning Commission initiated a Zone Text Amendment (Case 5.1273 ZTA) to modify the Zoning Code to allow the Director of Planning Services the option of referring to the Planning Commission minor development applications.
- B. The proposed amendments are considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and it has been recommended that the proposed amendments be determined to be Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendments propose only insignificant changes to the procedural requirements of minor permits, and do not result in any increase in land use densities; and.
- C. A notice of public hearing of the Planning Commission of the City of Palm Springs, California for Case 5.1273 ZTA (Zone Text Amendment) was given in accordance with applicable law.
- D. On July 11, 2012 a public hearing of the Planning Commission was held to review said case, and at said hearing the Planning Commission reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented, and voted to recommend a Categorical Exemption for the project under CEQA and recommend approval of the proposed amendments.

- E. A notice of public hearing of the City Council of the City of Palm Springs, California for Case 5.1273 ZTA was given in accordance with applicable law.
- F. On September 5, 2012, a public meeting on Case 5.1273 ZTA was held by the City Council in accordance with applicable law, and at said hearing the City Council carefully reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.
- G. A Zone Text Amendment is adopted by ordinance and includes two readings and a thirty-day period before it is effective.
- H. An ordinance has been prepared for two readings before the City Council for the approval of Case 5.1273 ZTA.
- I. The proposed zoning code amendments are consistent with the intent of the zoning code, because, according to Section 91.00.00, the Zoning Code is adopted "For the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources..."; and the amendments propose to allow Planning Commission review of those rare applications for minor permits (LUP's, MAA's and AMM's) that in the opinion of the Director of Planning Service have potentially significant impact on the neighborhood or community; and that these additional review options will enhance community involvement in land use and thereby directly promote and protect the public welfare and improve the orderly planned use of land resources.
- J. The proposed zoning code amendment is consistent with the intent of the general plan, because, the intent of the General Plan is expressed in "The Palm Springs Vision" contained in the opening pages of the 2007 Palm Springs General Plan:

The Palm Springs Vision

- A world-renowned desert resort community where residents and visitors enjoy safe neighborhoods, an exciting social environment and a relaxing leisure experience.
- We enhance our natural, cultural, and historical resources with sustainable economic growth and high style.
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and the amendments will help provide responsive and efficient government by assuring that minor projects receive appropriately simpler reviews, while major projects – even while processed under minor permits – receive greater scrutiny in the most efficient and expedited manner.



**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:**

Section 1. Pursuant to CEQA, the City Council hereby determines that the propose amendment (Case 5.1280 ZTA) are Categoricaly Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendments propose only insignificant changes to the procedural requirements of minor permits, and do not result in any increase in land use densities.

Section 2. Section 94.02.01D.3 of the Palm Springs Municipal Code is amended to read:

3. After completion of the investigation, the director of planning and building shall either approve the land use permit, subject to those conditions of approval he may deem necessary, or refer the entire matter to the planning commission for review and action

Section 3. Section 94.04.00.E.2.a of the Palm Springs Municipal Code is amended to read:

a. **Staff-Level Approvals.** Minor architectural applications which are acted upon by the director of planning services, or designee, shall include repaints, reroofs, walls, fences, entry features, signs, sign programs landscaping plans, minor grading plans, exterior lighting plans, and additions which do not increase existing floor area by forty percent (40%) for single-family residential and twenty-five percent (25%) for all other development subject to this section. The director of planning services may consult with the planning commission architectural advisory committee in review of minor architectural applications, or refer the entire matter to the planning commission for review and action.

Section 4. Section 94.06.01.B.2 of the Palm Springs Municipal Code is amended to read:

2. Before the director may approve a minor modification pursuant to the provisions of subsections (A)(9) through (A)(12) of this section, the director shall find, based on evidence presented, that the modification as approved will not have any detrimental effect on neighboring properties. Before the director may approve a minor modification pursuant to the provisions of (A)(4) through (A)(8) of this section, the director shall make all of the following findings, based on evidence presented:

a. The requested minor modification is consistent with the general plan, applicable specific plan(s) and overall objectives of the zoning ordinance;

- b. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the minor modification;
- c. The approval or conditional approval of the minor modification will not be detrimental to the health, safety, or general welfare of persons residing or working on the site or in the vicinity; and
- d. The approval of the minor modification is justified by environmental features, site conditions, location of existing improvements, or historic development patterns of the property or neighborhood.

