



Planning Commission Staff Report

Date: January 23, 2013

Case No.: 5.0996-PD 294

Application Type: Time Extension for Planned Development District

Location: West of Racquet Club, south of Tram Way & west of Vista Grande Road

Applicant: Wessman Development

Zone: R-1-A (Single-Family Residential, with a minimum lot size of 20,000 square feet) / PDD 294

General Plan: H43/21 (High Density Residential)

APNs: 594-040-046

From: Craig Ewing, AICP, Director of Planning Services

Project Planner: Edward O. Robertson, Principal Planner

PROJECT DESCRIPTION

The applicant, Wessman Development, is requesting a one-year time-extension for a previously approved 79-lot subdivision for upscale single-family residential development on approximately 42.2-acre property. A Planned Development District application (PD 294) establishing new design and development standards for the project was approved by the Planning Commission on September 26, 2007. The City Council certified a final Environmental Impact Report on October 17, 2007, and approved the project as recommended by the Planning Commission.

RECOMMENDATION

That the Planning Commission approve a one-year time extension for PD 294 from October 16, 2012, to October 15, 2013.

PRIOR ACTIONS

On September 26, 2007, the Planning Commission considered the residential project and by a vote of 5-2, adopted the draft Mitigated Negative Declaration (MND) and recommended approval of Case 5.0996/ PD 294 to the City Council.

On October 17, 2007, the City Council certified a final Environmental Impact Report and approved Planned Development District 294 as recommended by the Planning Commission.

On May 29, 2008, the City of Palm Springs and Wessman Development reached a "Settlement and Release Agreement" which granted an additional three-year extension to the regular two-year approvals for PDD entitlements. The settlement and release agreement allowed the project a total of an initial five-year entitlement; hence the new expiration date of October 16, 2012.

BACKGROUND AND SETTING

The Crescendo project site is a 42-acre triangular parcel bounded by Racquet Club Drive, the Chino Canyon neighborhood to the south, Tram Way to the north and portion of the Agua Caliente Indian Reservation to the west. The site is currently vacant but full of rocks, loose cobbles and large boulders. The slopes are between eight and ten percent from east to west; the elevation ranges from 680 to 840 feet above sea level. The subject property is surrounded by well established residential developments with unique building pads and street patterns. The subject property is located along West Racquet Club Road, south of Tram Way and east of Vista Grande Avenue.

The previously approved project consisted of a Planned Development District (PD 294) and a tentative tract map (TTM 31766). Planned Development District 294 established new design and development standards for the project while Tentative Tract Map 31766 created 79 single-family residential lots to construct upscale homes. The lots range between 15,077 square feet and 54,500 square feet in size; the average lot size in the development is 21,195 square feet. This development was not proposed to be a gated community.

As stated earlier, the City Council certified a Final EIR and approved the Crescendo on October 17, 2007. On May 29, 2008, this approval action was followed by a Settlement and Release Agreement (Attachment 5) reached between the City and the applicant, Wessman Development. With this settlement and release agreement, the project became valid for an initial five-year period; consequently this time extension request is the first such request since the original approval date of October 17, 2007.

ANALYSIS

Section 94.03.00(H) of the Zoning Code states that extensions of time for a PD may be allowed by demonstration of good cause. According to Chapter 9.63.110 of the Municipal Code, there are no specific findings or determinations that need to be made to grant the time extension for the PD. The Municipal Code does limit all time extensions to one-year and that requirement is being carried forward in staff's recommendation.

In the letter of time extension request dated November 19, 2012, the applicant provided a brief background of the property and the project. According to Wessman Development, the Crescendo site was purchased in 2003 but because of concerns and objections raised by surrounding residents at the time, an Environmental Impact Report (EIR) had to be prepared. The entitlement was granted in 2007; within six months of the project approval, the financial crisis of 2008/2009 occurred; triggering a recession which resulted in the plunge of home prices by more than 50% in the Palm Springs market.

The applicant added that... *"Unfortunately, current home price values within this neighborhood continue to remain below today's replacement costs making new construction costs prohibitive at this time. If the latest trend in home price appreciation continues, we are confident the project will again become feasible within the next 12 to 24 months"*.

The City's Ordinance has no specific findings for extension of time for previously approved Planned Development District projects; however, in reviewing the request, staff considered if the circumstances below have changed such that the PD approval might need reconsideration. Staff's analysis is provided below on each of the factors to be considered by the Planning Commission.

1. *Any changes to project's overall plan and site configuration*

There are no changes to the project's overall plan and site configuration to warrant reconsideration of the approval of PD-294. The site is currently vacant but full of rocks, loose cobbles and large boulders. The subject property is surrounded by well established residential developments with unique building pads and street patterns.

2. *Specific steps taken by applicant over the past year to advance the project*

Wessman Development indicated that the Company has invested over four years' time and excess of \$1 million in the project design and entitlements and remains committed to the community and the development of this important location. Furthermore, the applicant claimed that the main cause of the project delay is the current state of economy and real estate demand. Finally, the applicant stated that they are waiting for the current home values to improve within the project area; they are prepared to develop the project within the next 12 to 24 months should the current trend in home appreciation continue.

3. *Recent developments and uses within the surrounding area*

The most notable recent development around the Crescendo area is the approval of the Desert Palisades Specific Plan which includes a new subdivision (TTM 35540) of approximately 117-acre site into 110 single-family residential units. The project was approved by the Planning Commission and the City Council in 2010 and 2011 respectively.

4. *The applicable policies of the General Plan, zoning ordinance and other regulations*

Staff has reviewed the project, surrounding area and underlying zoning regulations and determined that no significant changes have occurred that would suggest that the project is no longer in keeping with the neighborhood or the City's development policies and standards. If the time extension request is granted, architectural plans for individual homes are still required to be submitted for review and recommendation by the AAC for final approval by the Planning Commission.

5. *Any off-site improvements, installation of infrastructure and other changes within 400 feet radius of project site.*

The developer has not installed any infrastructure or completed any off-site improvements on the project site.

Staff received amended conditions from the Engineering Department in response to changes in applicable engineering standards and regulations. A list of these additions or modifications to the Conditions of Approval is as follows: Engineering Conditions – Tram Way; #1, #2 and #3; Delete; Racquet Club; #7 & #12, Modify #8; On-Site Private Streets: Add: #22 & #24; Grading, Modify: #32, Add: #s.32a, 32b, 32c, 32d, 32e, 32f, 32e, 32g, 33, 34a, & 34b; Drainage; Modify: #48; General; Delete #57; Add: #59a; Map: Modify: #61; Add: #61a; Traffic; Add: #66a; Modify: #68 & #69.

ENVIRONMENTAL ASSESSMENT


A Final Environmental Impact Report (EIR) was previously certified by the City Council on October 17, 2007 for the project. Pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, the preparation of a Subsequent EIR, Addendum to the EIR or further environmental documentation is not necessary because the changed circumstances of the project will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The time extension request would not result in any new environmental impacts beyond those already assessed in the certified environmental impact report.

CONCLUSION:

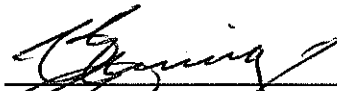
Based on the information provided by the applicant, and the current condition of the project site, it is the department's belief that the developers have demonstrated good cause for seeking an extension and for asserting that the project will move forward as originally planned. Therefore, staff recommends that the Planning Commission grant a one-year time extension for the project.

NOTIFICATION

The applicant was notified of the Planning Commission review of the request; a hearing notice is not required for a time extension request.



Edward O. Robertson
Principal Planner



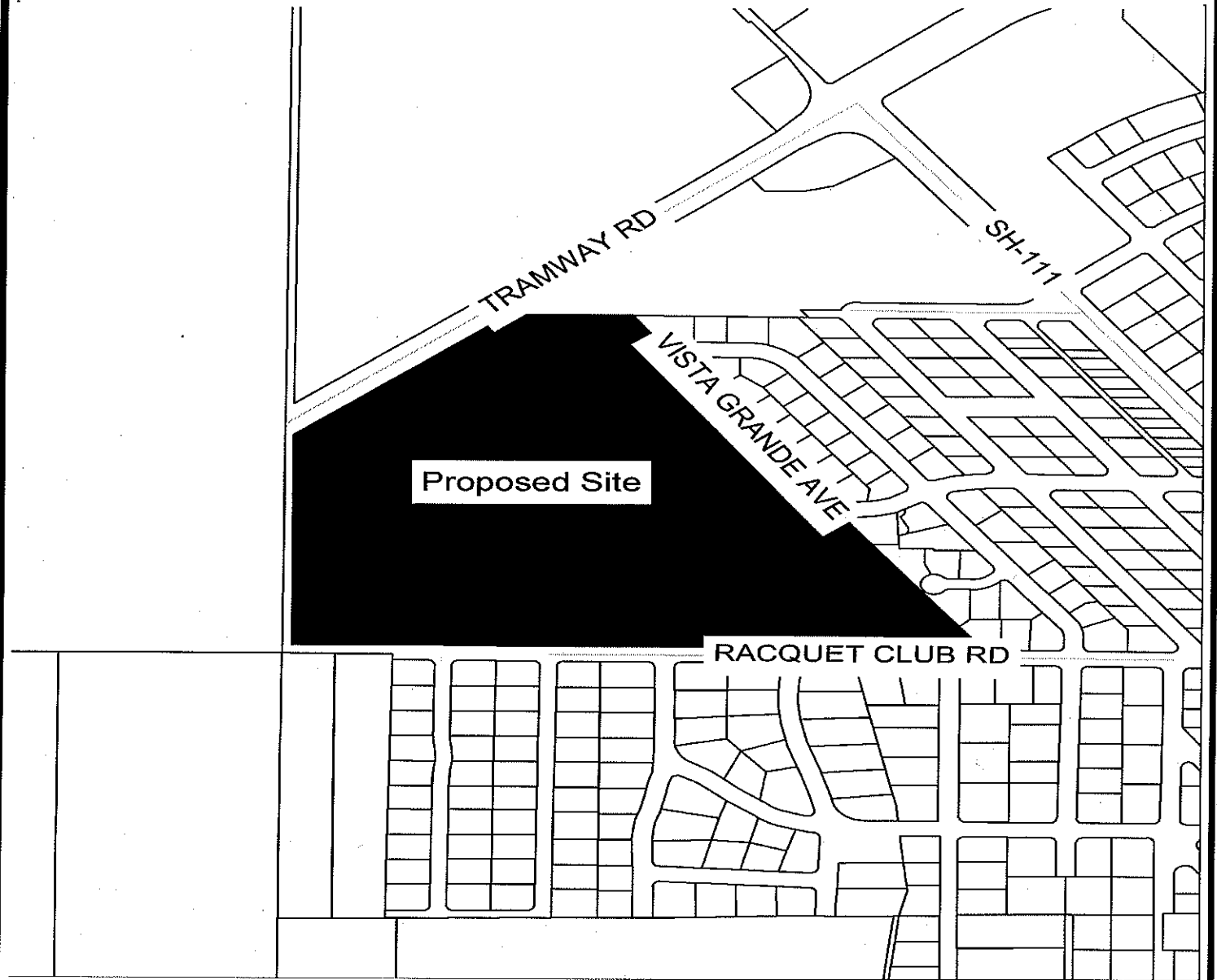
Craig A. Ewing, AICP
Director of Planning Services