The director shall make the decision in writing within five (5) days after the filing of a complete application or after approval of the planning commission. One (1) copy shall be mailed to the applicant and one (1) copy shall be filed with the chair of the planning commission and the director. The director may also refer the entire matter to the planning commission for review and action.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
STEPHEN P. POUQUET, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
DOUGLAS HOLLAND, CITY ATTORNEY

RESOLUTION NO. 6283

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA RECOMMENDING APPROVAL OF CASE 5.1273 ZTA, A PROPOSED ZONE TEXT AMENDMENT FOR SECTIONS 94.02.01D.3, 94.06.01.B.2 AND 94.04.00.E.2.A OF THE PALM SPRINGS ZONING CODE TO ALLOW THE DIRECTOR OF PLANNING SERVICES THE OPTION OF REFERRING TO THE PLANNING COMMISSION APPLICATIONS FOR LAND USE PERMITS, MINOR ARCHITECTURAL APPROVALS AND ADMINISTRATIVE MINOR MODIFICATIONS.

WHEREAS, on November 22, 2011, the Planning Commission initiated a Zone Text Amendment (Case 5.1273 ZTA) to modify the Zoning Code to allow the Director of Planning Services the option of referring to the Planning Commission minor development applications; and

WHEREAS, the proposed amendments are considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and the it has been recommended that the proposed amendments be determined to be Categorical Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendments propose only insignificant changes to the procedural requirements of minor permits, and do not result in any increase in land use densities; and

WHEREAS, a notice of public hearing of the Planning Commission of the City of Palm Springs, California for Case 5.1273 ZTA (Zone Text Amendment) was given in accordance with applicable law; and

WHEREAS, on July 11, 2012 a public hearing of the Planning Commission was held to review said case, and at said hearing the Planning Commission reviewed and considered all of the evidence presented in connection with the hearing on the project, including, but not limited to, the staff report, and all written and oral testimony presented.

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

SECTION 1. Pursuant to CEQA, the Planning Commission hereby recommends that the City Council determine that the proposed zone text amendments (Case 5.1273 ZTA) are Categorical Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendments propose only insignificant changes to the procedural requirements of minor permits, and do not result

in any increase in land use densities.

**SECTION 2:** Pursuant to PSZC Section 94.07.01 (Zoning Ordinance Text Amendment), the Planning Commission finds as follows:

- A. The proposed zoning code amendments are consistent with the intent of the zoning code, because, according to Section 91.00.00, the Zoning Code is adopted "For the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources..."; and the amendments propose to allow Planning Commission review of those rare applications for minor permits (LUP's, MAA's and AMM's) that in the opinion of the Director of Planning Service have potentially significant impact on the neighborhood or community; and that these additional review options will enhance community involvement in land use and thereby directly promote and protect the public welfare and improve the orderly planned use of land resources.
- B. The proposed zoning code amendment is consistent with the intent of the general plan, because, the intent of the General Plan is expressed in "The Palm Springs Vision" contained in the opening pages of the 2007 Palm Springs General Plan:

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and the amendments will help provide responsive and efficient government by assuring that minor projects receive appropriately simpler reviews, while major projects – even while processed under minor permits – receive greater scrutiny in the most efficient and expedited manner.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby recommends that the City Council determine that the proposed zone text amendment Case 5.1273 ZTA is Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act and also recommends adoption of an ordinance to approve a zone text amendment (Case 5.1273 ZTA), as set forth in Exhibit A.

ADOPTED this 11th day of July 2012.

AYES: 6, Munger, Vice Chair Hudson, Klatchko, Roberts, Calderine and Chair  
Donenfeld  
NOES: 1, Weremiuck  
ABSENT: None  
ABSTAIN: None

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

  
FOR  
Craig A. Ewing, AICP  
Director of Planning Services

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 94.02.01D.3, 94.06.01.B.2 AND 94.04.00.E.2.a OF THE PALM SPRINGS MUNICIPAL CODE, RELATING TO DIRECTOR REFERRAL OF MINOR PERMITS TO THE PLANNING COMMISSION (CASE 5.1273 ZTA).**

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and the amendments will help provide responsive and efficient government by assuring that minor projects receive appropriately simpler reviews, while major projects – even while processed under minor permits – receive greater scrutiny in the most efficient and expedited manner.

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Section 1. Pursuant to CEQA, the City Council hereby determines that the propose amendment (Case 5.1280 ZTA) are Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act because the proposed zone text amendments propose only insignificant changes to the procedural requirements of minor permits, and do not result in any increase in land use densities.