ATTACHMENTS:

1. Vicinity Map
2. Draft Resolution
3. Revised Conditions of Approval
4. Letters of request from the applicant dated August 30, 2012 & Nov. 19, 2012
5. Settlement & Release Agreement
6. Staff Report from the original public hearing when the project was approved
7. Minutes from the original approval public hearing



Department of Planning and Zoning Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.0996-PD-294,
THE CRESCENDO PROJECT

APPLICANT: Wessman Development

DESCRIPTION: Time Extension Request for PDD 294; the Crescendo project to construct 79 single family residences on 42.2 acres.

APN: 594-040-046

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA APPROVING A ONE-YEAR TIME EXTENSION FOR PLANNED DEVELOPMENT DISTRICT 294 FROM OCTOBER 16, 2012 TO OCTOBER 15, 2013; A PREVIOUSLY APPROVED 79-LOT HIGH-END SINGLE-FAMILY RESIDENTIAL DEVELOPMENT ON APPROXIMATELY 42-ACRE SITE LOCATED ALONG WEST OF RACQUET CLUB ROAD, AND SOUTH OF TRAMWAY. AND WEST OF VISTA GRANDE ROAD; ZONE R-1-A / PDD 294, SECTION 3.

WHEREAS, Wessman Development, ("Applicant") has filed an application with the City pursuant to Section 94.04.00(H) and 94.04.00(I)(1) of the Palm Springs Zoning Code and Chapter 9.63.110 of the Palm Springs Municipal Code for a one-year time extension to commence construction for PD 294; and

WHEREAS, on January 23, 2013, a public meeting on the time extension request was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the Planning Department has reviewed this project under the provisions of the California Environmental Quality Act (CEQA), and has determined that a time extension request is considered a "project" pursuant to the terms of the California Environmental Quality Act (CEQA). A Final Environmental Impact Report was previously certified by the City Council on October 17, 2007 for the project. Pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, further environmental documentation is not necessary because the changed circumstances of the project will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The time extension request would not result in any new environmental impacts beyond those already assessed in the certified environmental impact report.

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, and all written and oral testimony presented.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves a one-year time extension for PD 294 from October 16, 2012 to October 15, 2013.

ADOPTED this 23rd day of January 2013.

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Craig A. Ewing, AICP
Director of Planning Services

CASE No. 5.0996 PD-294 (CRESCENDO)

PLANNED DEVELOPMENT DISTRICT 294(PD 294)
TENTATIVE TRACT MAP 31766
APN # 504-040-046

1000 WEST OF RACQUET CLUB - WESSMAN DEVELOPMENT

CONDITIONS OF APPROVAL

January 23, 2013

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

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

PLANNING DEPARTMENT:

Administrative:

1. The proposed development of the premises shall conform to all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, or any other City Codes, ordinances and resolutions which supplement the zoning district regulations.
2. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 5.0996, PD-294 and TTM 31766. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or

abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

3. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
4. Prior to recordation of the final map or, at the City's option, prior to issuance of certificate of occupancy, the developer agree to support formation of or annexation into a Community Facilities District (CFD) to include the project site. Developer further agrees to waive any right of protest or contest such formation or annexation, provided that the amount of any assessment for any single family dwelling unit (or the equivalency thereof when applied to multiple family, commercial or industrial) as established through appropriate study shall not exceed \$500 annually per dwelling unit or dwelling unit equivalency unit, subject to an annual consumer price index escalator. Prior to sale of any lots, or prior to the issuance of any certificate of occupancy, or prior to any approval of the Building Official that will allow the premises to be occupied, the CFD shall be formed, the annexation thereto shall occur, or at the option of the City Manager and Building Official, a covenant agreement may be recorded against any affected parcel(s) with the project, evidencing the Owner's binding consent, approval, and waiver of rights as provided in this condition of approval.
5. The applicant, prior to issuance of building permits, shall submit a draft declaration of covenants, conditions and restrictions ("CC&R's") to the Director of Planning Services for approval in a form to be approved by the City Attorney, to be recorded prior to certificate of occupancy. The CC&R's shall be enforceable by the City, shall not be amended without City approval, and shall require maintenance of all property in a good condition and in accordance with all ordinances.
6. The applicant shall submit to the City of Palm Springs, a deposit in the amount of \$3,500, for the review of the CC&R's by the City Attorney. A \$631 filing fee, or the fee in effect at the time of submission, shall also be paid to the City Planning Department for administrative review purposes.
7. Pursuant to Park Fee Ordinance No. 1632 and in accordance with Government Code Section 66477 (Quimby Act), all residential development shall be required to

contribute to mitigate park and recreation impacts such that, prior to issuance of residential building permits, a parkland fee or dedication shall be made. Accordingly, all residential development shall be subject to parkland dedication requirements and/or park improvement fees. The parkland mitigation amount shall be based upon the cost to acquire and fully improve parkland.

8. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon the total building permit valuation as calculated pursuant to the valuation table in the Uniform Building Code, the fee being 1.2% for commercial projects or ¼% for residential projects with the first \$100,000 of total building permit valuation for individual single-family units exempt. Should the public art be based on the project site, said location shall be reviewed and approved by the Director of Planning and Zoning and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.
9. The Project will bring a significant number of additional residents to the community. The City's existing public safety and recreation services, including police protection, criminal justice, fire protection and suppression, ambulance, paramedic, and other safety services and recreation, library and cultural services are near capacity. Accordingly, the City may determine to form a Community Services District under authority of Government Code Section 53311 et seq, or other appropriate statutory or municipal authority. Developer agrees to support the formation of such assessment district and shall waive any right of protest, provided that the amount of such assessment shall be established through appropriate study and shall not exceed \$500 annually with a consumer price index escalator. The district shall be formed prior to sale of any lots or a covenant agreement shall be recorded against each parcel.

Environmental Assessment:

10. The mitigation measures of the environmental impact report shall apply. The applicant shall submit a signed agreement that the mitigation measures outlined as part of the final environmental impact report will be included in the plans prior to Planning Commission consideration of the environmental assessment

Final Design:

11. If, within two (2) years after the date of approval by the City Council of the preliminary development plan, the final development plan, as indicated in Section 94.03.00(1), has not been approved as provided below in Condition #12, the

procedures and actions which have taken place up to that time shall be null and void and the Planned Development District and Tentative Tract Map shall expire. Extensions of time may be allowed for good cause.

12. The final development plans shall be submitted in accordance with Section 94.03.00 of the Zoning Ordinance. Final construction plans shall include site plans, building elevations, floor plans, roof plans, fence and wall plans, entry plans, landscape plans, irrigation plans, exterior lighting plans, street improvement plans and other such documents as required by the Planning Commission and City Council. Final construction plans shall be submitted within two years of approval. The Final Planned Development District shall be reviewed and approved by the Planning Commission and City Council.
13. Pad heights and roof elevations shall be specified for each lot as a part of the Final Development Plan.
14. No retention basin may extend past property lines of the project site.
15. An exterior lighting plan in accordance with Zoning Ordinance Section 93.21.00, Outdoor Lighting Standards, shall be submitted for review and approval by the Director of Planning & Zoning prior to the issuance of building permits. Manufacturer's cut sheets of all exterior lighting on the building and in the landscaping shall be submitted for approval prior to issuance of a building permit. If lights are proposed to be mounted on buildings, down-lights shall be utilized.
16. If lights are proposed to be mounted on buildings, down-lights shall be utilized.
17. A photometric study shall be required for the entries.

Architecture and Landscaping:

18. The project is subject to the City of Palm Springs Water Efficient Landscape Ordinance. The applicant shall submit an application for Final Landscape Document Package to the Director of Planning Services for review and approval prior to the issuance of a building permit. Refer to Chapter 8.60 of the Municipal Code for specific requirements.
19. All proposed trees within the public right-of-way and within 10 feet of the public sidewalk and/or curb shall have City approved deep root barriers installed per City of Palm Springs Engineering specifications.

20. No exterior down spouts shall be permitted on any façade on the proposed building(s) that are visible from adjacent streets or residential land commercial areas.
21. The design, height, texture and color of fences and walls shall be submitted for review and approval prior to issuance of building permits. All walls shall be located back from top of slope to permit screening by landscaping and stacked boulders. Walls and fences shall be adequately and entirely screened by stacked boulders.
22. The street address numbering/lettering shall not exceed eight inches in height.
23. Details of fencing (materials and color) submitted with final landscape plan.
24. The retention areas shall be fenced; they shall be opened and fully landscaped. **(added by the City Council on 10/17/07)**
25. All proposed walls shall be located back from the top of slope and shall be screened by landscaping and boulders. **(added by the City Council on 10/17/07)**
26. The developer shall be required to construct split level designs where possible within the new subdivision. **(added by the City Council on 10/17/07)**
27. The path of travel to the common trail area shall be compliant with the disabled access codes.
28. Front and rear yards shall be fully landscaped prior to issuance of a certificate of occupancy. The landscape palate shall utilize drought tolerant species. Planting of turf shall be prohibited from front yards. Turf shall otherwise be limited to active recreation areas in rear yards only (including private yards). The utilization of desert vegetation shall be incorporated throughout the project site. The developer shall be responsible for installation of front and rear yard landscape, irrigation and exterior lighting. The HOA will be responsible for enforcement of these requirements.
29. Planned Development District (PD 294) development standards are approved as follows:

Front Yard	10', with 20' to face of garage
Side Yard – Interior Lot	10'
Side Yard – Corner Lot	12'
Rear Yard – lot to lot	15'
Rear Yard – backing to Local or Collector street	15'
Rear Yard – Backing to Major Street	25'

Height – Dominant ridgeline 18'
Projections and architectural features 21'
Second Story maximum size 500 square feet

a) No second story units allowed along perimeter of the project or adjacent to another second story unit. Second story units shall be limited to a maximum of 25% of the total number of lots (19 total).

27. A perimeter pedestrian trail, a minimum of 6' (six foot) in width shall be required around the project. A minimum of three shaded seating areas, with water fountains and trash receptacles, shall be required. The specific locations of the seating areas shall be selected in consideration of maximizing views, while also maintaining the privacy of adjacent parcels.

28. Hillside related conditions:

- a) Disturbed areas not proposed for development shall be re-naturalized and re-vegetated.
- b) Utilize low lighting levels to avoid glare
- c) All public utilities shall be located underground.
- d) Plant species native to the immediate region shall be used in all non-recreational landscaping located in or adjacent to open space areas.
- e) Project perimeters, slopes and retention basins shall be re-naturalized through the use of boulders and heavy landscaping.
- f) Special attention shall be taken to re-naturalize slopes and areas adjacent to project perimeters with boulders and heavy landscaping to the satisfaction of the Director of Planning Services
- g) Rock crushing – all sizes of rocks and boulders shall be retained for use in re-naturalizing slopes, which represent existing natural diversity of rock sizes.
- h) Retaining walls visible from streets shall be completely covered by stacked boulders.

General/Grading:

29. Maximum pad heights shall be specified for each lot and shall be approved as part of the Final Planned Development District.

30. Prior to the issuance of a grading permit, a Fugitive Dust and Erosion Control Plan shall be submitted and approved by the Building Official. Refer to Chapter 8.50 of the Municipal Code for specific requirements.

31. The grading plan shall show the disposition of all cut and fill materials. Limits of site disturbance shall be shown and all disturbed areas shall be fully restored or landscaped.
32. Drainage swales shall be provided adjacent to all curbs and sidewalks – 3' wide and 6" deep. The irrigation system shall be tested prior to final approval of the project. Section 14.24.020 of the Municipal Code prohibits nuisance water from entering the public streets, roadways or gutters.

POLICE DEPARTMENT:

33. Developer shall comply with Section II of Chapter 8.04 of the Palm Springs Municipal Code.

BUILDING DEPARTMENT:

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

FIRE:

35. Fire apparatus access roads shall be designed and constructed as all weather capable and able to support a fire truck weighing 73,000 pounds GVW. (902.2.2.2 CFC)
36. Palm Springs Fire Apparatus require an unobstructed vertical clearance of not less than 13' 6".
37. Locked gate(s) shall be equipped with a KNOX key switch device or Key box. Contact the Fire Department at 323-8186 for a KNOX application form. (902.4 CFC)
38. Project is beyond five-minute response time from the closest fire station and therefore automatic Fire Sprinkler System is required.
39. Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. (901.4.4 CFC) Show location of address on plan elevation view. Show requirement and dimensions of numbers in plan notes. Numbers shall be a minimum 4 inches, and of contrasting color to the background.
40. Access for fire fighting equipment shall be provided to the immediate job site at the start of construction and maintained until all construction is complete. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet

and an unobstructed vertical clearance of not less than 13' 6". Fire Department access roads shall have an all weather driving surface and support a minimum weight of 73,000 lbs. (Sec. 902 CFC)

41. An operational fire hydrant or hydrants shall be installed within 250' of all combustible construction. No landscape planting, walls, or fencing are permitted within 3 feet of fire hydrants, except groundcover plantings.
42. Residential fire hydrants shall be installed in accordance with DWA or Mission Springs Water District specifications and standards. No landscape planting, walls, or fencing are permitted within 3 feet of fire hydrants.

ENGINEERING DEPARTMENT:

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

STREETS

1. Any improvements within the public right-of-way require a City of Palm Springs Encroachment Permit.
2. Submit street improvement plans prepared by a registered California civil engineer to the Engineering Division. The plans shall be approved by the City Engineer prior to issuance of any building permits.
3. The applicant shall be required to construct asphalt concrete paving for streets in two separate lifts. The final lift of asphalt concrete pavement shall be postponed until such time that on-site construction activities are complete, as may be determined by the City Engineer. Paving of streets in one lift prior to completion of on-site construction will not be allowed, unless prior authorization has been obtained from the City Engineer. Completion of asphalt concrete paving for streets prior to completion of on-site construction activities, if authorized by the City Engineer, will require additional paving requirements prior to acceptance of the street improvements, including, but not limited to: removal and replacement of damaged asphalt concrete pavement, overlay, slurry seal, or other repairs, as required by the City Engineer.

TRAMWAY ROAD

4. Tram Way ~~Tramway Road~~ shall be constructed as a Special Street Section in accordance with the future General Plan and applicable Specific Plans. Tram

Way is classified as a 2-lane divided collector roadway up to the proposed intersection of Racquet Club Road on Figure 4.4 (Proposed Circulation Master Plan) in the 207 General Plan Update Circulation Element Traffic Analysis. Improvements listed for Tram Way ~~Tramway Road~~ that were required in accordance with the Improvement Certificate on Parcel Map 23130, as shown by Map on file in Book 181, Pages 50 to 53, inclusive, of Parcel Maps, records of Riverside County, California, consisting of construction of a 6 inch curb and gutter, 38 feet southeast of centerline along the entire frontage and construction of a minimum pavement section of 3 inches asphalt concrete pavement over 6 inches of crushed miscellaneous base shall be deferred. The applicant shall deposit the engineer's estimate of the cost of the required improvements for construction by others in the future, prior to final map approval.

5. Construct a driveway from Tram Way ~~Tramway Road~~ to the north end of "E" Street as necessary to provide emergency vehicle access into the development. The driveway shall be constructed of a suitable material (turf block) or decorative and colored concrete, subject to review and approval by the Director of Planning Services and Fire Marshall.
6. The applicant shall coordinate with the Mount San Jacinto Winter Park Tramway Authority regarding construction scheduling and coordination of work occurring on Tram Way.

RACQUET CLUB ROAD

7. ~~Construct a wedge curb, 32 feet north of centerline along the entire frontage in accordance with City of Palm Springs Standard Drawing No. 200. The wedge curb shall have a design providing the necessary stormwater runoff capacity required for the street, and shall be subject to the review and approval by the City Engineer.~~
8. In accordance with the 2007 lieu of the secondary thoroughfare designation in the current General Plan Update, developer shall may construct Racquet Club Road to a two lane collector street section with a wedge curb located 20 feet north of centerline, and provide additional landscaping approved by the Director of Planning Services within the right-of-way required by the current 2007 General Plan Update, to the west property of this development. In such case, developer shall enter into an agreement with appropriate security to construct Racquet Club Road to a secondary thoroughfare designation in accordance with the current General Plan, but shall be excused from such requirement if in the General Plan revision process the ultimate configuration for Racquet Club Road is reduced from a secondary thoroughfare to a collector street.