Section 2. Section 94.02.01D.3 of the Palm Springs Municipal Code is amended to read:

3. After completion of the investigation, the director of planning and building shall either approve the land use permit, subject to those conditions of approval he may deem necessary, or refer the entire matter to the planning commission for review and action

Section 3. Section 94.04.00.E.2.a of the Palm Springs Municipal Code is amended to read:

a. Staff-Level Approvals. Minor architectural applications which are acted upon by the director of planning services, or designee, shall include repaints, reroofs, walls, fences, entry features, signs, sign programs landscaping plans, minor grading plans, exterior lighting plans, and additions which do not increase existing floor area by forty percent (40%) for single-family residential and twenty-five percent (25%) for all other development subject to this section. The director of planning services may consult with the planning commission architectural advisory committee in review of minor architectural applications, or refer the entire matter to the planning commission for review and action.

Section 4. Section 94.06.01.B.2 of the Palm Springs Municipal Code is amended to read:

2. Before the director may approve a minor modification pursuant to the provisions of subsections (A)(9) through (A)(12) of this section, the director shall find, based on evidence presented, that the modification as approved will not have any detrimental effect on neighboring properties. Before the director may approve a minor modification pursuant to the provisions of (A)(4) through (A)(8) of this section, the director shall make all of the following findings, based on evidence presented:

a. The requested minor modification is consistent with the general plan, applicable specific plan(s) and overall objectives of the zoning ordinance;



- b. The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the minor modification;
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Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
STEPHEN P. POGNET, MAYOR

ATTEST:

\_\_\_\_\_  
JAMES THOMPSON, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
DOUGLAS HOLLAND, CITY ATTORNEY



# Planning Commission Staff Report

July 11, 2012

Case: 5.1273 ZTA  
Application Type: Zone Text Amendment (ZTA)  
Location: City-wide  
Applicant: City of Palm Springs  
From: Craig A. Ewing, AICP, Director of Planning Services

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## **PROJECT DESCRIPTION:**

An application by City of Palm Springs to amend Sections 94.02.01D.3, 94.06.01.B.2 and 94.04.00.E.2.a of the Palm Springs Zoning Code to allow the Director of Planning Services the option of referring to the Planning Commission applications for Land Use Permits, Minor Architectural Approvals and Administrative Minor Modifications.

## **RECOMMENDATION:**

1. Open the public hearing and receive any testimony.
2. Adopt the attached draft resolution recommending the City Council amend the Zoning Code to allow the Director of Planning the option of referring to the Planning Commission applications for Land Use Permit, Minor Architectural Approvals and Minor Modifications.

## **PRIOR ACTIONS TAKEN ON THE PROJECT:**

On November 22, 2011, the Planning Commission initiated the Zone Text Amendment regarding the referral option for the Director of Planning.

## **ANALYSIS:**

The Zoning Code establishes certain permits to address minor development issues:

- *Land Use Permits* for unusual, temporary or accessory land uses;
- *Minor Architectural Approvals* for exterior design changes; and
- *Administrative Minor Modifications* for limited relief of setbacks and other standards.

To assure flexibility in the Code's application as well as provide for its expeditious implementation, these permits are assigned to the Director of Planning Services for review and action. Each permit's procedure is summarized below; however, all these permits have a common feature: The Commission may not review any application for one of these permits, unless the Director's decision is appealed. This report proposes a set of Zone Text Amendments that would grant the Director authority to refer to the Commission any application for one of these permits.

**Land Use Permits (LUP's)**

LUP's are governed by Section 92.04.01.D.2 and D.3, including the following procedural requirements:

2. *The director of planning and building shall cause to be made such investigation as will provide all necessary information to assure that the action on each such application is consistent with the intent and purpose of this chapter.*
3. *After completion of the investigation, the director of planning and building shall approve the land use permit, subject to those conditions of approval he may deem necessary.*

Note that Section 3 states that the Planning Director "shall approve" a Land Use Permit. This means that uses governed by Land Use Permits may be seen as "by right" uses, but subject to conditions of approval to address potential operational or compatibility problems. As a result, uses subject to Land Use Permits can be placed between those uses allowed "by right" (and not subject to any conditions) and those uses subject to a Conditional Use Permit (CUP) – which may not only be conditioned, but may also be denied when individual cases fail to meet the required findings. The following chart shows the continuum of land use types, with the most permissive category on the left:

Allowed, No conditions	Allowed, May be conditioned	May be allowed, May be conditioned	Not allowed
<b>"by right"</b>	<b>Land Use Permit</b>	<b>Conditional Use Permit</b>	<b>Prohibited</b>
May not be prohibited	May not be prohibited	May be prohibited	Must be prohibited

Staff believes that adding a provision that allows the Director to refer Land Use Permit applications to the Planning Commission will not significantly alter the LUP concept. It will, however, allow the Director to respond to specific Land Use Permit applications that raise unusually complex or public issues. By referring unique and difficult applications to the Commission, the Director can assure that the community – through the Planning Commission – has a chance to weigh in on what would otherwise be a staff decision. Like the other permits discussed below, it is anticipated that only a very small percentage of applications would be referred to the Commission.