9. Construct a new 54 feet wide street intersection for "A" Street, located approximately 320 feet west of the intersection of North Leonard Road, and a new street 54 feet wide intersection for "E" Street, located approximately 15 feet east of and just offset from the intersection of North Milo Drive, both as shown on the approved Tentative Tract Map, with 25 feet radius curb returns and spandrels, and a 6 feet wide cross gutter, in accordance with City of Palm Springs Standard Drawing No. 200 and 206.
10. Construct Type A curb ramps meeting current California State Accessibility standards either side of the new street intersections at "A" and "E" Street and Racquet Club Road, in accordance with City of Palm Springs Standard Drawing No. 212.
11. Construct pavement with a minimum pavement section of 3 inches asphalt concrete pavement over 6 inches crushed miscellaneous base with a minimum subgrade of 24 inches at 95% relative compaction, or equal, from edge of proposed gutter to clean sawcut edge of pavement at centerline along the entire frontage in accordance with City of Palm Springs Standard Drawing No. 110 and 330. If an alternative pavement section is proposed, the proposed pavement section shall be designed by a California registered Geotechnical Engineer using "R" values from the project site and submitted to the City Engineer for approval.
12. ~~The applicant shall propose a decorative treatment for the west end of Racquet Club Road, subject to the approval of the Director of Planning Services; with appropriate traffic signs, subject to the review and approval by the City Engineer.~~

VISTA GRANDE AVENUE

13. Construct a wedge curb, 5 feet west of centerline. The wedge curb design shall be subject to the review and approval by the City Engineer.
14. Construct a 20 feet wide driveway approach in accordance with City of Palm Springs Standard Drawing No. 201 at the corner of Vista Grande Avenue and Girasol Road for service and emergency vehicle access into the development, or as otherwise approved by the Fire Marshall.
15. Construct a driveway from the driveway approach at the corner of Vista Grande Avenue and Girasol Road to the north end of "D" Street as necessary to provide emergency vehicle access into the development. The driveway shall be constructed of a suitable material (turf block) or decorative and colored concrete, subject to review and approval by the Director of Planning Services and Fire Marshall.

16. Construct pavement with a minimum pavement section of 2½ inches asphalt concrete pavement over 4 inches crushed miscellaneous base with a minimum subgrade of 24 inches at 95% relative compaction, or equal, from clean sawcut edge of pavement to edge of proposed gutter along the entire frontage. Additional pavement removals or asphalt concrete pavement overlay shall be installed in order to construct a cantilevered pavement section with a cross-slope of 2% from the proposed curb face. If an alternative pavement section is proposed, the proposed pavement section shall be designed by a California registered Geotechnical Engineer using "R" values from the project site and submitted to the City Engineer for approval.

ON-SITE PRIVATE STREETS

17. All centerline radii shall be a minimum of 130 feet.
18. All on-site cul-de-sacs shall be constructed in accordance with City of Palm Springs Standard Drawing No. 101. A minimum 43 feet inside radius shall be required for all on-site cul-de-sacs.
19. Construct all on-site street "knuckles" in accordance with City of Palm Springs Standard Drawing No. 104.
20. Dedicate an easement extending from back of curb to back of curb to the City of Palm Springs for public utility purposes, with the right of ingress and egress for service and emergency vehicles and personnel over the proposed private streets.
21. Dedicate an easement, 30 feet wide (or as required by the City Engineer and Fire Marshall), for emergency vehicle ingress and egress, over Lot 24 as necessary to provide access from Vista Grande Avenue to the north end of "D" Street. This access shall be limited to emergency access purposes only.
22. Dedicate an easement, 30 feet wide (or as required by the City Engineer and Fire Marshall), for emergency vehicle ingress and egress, over Lots 47 and 66 as necessary to provide access from Tram Way ~~Tramway Road~~ to the north end of "E" Street.
23. Construct a colored concrete wedge curb or rolled curb, 14 feet on both sides of centerline along the entire frontages, and throughout the cul-de-sacs. The on-site streets shall be constructed with a typical crowned cross-section. The pavement section shall be constructed using decorative colored concrete or pavers, subject to the review and approval by the Planning Commission.

24. Parking shall be restricted along one side of all on-site streets, as necessary to maintain a 24 feet wide clear travel way. A sign program or other process, acceptable to the City Engineer, shall be provided that satisfies the parking restrictions. A Home Owners Association shall be responsible for regulating and maintaining required no parking restrictions, which shall be included in Codes, Covenants, Conditions and Restrictions required for the development.

SANITARY SEWER

25. All sanitary facilities shall be connected to the public sewer system. Sewer laterals shall not be connected at manholes.
26. All on-site sewer systems shall be privately maintained by a Home Owners Association (HOA). Provisions for maintenance of the on-site sewer system acceptable to the City Engineer shall be included in the Covenants, Conditions, and Restrictions (CC&R's) required for this project.
27. Sewer improvement plans prepared by a California registered civil engineer shall be submitted to the Engineering Division. The plans shall be approved by the City Engineer prior to issuance of any building permits.
28. Construct an 8 inch V.C.P. sewer main within all on-site streets located 5 feet from centerline or as required by the City Engineer and connect to the existing public sewer system.
29. The on-site private sewer system shall not connect to any existing sewer manhole or any new manhole. The on-site sewer system shall connect to the sewer main in Vista Grande Avenue with a standard 8 inch lateral connection in accordance with City of Palm Springs Standard Drawing No. 405.
30. Reserve sewer easements across interior lots as necessary to implement the on-site private sewer system.

GRADING

31. Submit a Rough Grading Plan prepared by a California registered civil engineer to the Engineering Division for review and approval. A Fugitive Dust Control Plan shall be prepared by the applicant and/or its grading contractor and submitted to the Engineering Division for review and approval. The applicant and/or its grading contractor shall be required to comply with Chapter 8.50 of the City of Palm Springs Municipal Code, and shall be required to utilize one or more "Coachella Valley Best Available Control Measures" as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the

applicable performance standards are met. The applicant's or its contractor's Fugitive Dust Control Plan shall be prepared by staff that has completed the South Coast Air Quality Management District (AQMD) Coachella Valley Fugitive Dust Control Class. The applicant and/or its grading contractor shall provide the Engineering Division with current and valid Certificate(s) of Completion from AQMD for staff that have completed the required training. For information on attending a Fugitive Dust Control Class and information on the Coachella Valley Fugitive Dust Control Handbook and related "PM10" Dust Control issues, please contact AQMD at (909) 396-3752, or at www.AQMD.gov. A Fugitive Dust Control Plan, in conformance with the Coachella Valley Fugitive Dust Control Handbook, shall be submitted to and approved by the Engineering Division prior to approval of the Grading plan. The Grading Plan shall be approved by the City Engineer prior to issuance of grading permit.

a. The first submittal of the Rough Grading Plan shall include the following information: a copy of the final approved conformed copy of the Conditions of Approval; a copy of the final approved conformed copy of the Tentative Tract Map and/or Site Plan; a copy of a current Title Report; a copy of Geotechnical/Soils Report; and a copy of the associated Hydrology Study/Report.

32. A Notice of Intent (NOI) to comply with the California General Construction Stormwater Permit (Water Quality Order 2009-009-DWQ as modified September 2, 2009) is required for the proposed development via California Regional Water Quality Control Board online SMARTS system. A copy of the executed letter issuing a Waste Discharge Identification (WDID) number shall be provided to the City Engineer prior to issuance of a grading or building permit. A National Pollutant Discharge Elimination System (NPDES) stormwater permit, issued from the California Regional Water Quality Control Board (Phone No. 760-346-7491) is required for the proposed development. A copy of the executed permit shall be provided to the City Engineer prior to approval of a Grading Plan.

32a. The development shall comply with the General Permit for Stormwater Discharges Associated with Construction Activity, and shall prepare and implement a stormwater pollution prevention plan (SWPPP). As of September 4, 2012, all SWPPPs shall include a post-construction management plan (including Best Management Practices) in accordance with the current Construction General Permit. A copy of the up-to-date SWPPP shall be kept at the project site and be available for review upon request.

32b. Prior to approval of a Grading Plan, the applicant shall obtain written approval to proceed with construction from the Agua Caliente Band of Cahuilla Indians, Tribal

Historic Preservation Officer or Tribal Archaeologist. The applicant shall contact the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760) 699-6800, to determine their requirements, if any, associated with grading or other construction. The applicant is advised to contact the Tribal Historic Preservation Officer or Tribal Archaeologist as early as possible. If required, it is the responsibility of the applicant to coordinate scheduling of Tribal monitors during grading or other construction, and to arrange payment of any required fees associated with Tribal monitoring.

- 32c. In accordance with an approved PM-10 Dust Control Plan, temporary dust control perimeter fencing shall be installed. Fencing shall have screening that is tan in color; green screening will not be allowed. Temporary dust control perimeter fencing shall be installed after issuance of Grading Permit, and immediately prior to commencement of grading operations.
- 32d. Temporary dust control perimeter fence screening shall be appropriately maintained, as required by the City Engineer. Cuts (vents) made into the perimeter fence screening shall not be allowed. Perimeter fencing shall be adequately anchored into the ground to resist wind loading.
- 32e. Within 10 days of ceasing all construction activity and when construction activities are not scheduled to occur for at least 30 days, the disturbed areas on-site shall be permanently stabilized, in accordance with Palm Springs Municipal Code Section 8.50.022. Following stabilization of all disturbed areas, perimeter fencing shall be removed, as required by the City Engineer.
- 32f. Contact Desert Water Agency at (760) 323-4971 Ext. 146 to determine impacts to any existing Whitewater Mutual Water Company water lines and other facilities that may be located within the property if any. Make appropriate arrangements to protect in place or relocate any facilities that are impacted by the development. A letter of approval for relocated or adjusted facilities from Desert Water Agency shall be submitted to the Engineering Division prior to approval of the Grading Plan.
- 32g. Drainage swales shall be provided adjacent to all curbs and sidewalks to keep nuisance water from entering the public streets, roadways, or gutters.
33. In accordance with City of Palm Springs Municipal Code, Section 8.50.022(h) 8.50.025 (e), the applicant shall post with the City a cash bond of two thousand dollars (\$2,000.00) per disturbed acre at the time of issuance of grading permit for mitigation measures for erosion/blowsand relating to this property and development.

34. A Geotechnical/Soils Report prepared by a California registered Geotechnical Engineer shall be required for and incorporated as an integral part of the grading plan for the proposed development. A copy of the Geotechnical/Soils Report shall be submitted to the Engineering Division with the first submittal of a grading plan.
- 34a. The applicant shall provide all necessary geotechnical/soils inspections and testing in accordance with the Geotechnical/Soils Report prepared for the project. All backfill, compaction, and other earthwork shown on the approved grading plan shall be certified by a California registered geotechnical or civil engineer, certifying that all grading was performed in accordance with the Geotechnical/Soils Report prepared for the project. Documentation of all compaction and other soils testing are to be provided. No certificate of occupancy will be issued until the required certification is provided to the City Engineer.
- 34b. The applicant shall provide pad elevation certifications for all building pads in conformance with the approved grading plan, to the Engineering Division prior to construction of any building foundation.
35. In cooperation with the Riverside County Agricultural Commissioner and the California Department of Food and Agriculture Red Imported Fire Ant Project, applicants for grading permits involving a grading plan and involving the export of soil will be required to present a clearance document from a Department of Food and Agriculture representative in the form of an approved "Notification of Intent To Move Soil From or Within Quarantined Areas of Orange, Riverside, and Los Angeles Counties" (RIFA Form CA-1) prior to approval of the Precise Grading Plan. The California Department of Food and Agriculture office is located at 73-710 Fred Waring Drive, Palm Desert (Phone: 760-776-8208).
36. Rock crushing operations on-site during rough grading shall be performed in a manner that maintains a sufficient supply of natural boulders for use in re-naturalized fill slopes and retaining walls, and in perimeter landscaped parkways. Grading and rock crushing operations shall be conducted a maximum of 8 hours per day.
37. The perimeter of the project shall be redesigned by softening the exterior of the project by decreasing the perimeter cut and fill slopes from a maximum of 2:1 to a maximum of 3:1 or 4:1 as approved by the of Director of Planning Services and the City Engineer, including the use of landscaping and boulders. Slopes shall be softened by reducing slope heights and through the use of landscaping and boulders to achieve a natural appearance. All project fill slopes shall be re-naturalized by using a "Permeon" spray treatment to restore the natural desert varnish.

38. The final rough grading plan shall be subject to the review and approval by the City Council as part of its review of the Final Planned Development District. A rough grading permit shall not be issued prior to the City Council's review and approval of the rough grading plan and the Final Planned Development District.

DRAINAGE

39. All stormwater runoff passing through the site and falling on the site shall be accepted and conveyed across the property to approved drainage structures as described in the Preliminary Hydrology Report for Tentative Tract Map 31766, prepared by Hunsaker & Associates (as may be amended and/or revised). The applicant shall be responsible for construction of drainage improvements, including but not limited to retention/detention basins, catch basins, storm drain lines, and outlet structures, for conveyance of off-site stormwater runoff and management of on-site stormwater runoff, as described in a final Hydrology Report for the development, as approved by the City Engineer. The preliminary Hydrology Report for the development shall be amended to include catch basin sizing, storm drain pipe sizing, and retention/detention basin sizing calculations and other specifications for construction of required on-site storm drainage improvements. No more than 40-50% of the street frontage parkway/setback areas should be designed as retention basins. On-site open space, in conjunction with dry wells and other subsurface solutions should be considered as alternatives to using landscaped parkways for on-site retention.
40. The retention basin located at the southeast corner of the project adjacent to Racquet Club Road shall be revised to decrease the overall depth by increasing its size and lowering the adjacent berm and fill slope, and shall be subject to the review and approval of the final rough grading plan by the City Council.
41. The applicant shall install a drywell, or series of drywells, within each retention or detention basin proposed in the development as necessary to collect and percolate stormwater runoff, including nuisance water, from the tributary area within the development that has drainage directed to the basin. The drywell(s) shall be appropriately sized to accommodate the expected daily nuisance water, as well as runoff from ordinary storm events (2-year storm events), unless otherwise approved by the City Engineer. Provisions shall be included in the Covenants, Conditions and Restrictions (CC&R's) for this development that require the routine maintenance of the drywell(s) by the Home Owners Association (HOA), including the right of the City to inspect and require the HOA to remove and replace the drywell(s) if they fail to function, causing stagnant water to accumulate above ground within the basin. The City shall be given the right, in the interest of the public's health, safety, and welfare, to order the removal and replacement of drywell(s) in the event the HOA is non-responsive to

- the City's written notice, with costs to be recovered against the HOA by the City in accordance with state and local laws and regulations.
42. All on-site storm drain systems shall be privately maintained by a Homeowners Association (HOA). Provisions for maintenance of the on-site storm drain systems acceptable to the City Engineer shall be included in Covenants, Conditions and Restrictions (CC&R's) required for this project.
 43. An existing 25 feet wide drainage easement exists across the western boundary of the development. This easement exists for the purpose of constructing Line 2 from the Master Drainage Plan for the Palm Springs Area, in coordination with Riverside County Flood Control District (RCFC). Realignment of the existing drainage easement within "G" Street, as proposed on the Tentative Tract Map, will require approval of RCFC, following review and approval of storm drain improvement plans for Line 2 from the Master Drainage Plan for the Palm Springs Area. The applicant shall be responsible for preparing a complete set of storm drain improvement plans for the entire reach of Line 2, from the southern edge of Chino Canyon to the Chino Canyon Levee. Plans shall be submitted to RCFC for review and approval. Prior to issuance of a certificate of occupancy, the applicant shall construct the segment of Line 2 across the project, and extensions north and south of the property, acceptable to the City and RCFC, sufficient to avoid future impacts to property owners within the development. Upon the completion of the construction of Line 2 within "G" Street, following RCFC acceptance, the City shall initiate proceedings to vacate the existing 25 feet wide drainage easement across the western boundary of the project, and shall quitclaim the 12 feet wide temporary construction easement.
 44. In the event the design of Line 2 from the Master Drainage Plan for the Palm Springs Area is not completed prior to final map approval, the existing 25 feet wide drainage easement and 12 feet wide temporary construction easement located across the western boundary of the property shall remain. A Covenant shall be prepared and recorded against Lots 75 through 79 restricting construction on the lots until Line 2 is constructed. The applicant shall deposit \$2,000 with the City for preparation of the covenant by the City Attorney and shall be responsible for all costs in the preparation and approval thereof. The Covenant shall be executed prior to final map approval, and shall be recorded by the City with the final map.
 45. The project is subject to flood control and drainage implementation fees pursuant to Resolution 14082. The acreage drainage fee at the present time is \$6,511 per acre per Resolution No. 15189. Based on the 42.2 acre size of the project site as shown on the Tentative Tract Map, the project is responsible for payment of \$274,764.20 in drainage implementation fees. The applicant shall be eligible for

credit up to the maximum drainage implementation fee of \$274,764.20 otherwise due. Validated costs incurred by the applicant for the design and construction of Line 2 from the Master Drainage Plan for the Palm Springs Area may be credited toward the drainage fee otherwise due. Fees shall be paid prior to issuance of a building permit if applicable.

46. In the event validated costs exceed the drainage implementation fee otherwise due, at the request of the applicant, the City may enter into a reimbursement agreement with the applicant for reimbursement of excess costs. Following completion and acceptance of the construction of Line 2 from the Master Drainage Plan for the Palm Springs Area by RCFC and the City Engineer, if reimbursement of excess costs is requested in writing by the applicant, the applicant shall submit a formal request for preparation of a Drainage Reimbursement Agreement and a \$2,500 deposit for City staff time associated with the preparation of the Drainage Reimbursement Agreement, including City Attorney fees. The applicant shall be responsible for payment of all associated staff time and expenses necessary in the preparation and processing of the Drainage Reimbursement Agreement with the City Council, and shall submit additional deposits as necessary when requested by the City, which are included in the amount that may be reimbursed to the applicant through the Drainage Reimbursement Agreement. The Drainage Reimbursement Agreement is subject to the City Council's review and approval, and its approval is not guaranteed nor implied by this condition.
47. All residential lots shall be designed to provide adequate drainage to the adjacent on-site streets. Drainage shall be accommodated in a manner that does not interfere with the split level pads of the lots.
48. This project shall ~~may~~ be required to install measures in accordance with applicable National Pollution Discharge Elimination System (NPDES) Best Management Practices (BMP's) included as part of the NPDES Permit issued for the Whitewater River Region from the Colorado River Basin Regional Water Quality Control Board (RWQCB). The applicant is advised that installation of BMP's, including mechanical or other means for pre-treating contaminated stormwater and non-stormwater runoff, may be required by regulations imposed by the RWQCB. It shall be the applicant's responsibility to design and install appropriate BMP's, in accordance with the NPDES Permit, that effectively intercept and pre-treat contaminated stormwater and non-stormwater runoff from the project site, prior to release to the City's municipal separate storm sewer system ("MS4"), to the satisfaction of the City Engineer and the RWQCB. If required, such measures shall be designed and installed on-site; and provisions for perpetual maintenance of the measures shall be provided to the satisfaction

of the City Engineer, including provisions in Covenants, Conditions, and Restrictions (CC&R's) required for the development.