### Minor Architectural Approvals (MAA's)

MAA's are governed by Section 94.04.00.E.2:

- a. *Staff-Level Approvals. Minor architectural applications which are acted upon by the director of planning services, or designee, shall include repaints, reroofs, walls, fences, entry features, signs, sign programs landscaping plans, minor grading plans, exterior lighting plans, and additions which do not increase existing floor area by forty percent (40%) for single-family residential and twenty-five percent (25%) for all other development subject to this section. The director of planning services may consult with the planning commission architectural advisory committee in review of minor architectural applications.*

Minor Architectural Approvals can cover a variety of significant changes to building exteriors, as well as significant additions to non-single family structures. Two recent projects that were processed as MAA's were the Mercedes-Benz automobile dealership expansion / remodel and the Saguaro Hotel repaint / relandscaping. The dealership was unanimously recommended by the Architectural Advisory Committee and subsequently approved by staff. The Saguaro Hotel repaint was initially rejected by the AAC and then received a split recommendation. Staff concluded that Planning Commission action would be appropriate but could only achieve that by denying the request and forcing the applicant to file an appeal, which occurred.

Either project could have warranted Planning Commission review given the highly visible location of each business. Adding a referral option to the Minor Architectural Approval would allow staff the opportunity to involve the community in important design decisions without creating a record of denial and appeal.

### Administrative Minor Modifications (AMM's)

AMM's are subject to Section 94.06.01.B.2 of the Palm Springs Zoning Code:

2. *Before the director may approve a minor modification pursuant to the provisions of subsections (A)(9) through (A)(12) of this section, the director shall find, based on evidence presented, that the modification as approved will not have any detrimental effect on neighboring properties. Before the director may approve a minor modification pursuant to the provisions of (A)(4) through (A)(8) of this section, the director shall make all of the following findings, based on evidence presented:*
  - a. *The requested minor modification is consistent with the general plan, applicable specific plan(s) and overall objectives of the zoning ordinance;*
  - b. *The neighboring properties will not be adversely affected as a result of the approval or conditional approval of the minor modification;*
  - c. *The approval or conditional approval of the minor modification will not be detrimental to the health, safety, or*

*general welfare of persons residing or working on the site or in the vicinity; and*

- d. *The approval of the minor modification is justified by environmental features, site conditions, location of existing improvements, or historic development patterns of the property or neighborhood.*

*The director shall make the decision in writing within five (5) days after the filing of a complete application or after approval of the planning commission. One (1) copy shall be mailed to the applicant and one (1) copy shall be filed with the chair of the planning commission and the director.*

In the case the minor variance process known as Administrative Minor Modification, the likelihood of an application raising significant issues for neighbors and the community-at-large is even lower than could occur with LUP's and MAA's. A reduction of lot dimensions or in the number of parking spaces is limited to no more than 10%. Wall height increases and setback (yard) reductions cannot exceed 20% of the standard. The City's experience with AMM's has yielded very few appeals or controversies. Nevertheless, staff supports the referral option here should the need for public review arise.

#### Proposed Amendments

Staff proposes draft zone text amendments to establish a referral option for the following permit:

- Land Use Permits. Amend Section 94.02.01D.3:
  3. *After completion of the investigation, the director of planning and building shall either approve the land use permit, subject to those conditions of approval he may deem necessary, or refer the entire matter to the planning commission for review and action.*
  
- Minor Architectural Approvals. Amend Section 94.04.00.E.2. a:
  - a. *Staff-Level Approvals. Minor architectural applications which are acted upon by the director of planning services, or designee, shall include repaints, reroofs, walls, fences, entry features, signs, sign programs landscaping plans, minor grading plans, exterior lighting plans, and additions which do not increase existing floor area by forty percent (40%) for single-family residential and twenty-five percent (25%) for all other development subject to this section. The director of planning services may consult with the planning commission architectural advisory committee in review of minor architectural applications, or refer the entire matter to the planning commission for review and action.*
  
- Administrative Minor Modifications. Amend Section 94.06.01.B.2:

*... The director shall make the decision in writing within five (5) days after the filing of a complete application or after approval of the planning commission. One (1) copy shall be mailed to the applicant*

*and one (1) copy shall be filed with the chair of the planning commission and the director. The director may also refer the entire matter to the planning commission for review and action.*

Based on a brief review of prior years' activity, staff believes that no more than one or two referrals per year is likely to occur.