GENERAL

49. All on-site and off-site street improvements, and all perimeter landscaping and parkway improvements shall be completed prior to issuance of the first certificate of occupancy (excluding certificates of occupancy issued for model homes).
50. A 6 feet wide meandering pedestrian trail system shall be constructed along the perimeter of the development providing public access into and around the property. Appropriate rest stops shall be provided along the pedestrian trail system with public access to make this feature a recreational amenity. The pedestrian trail system shall be constructed to the satisfaction of the City Engineer and Planning Commission, using decorative colored concrete or other ADA acceptable material. Easements for public access into and around the property shall be dedicated to the City on the final map as required to allow public use of the pedestrian trail system.
51. Any utility trenches or other excavations within existing asphalt concrete pavement of off-site streets required by the proposed development shall be backfilled and repaired in accordance with City of Palm Springs Standard Drawing No. 115. The developer shall be responsible for removing, grinding, paving and/or overlaying existing asphalt concrete pavement of off-site streets as required by and at the discretion of the City Engineer, including additional pavement repairs to pavement repairs made by utility companies for utilities installed for the benefit of the proposed development (i.e. Desert Water Agency, Southern California Edison, Southern California Gas Company, Time Warner, Verizon, etc.). Multiple excavations, trenches, and other street cuts within existing asphalt concrete pavement of off-site streets required by the proposed development may require complete grinding and asphalt concrete overlay of the affected off-site streets, at the discretion of the City Engineer. The pavement condition of the existing off-site streets shall be returned to a condition equal to or better than existed prior to construction of the proposed development.
52. All proposed utility lines shall be installed underground.
53. 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 northerly property line meet the requirement to be installed underground. A letter from the owners of the affected utilities shall be submitted to the Engineering Division prior to approval of a grading plan, informing the City that they have been notified of the City's utility undergrounding requirement and their intent to commence design of utility undergrounding plans. When available, the utility undergrounding plan shall be submitted to the Engineering Division identifying all above ground facilities in the area of the project to be undergrounded. Undergrounding of existing overhead utility lines shall be completed prior to issuance of a certificate of occupancy.

54. All existing utilities shall be shown on the grading and street plans. The existing and proposed service laterals shall be shown from the main line to the property line.
55. Upon approval of any improvement plan by the City Engineer, the improvement plan shall be provided to the City in digital format, consisting of a DWG (AutoCAD 2004 drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variation of the type and format of the digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.
56. The original improvement plans prepared for the proposed development and approved by the City Engineer shall be documented with record drawing "as-built" information and returned to the Engineering Division prior to issuance of a final certificate of occupancy. Any modifications or changes to approved improvement plans shall be submitted to the City Engineer for approval prior to construction.
57. ~~Contact Whitewater Mutual Water Company to determine impacts to any existing water lines and other facilities that may be located within the property. Make appropriate arrangements to protect in place or relocate any existing Whitewater Mutual Water Company facilities that are impacted by the development. A letter of approval for relocated or adjusted facilities from Whitewater Mutual Water Company shall be submitted to the Engineering Division prior to issuance of a grading permit.~~
58. Nothing shall be constructed or planted in the corner cut-off area of any intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance per City of Palm Springs Zoning Code Section 93.02.00, D.

59. All proposed trees within the public right-of-way and within 10 feet of the public sidewalk and/or curb shall have City approved deep root barriers installed per City of Palm Springs Standard Drawing No. 904.
- 59a. This property is subject to the Coachella Valley Multiple Species Habitat Conservation Plan Local Development Mitigation fee (CVMSHCP-LDMF). The LDMF shall be paid prior to issuance of Building Permit.

MAP

60. A Final Map shall be prepared by a California registered Land Surveyor or qualified Civil Engineer and submitted to the Engineering Division for review and approval. A Title Report prepared for subdivision guarantee for the subject property, the traverse closures for the existing parcel and all lots created therefrom, and copies of record documents shall be submitted with the Final Map to the Engineering Division as part of the review of the Map. The Final Map shall be approved by the City Council prior to issuance of building permits.

Prior to approval of a final map, the applicant shall dedicate to the City of Palm Springs, by separate instrument, a 12 feet wide temporary construction easement adjacent to the east side of the 25 feet wide drainage easement, for the purposes of the future construction of Line 2 from the Master Drainage Plan of the Palm Springs Area in its original alignment (as required by the Improvement Certificate recorded concurrently with Parcel Map 23130).). A Covenant shall be prepared and recorded against Lots 75 through 79 restricting construction on the lots until Line 2 is constructed. The applicant shall deposit \$2,000 with the City for preparation of the covenant by the City Attorney and shall be responsible for all costs in the preparation and approval thereof. The Covenant shall be executed prior to final map approval, and shall be recorded by the City with the final map.

61. In accordance with Section 66434 (g) of the Government Code, the westerly 23 feet of Vista Grande Avenue may be abandoned upon the filing of a Final Map identifying the abandonment of the right-of-way dedicated to the City of Palm Springs. Prior to approval of a Final Map, the developer shall coordinate with each public utility company and determine specific requirements as to the abandonment and/or relocation of existing underground utilities that may exist within the public easements to be abandoned. Prior to approval of a Final Map, the developer shall provide to the City Engineer a letter of approval regarding the proposed abandonment of easements over Vista Grande Avenue from each public utility agency.

- 61a. The applicant shall dedicate easements to the City of Palm Springs for public access into and around the property, on the final map as required to allow public use of the pedestrian trail system associated with this development.
62. A copy of draft Covenants, Conditions and Restrictions (CC&R's) shall be submitted to the City Attorney for review and approval for any restrictions related to the Engineering Division's recommendations. The CC&R's shall be approved by the City Attorney prior to approval of a Final Map.
63. Upon approval of a final map, the final map shall be provided to the City in G.I.S. digital format, consistent with the "Guidelines for G.I.S. Digital Submission" from the Riverside County Transportation and Land Management Agency." G.I.S. digital information shall consist of the following data: California Coordinate System, CCS83 Zone 6 (in U.S. feet); monuments (ASCII drawing exchange file); lot lines, rights-of-way, and centerlines shown as continuous lines; full map annotation consistent with annotation shown on the map; map number; and map file name. G.I.S. data format shall be provided on a CDROM/DVD containing the following: ArcGIS Geodatabase, ArcView Shapefile, ArcInfo Coverage or Exchange file (e00), DWG (AutoCAD 2004 drawing file), DGN (Microstation drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variations of the type and format of G.I.S. digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.

TRAFFIC

64. Furnish and install a decorative street light at the northwest corners of the project's main entrances ("A" and "E" Streets) on Racquet Club Drive to the satisfaction of the Director of Planning Services and the City Engineer.
65. Submit traffic striping plans for improvements to Racquet Club Road prepared by a California registered civil engineer, for review and approval by the City Engineer. All required traffic striping improvements shall be completed in conjunction with required street improvements, to the satisfaction of the City Engineer, and prior to issuance of a certificate of occupancy.
66. Street name and stop signs shall be required at each on-site street intersection, as required by the City Engineer. Developer shall create a street name sign system reflective of special neighborhood standards.
- 66a. The applicant shall stripe a 4 feet wide Class II bike lane along the project frontage on Tram Way.

67. Install a 24 inch stop sign, stop bar, and "STOP" legend for traffic exiting the development at the intersections of "A" Street and "E" Street with Racquet Club Road in accordance with City of Palm Springs Standard Drawing Nos. 620-625 and the California Manual On Uniform Traffic Control Devices for Streets and Highways, dated January 13, 2012, or subsequent editions in force at the time of construction, as required by the City Engineer.

68. Construction signing, lighting and barricading shall be provided during all phases of construction ~~for on all projects~~ as required by City Standards or as directed by the City Engineer. As a minimum, all construction signing, lighting and barricading shall be in accordance with Part 6 "Temporary Traffic Control" of the California Manual on Uniform Traffic Control Devices for Streets and Highways, dated January 13, 2012 ~~State of California, Department of Transportation, "Manual of Traffic Controls for Construction and Maintenance Work Zones" dated 1996,~~ or subsequent editions ~~additions~~ in force at the time of construction.

69. This property is subject to the Transportation Uniform Mitigation Fee which shall be paid prior to issuance of building permit.

END OF CONDITIONS

WESSman

HOLDINGS / DEVELOPMENT COMPANY

RECEIVED

November 19, 2012

NOV 20 2012

Mr. Edward Robertson
Principal Planner
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263

PLANNING SERVICES
DEPARTMENT
5.0996

Re: Crescendo 12 Month Extension

Dear Edward:

Crescendo is a very important project for Palm Springs due to its pristine location at the fringe of existing neighborhoods within the Chino Cone. Crescendo, once build, would complete the residential neighborhood ending at Tramway Road.

As to the history of the project, Wessman Development purchased the property in 2003 and has worked on its design between 2003 and 2006 receiving council approvals in 2006. Despite multiple neighborhood meetings and extensive studies, the adjacent neighborhoods remained concerned about the environmental impact of the project on the area. Wessman Development decided at the time to order an EIR, which was completed and approved by council in 2007. Within 6 months of approvals the financial crisis of 2008/09 hit triggering a recession in the United States during which home prices in the Palm Springs area fell by more than 50%.

Crescendo would be one of the first ground up new construction projects within the area since 2007. Unfortunately current home price values within this neighborhood continue to remain below today's replacement costs making new construction costs prohibitive at this time. If the latest trend in home price appreciation continues, we are confident the project will again become feasible within the next 12 a 24 months.

Please note that Wessman Development has invested over 4 years' time, effort and in excess of \$1 million in design work, entitlements and multiple studies requested by the adjacent neighborhoods. We remain committed to the community and the development of this important location. Our goal is to deliver a quality housing product today's consumer will recognize and consider purchasing when looking for a new home in the Palm Springs area.

Sincerely,



Michael Braun
Wessman Development Co.

Wessman Holdings, LLC
555 Sunrise Way, Suite 200
Palm Springs, CA 92264

City of Palm Springs
Planning Department of Palm Springs
Edward Robertson

P.O. Box 2743
Palm Springs, 92263

RECEIVED

AUG 30 2012

Aug 30th, 2012

**PLANNING SERVICES
DEPARTMENT**

Attention: Edward Robertson

Re: PD-294 / TTM 31766 Extension

CASE No. 5.0996

Dear Edward:

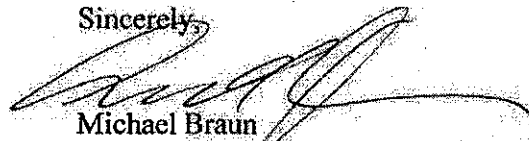
We would like to extend PD - 294 associated with our TTM 31766 for 12 months. It is our understanding that current state law has automatically extended TTM 31766 to October 2014.

The current economic environment is not supportive to start construction on this project in 2012, which is the reason for a request to extend the PD.

Please let us know when we can expect to be scheduled for a Planning Commission hearing in this matter. Enclosed please find a check in the amount of \$881.00 to process the requested extension.

If you should have any question please do not hesitate to contact Elly Sproston or me at 760-325-3050.

Sincerely,



Michael Braun
Senior Vice President

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (the "Agreement") is made, entered into as of this 29 day of May, 2008 by and between Wessman Development Company, a California corporation, on behalf of itself and its successors and assigns (collectively, "WESSMAN"), Friends of Palm Springs Mountains (hereinafter "Friends"), and the City of Palm Springs, a Charter City (hereinafter, the "City"). Friends is sometimes referenced below as the "Petitioners". Wessman, Friends and City are sometimes hereinafter collectively referenced as the "Parties," and alternatively referenced as a "Party."

RECITALS

- A. Wessman is the owner of certain real property in the City of Palm Springs, California consisting of approximately 42 acres lying south of Tramway Road, north of Racquet Club Drive and immediately west of Vista Grande Avenue (hereinafter referred to as the "Crescendo Property").
- B. Wessman proposed that the Crescendo Property be developed with 79 single family residences and related common area (hereinafter the "Project").
- C. To authorize development of the Project, Wessman submitted and the City processed the following entitlement applications (collectively referred to hereinafter as the "Entitlements"):
 - a. Planned Development District 294 and Planned Development Plan Case No. 5.0996-PD294 (hereinafter the "PD");

between them including expressly, but without limitation, any actual or potential claim arising from the Litigation.

1. The Parties have agreed to reach a comprehensive and conclusive settlement of all of their differences with, grievances about and claims against each other arising from the Litigation, all as discussed in further detail below.

NOW, THEREFORE, for good and valuable consideration, including but not limited to the mutual promises herein contained, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

1. SETTLEMENT

In consideration for the settlement of the Litigation and the promises and releases contained herein, the parties agree as follows:

- a. Wessman agrees to eliminate any rock crushing on the Crescendo Property. The parties acknowledge that elimination of rock crushing will necessitate export and import of material from the Crescendo Property. Wessman agrees to reasonably negotiate with the Tramway Authority for the right to use Tramway Road for the purpose of hauling material to and from the Crescendo Property. If the Tramway Authority does not agree to allow Wessman to so utilize Tramway Road for the hauling of material to and from the Crescendo Property as necessary under terms reasonably acceptable to Wessman, then the Parties agree that existing public roadways may be utilized for the hauling of material to and from the Crescendo Property. In the event that it is necessary to use public

roadways to haul material to or from the Crescendo Property, Wessman agrees to hold a meeting with the surrounding property owners in advance of initiating such hauling to advise them of the schedule for said hauling. Wessman further agrees that any hauling of material to or from the Crescendo Property shall comply with the limitations on hours and days of operation as set out in the City of Palm Springs' Municipal Code section 8.04.220.

Wessman further agrees to include several architectural styles within the Crescendo Project, including, but not limited to, Mid-Century Modern, Tuscan and Mediterranean architecture. Within each style, Wessman shall provide for at least three different floor plans and multiple elevations, and may also construct custom homes on the Crescendo Property, subject to City approval and review. Wessman agrees to conform to condition of approval 29(a) which provides that "No second story units shall be allowed along the perimeter of the project or adjacent to another second story unit. Second story units shall be limited to a maximum of 25% of the total number of lots (i.e. 19 total)."

- b. In consideration for the modifications to the project agreed to by Wessman and the other promises contained herein, the City agrees to and does hereby extend the Entitlements for a period of three years beyond the original two years approved by the City, such that the expiration of the Entitlements shall now be October 16, 2012. In the event that any State legislation is adopted which would extend the life of

any of the Entitlements, such an extension shall be in addition to the extension granted herein.

c. Friends agrees that upon execution of this Settlement Agreement by all Parties, and within three (3) business days of their receipt of reimbursement of attorneys fees and costs as set forth in a separate agreement between Friends and Wessman, Friends shall file with the Clerk of the Court, a Request for Dismissal With Prejudice, dismissing the Litigation in its entirety.

2. RELEASE.

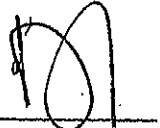
In consideration for the agreements as set forth herein, Friends, on behalf of themselves, and each of their respective members, associates, predecessors, successors, assigns, parents, subsidiaries, alter egos, and affiliates, if any (and each of their respective present and former officials, officers, employees, independent contractors, directors, shareholders, partners, agents, attorneys, insurers, accountants, heirs, and successors and assigns, if any) (collectively referred to as "Related Entities") hereby fully and forever waives and releases any and all rights, claims, suits, rights of administrative action or appeal, chose in action, and causes of action of every nature whatsoever ("Action") which they have or may have against Wessman or the City and each of their respective members, associates, predecessors, successors, assigns, parents, subsidiaries, alter egos, and affiliates, if any (and each of their respective present and former officials, officers, employees, independent contractors, directors, shareholders, partners, agents, attorneys, insurers, accountants, heirs, and successors and assigns, if any) arising from: (i) the Litigation and (ii) the City's approval of the Entitlements, including without limitation, the issuance of any findings, resolutions, ordinances, or entitlements

for the Project (collectively, the "Released Claims"). Notwithstanding the foregoing, the Released Claims shall not include any action to enforce the conditions of approval for the Project, or any action for personal injury and/or property damage which is caused directly by the implementation of the Project. Friends, on behalf of themselves and each of their respective Related Entities, hereby discharges Wessman and the City and their Related Entities from any and all Released Claims. Friends, on behalf of themselves and each of their Related Entities, covenants not to threaten, bring, commence, initiate, institute, file, join, maintain, prosecute, support, or threaten any Action based in whole or part upon any of the Released Claims. Each of the Parties understands and agrees that this Agreement may be pled as a full and complete defense and bar to, and may be used as the basis to dismiss with prejudice or enjoin, any Action based in whole or in part upon a Released Claim.

3. CALIFORNIA CIVIL CODE SECTION 1542.

Friends has read and has otherwise been informed of the meaning of Section 1542 of the California Civil Code, and has consulted with its counsel, to the extent that any was desired, and understands the provisions of Section 1542, and, as to the Released Claims, hereby expressly waives the rights and benefits conferred upon it by the provisions of Section 1542 of the California Civil Code, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."


Friends Initials

4. INTEGRATION, MODIFICATION.

- a. The Parties acknowledge that this Agreement is signed and executed without reliance upon any actual or implied promises, warranties or representations made by any of the Parties or by any representative of any of the Parties, other than those which are expressly contained within this Agreement.
- b. This Agreement, including the true and correct Recitals above, incorporated by reference herein as operative covenants and specifically relied upon by the Parties in executing this Agreement, constitutes the entire agreement and understanding among and between the Parties.
- c. This Agreement supersedes all prior and contemporaneous agreements, understandings, terms, conditions, and representations, written or oral, made by the Parties hereto or their attorneys, concerning the matters covered by this Agreement.
- d. This Agreement cannot be modified or changed except by written instrument signed by all of the Parties.

5. SETTLEMENT, NO ADMISSION BY PARTIES.

Each of the Parties acknowledges that this Agreement relates to the settlement of the Litigation and the preclusion of Actions based in whole or in part upon Released Claims. The Parties, therefore, agree that this Agreement is not to be treated or

construed, at any time or in any manner whatsoever, as an admission that any of the allegations in the Litigation, or any actual or potential Released Claim, has any merit.

6. BINDING EFFECT.

To the maximum extent allowed by law and except as otherwise specified herein, this Agreement inures to the benefit of and is binding upon the Parties and all their respective predecessors, assigns, beneficiaries, employees, affiliated entities, shareholders, officers and directors, partners, joint venturers, dependents, spouses, respective representatives, agents, accountants, attorneys, insurance carriers, and successors.

7. RESPONSIBILITY FOR COSTS TO DATE.

The Parties agree that each of them shall bear their own costs and attorneys' fees, directly or indirectly relating to or arising from the Litigation and other matters covered by this Agreement, except as provided in a separate agreement by and between Wessman and Friends to be executed concurrently herewith, provided however that nothing contained herein shall be deemed to negate the indemnity obligations set forth in Planning Department Administrative Condition Number 2 with respect to the City.