#### Required Findings

In accordance with Section 94.07.01.A.2, any zone text amendment must be evaluated to determine if it is, "...consistent with the intent of this Zoning Code and the general plan..."

#### Zoning Code Consistency

The proposed zoning code amendments are consistent with the intent of the zoning code, because, according to Section 91.00.00, the Zoning Code is adopted "For the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources...". The amendments propose to allow Planning Commission review of those rare applications for minor permits (LUP's, MAA's and AMM's) that in the opinion of the Director of Planning Service have potentially significant impact on the neighborhood or community. Staff believes that these additional review options will enhance community involvement in land use and thereby directly promote and protect the public welfare and improve the orderly planned use of land resources.

#### General Plan Consistency

The proposed zoning code amendment is consistent with the intent of the general plan, as follows: The intent of the General Plan is expressed in "The Palm Springs Vision" contained in the opening pages of the 2007 Palm Springs General Plan:

##### *The Palm Springs Vision*

- *A world-renowned desert resort community where residents and visitors enjoy safe neighborhoods, an exciting social environment and a relaxing leisure experience.*
- *We enhance our natural, cultural, and historical resources with sustainable economic growth and high style.*
- *We provide responsive, friendly and efficient public services within a government that fosters unity among all our citizens;*

The proposed amendments will help provide responsive and efficient government by assuring that minor projects receive appropriately simpler reviews, while major projects – even while processed under minor permits – receive greater scrutiny in the most efficient and expedited manner.

#### **ENVIRONMENTAL ASSESSMENT:**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the proposed

Zone Text Amendments have been deemed a "project". Staff has determined that the propose zone text amendments (Case 5.1280 ZTA) may be deemed Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act. The proposed zone text amendments propose only insignificant changes to the procedural requirements of minor permits, and do not result in any increase in land use densities.

**NOTIFICATION:**

A public hearing notice was advertised in accordance with the requirements of State law and local ordinance. As of the writing of this report, staff has not received any comment.

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Craig A. Ewing, AICP  
Director of Planning Services

**ATTACHMENTS**

1. Draft Resolution and Ordinance

**CITY OF PALM SPRINGS  
PUBLIC HEARING NOTIFICATION**



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City Council  
Meeting Date: September 5, 2012  
Subject: Case 5.1273 - ZTA

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**AFFIDAVIT OF MAILING**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on August 21, 2012, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California. (6 notices)


I declare under penalty of perjury that the foregoing is true and correct.

  
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Kathie Hart, CMC  
Chief Deputy City Clerk

**AFFIDAVIT OF PUBLICATION**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun on August 24, 2012.


I declare under penalty of perjury that the foregoing is true and correct.

  
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Kathie Hart, CMC  
Chief Deputy City Clerk

**AFFIDAVIT OF POSTING**

I, Kathie Hart, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board and in the Office of the City Clerk on August 21, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

  
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Kathie Hart, CMC  
Chief Deputy City Clerk



NOTICE OF PUBLIC HEARING  
CITY COUNCIL  
CITY OF PALM SPRINGS

CASE 5.1273 ZTA – ZONE TEXT AMENDMENT  
AUTHORIZING DIRECTOR REFERRALS ON CERTAIN PERMITS AND APPROVALS

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of September 5, 2012. The City Council meeting begins at 6:00 p.m., in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of this hearing is to consider an application by the City of Palm Springs for a zone text amendment (ZTA) to allow the Planning Director to refer to the Planning Commission applications for Land Use Permits, Architectural Review Approvals, and Minor Modifications.

**ENVIRONMENTAL DETERMINATION:** The project is proposed as Categorically Exempt from the terms of the California Environmental Quality Act ("CEQA") under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act. Members of the public may view this document at the Planning Services Department, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs, between the hours of 8:00 a.m. to 11:00 a.m. and 2:00 p.m. to 6:00 p.m., Monday through Thursday and submit written comments at, or prior to, the City Council meeting.

**REVIEW OF INFORMATION:** The staff report and other supporting documents regarding this are available for public review at City Hall between the hours of 8:00 a.m. to 11:00 a.m. and 2:00 p.m. to 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

**COMMENT ON THIS APPLICATION:** Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

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

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior to, the public hearing. (Government Code Section 65009[b][2]).

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Craig A. Ewing, AICP, Director of Planning Services, at (760) 323-8245.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.

  
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Kathie Hart, CMC  
Chief Deputy City Clerk