8. INDEPENDENT LEGAL COUNSEL.

Each Party acknowledges that it has been represented by independent legal counsel of its own choice throughout all of the negotiations that preceded the execution of this Agreement or has knowingly and voluntarily declined to consult legal counsel, and

that each Party has executed this Agreement with the consent and on the advice of such independent legal counsel.

9. DRAFTING.

This Agreement shall be deemed to have been negotiated and drafted by the Parties and their respective attorneys. No provision herein shall be interpreted or construed in favor of or against any Party on the ground that said Party or its attorney drafted that provision of the Agreement. Uncertainty and ambiguity in a provision herein shall not be interpreted against that provision's drafter.

10. APPLICABLE LAW AND VENUE.

This Agreement shall be deemed to have been executed and delivered within the State of California; the rights and obligations of the Parties hereunder shall be governed, construed and enforced in accordance with the laws of the State of California. The venue for any dispute arising from or related to this Agreement, its performance, and its interpretation shall be the Superior Court of California, County of Riverside, Indio Branch.

11. NO THIRD PARTY BENEFICIARIES.

It is expressly agreed that this Agreement is not for the benefit of any person or entity not a Party hereto. This Agreement is not intended to constitute a third party beneficiary contract.

12. RELATIONSHIP OF THE PARTIES.

It is hereby specifically understood and acknowledged that this Agreement is merely intended to settle the Litigation and preclude

Actions based in whole or in part upon Released Claims. No Party hereto will be deemed to be an agent of any other for any purpose whatsoever. The Parties hereby renounce the existence of any form of joint venture or partnership between or among them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making any Party a joint venturer or partner with another.

13. EFFECTIVE DATE, COUNTERPARTS AND ENFORCEMENT.

This Agreement shall be effective as of the date it is signed by all parties hereto ("Effective Date"). This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which constitute one and the same instrument. The Parties hereby agree that, following dismissal of the Litigation per paragraph 1(c) above, the Court shall retain jurisdiction over the Litigation's subject matter for purposes of enforcing this Agreement's terms.

14. INDEPENDENT INVESTIGATION.

Each Party to this Agreement has made an independent investigation of the facts pertaining to the provisions contained in this Agreement and all of the matters pertaining thereto as deemed necessary.

15. HEADINGS AND FORMATTING.

The headings and formatting in this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

16. TIME OF ESSENCE.

Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

17. BREACH AND REMEDIES.

Notwithstanding any provision of this Agreement to the contrary, no Party hereto shall be deemed to be in default under this Agreement with respect to any obligation owed to another unless the Party proposing to terminate or modify the rights of another shall have first delivered a written notice of any alleged default to the allegedly defaulting Party that specifies the nature of such default. If such default is not cured by the allegedly defaulting Party within thirty (30) days after receipt of such notice of default, or with respect to defaults that cannot be cured within such period, the allegedly defaulting Party fails to commence to cure the alleged default within thirty (30) days after receipt of the notice of default, or thereafter fails to diligently pursue the cure of such default, the Party alleging default by another may bring an action to enforce this Agreement or, at the option of the party claiming default, bring a motion to enforce this Agreement under Section 664.6 of the Code of Civil Procedure. The foregoing thirty (30) day cure period in the event of a default shall not apply if Wessman initiates rock crushing on the Crescendo Property in violation of this Agreement, in which case, Friends shall be entitled to immediately seek an injunction to stop said rock crushing on the Crescendo Property.

In the event that a breach of this Agreement occurs, irreparable harm is likely to occur to the non-breaching Party and damages will be an inadequate remedy. To the extent permitted by law, therefore, it is expressly recognized that injunctive relief and specific enforcement of this Agreement are proper and desirable remedies, and it is agreed that any claim by a Party alleging a default against an allegedly defaulting Party

for an alleged breach of this Agreement may be remedied by injunctive relief or an appropriate action for specific enforcement of this Agreement in addition to any other remedy available at law or equity.

18. WAIVER:

Failure by a Party to insist upon the strict performance of any of this Agreement's provisions by another Party, or the failure by a Party to exercise its rights upon an alleged default of another party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

19. NOTICE.

All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing [such as Federal Express or UPS], sent by telecopier or facsimile ("Fax") machine capable of confirming transmission and receipt, or sent by certified or registered mail, return receipt requested, postage prepaid, or sent via e-mail provided the recipient confirms receipt, to the following parties at the following addresses or numbers:

If to City:

City of Palm Springs
3200 Tahquitz Canyon Way
Palm Springs, California 92262
Attention: City Manager and City Attorney
Telephone: (760) 323-8299
Fax: (760) 323-8207
e-mail: _____

With copy to:

Woodruff, Spradlin & Smart
Attn: Douglas C. Holland
555 Anton Boulevard
Suite 1200
Costa Mesa, California 92626
Telephone: (714) 564-2642
Fax: (714) 565-2542
e-mail: DHolland@wss-law.com

If to Wessman:

Wessman Development Company
Attn: Michael Braun
300 S. Indian Canyon Drive.
Palm Springs, California 92262
Telephone: (760) 325-3050
Fax: (760) 325-5848
e-mail: Martha@Wessmandevelopment.com

With copy to:

Ealy, Hemphill, Blasdel & Oleson, LLP
777 E. Tahquitz Canyon Way, Suite 328
Palm Springs, CA 92262
Attention: Emily Perri Hemphill
Telephone: (760) 320-5977;
Fax (760) 320-9507
e-mail: EPHemphill@aol.com

If to Friends:
Mountains

Friends of ~~Palm Springs~~ Mountains
P.O. Box 3172
Palm Springs CA 92264
Telephone: ~~760~~ 218-0483
Fax: _____

e-mail: Friends of Palm Springs Mountains.org

With Copy To:

Chatten-Brown & Carstens

Attn: Jan Chatten-Brown

2601 Ocean Park Boulevard

Suite 205

Santa Monica, California 90405

Telephone: (310) 314-8040

Fax (310) 314-8050

e-mail: _____

Notices sent in accordance with this Section 21 shall be deemed delivered upon the: (a) date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); (b) date of actual receipt (if personally delivered by other means); (c) date of transmission (if sent by telecopier or facsimile machine); or (d) date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this Section 21 and shall be effective three (3) days after mailing by the above-described procedure.

20. FURTHER COOPERATION.

Each of the Parties agrees to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the terms and conditions of this Agreement.

21. AUTHORITY OF SIGNATORIES.

Each of the individuals executing this Agreement warrants and represents that they are authorized to so execute this Agreement on behalf of the party they purport to represent, and that by so signing this Agreement they are creating a binding obligation for the party they purport to represent.

IN WITNESS WHEREOF, each of the Parties has executed this Agreement on the day and year written below:

City of Palm Springs, a Charter City

Dated: _____

Steve Pougnet

Mayor, City of Palm Springs

Attest:

City Clerk

APPROVED AS TO FORM:

WOODRUFF, SPRADLIN &
SMART

Douglas C. Holland, Esq.

City Attorney, City of Palm
Springs


Wessman Development Company

Dated: 5/8/08

By [Signature]
vs. President

APPROVED AS TO FORM:

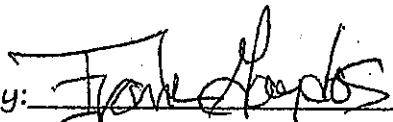

EALY, HEMPHILL, BLASDEL &
OLESON, LLP

By: 
Emily Perri Hemphill, Esq.
Attorneys for Real Parties in Interest,
Wessman Development Company

[Signature page continues.]
[Signature page continued.]

Friends of Palm Springs
Mountains,

Dated: 5-8-2008

By: 
Itv: 

APPROVED AS TO FORM:


CHATTEN-BROWN & CARSTENS

By: _____
Jan Chatten-Brown, Esq.
Attorneys for Plaintiff/Petitioner
Friends of Palm Springs Mountains



CITY OF PALM SPRINGS
DEPARTMENT OF PLANNING SERVICES
MEMORANDUM

PLANNED DEVELOPMENT DISTRICT

Date: September 26, 2007
To: Planning Commission
From: Craig A. Ewing, AICP, Director of Planning Services 
Subject: 5.0973 – PD 287 & TTM 31095 (Boulders), and
5.0996 – PD 294 & TTM 31766 (Crescendo)

On September 12, 2007, the Planning Commission conducted a continued public hearing on the above projects. At that hearing, the applicant presented a revised project description for the Boulders application and the Commission continued the public hearing, directing staff to research certain questions relating to the revised project and to certain environmental issues. This memo summarizes the project revisions and responds to the environmental questions posed by the Commission. A public hearing notice has been mailed for this meeting and the Commission may re-open the continued public hearing, receive testimony, close the public comment section and take action on the applications.

Prior staff reports, exhibits and environmental documentation prepared for this project have been previously distributed to the Planning Commission.

PROJECT DESCRIPTION

At the September 12th hearing, the applicant presented a revision to the Boulders project in which the proposed homes designed for the subdivision were deleted. The applicant indicated instead that the lots would be developed individually with custom designs, each subject to Architectural Approval under the City's review procedures for Hillside Development (Section 93.13). The height limit for the project could be up to 30 feet, as allowed elsewhere in hillside areas.

The applicant has made further adjustments to the proposed map since the September 12th hearing that eliminate the need for a Planned Development District. These changes increase the size of several lots, resulting in the elimination of one parcel (the

number of residential lots now totals 45) and causing all lot sizes, widths and depths to be at least within 10% of the R-1-A zoning requirements. As now designed, the project's zoning conformance may be reviewed via the Administrative Minor Modification process rather than through a PDD. The applicant has submitted a letter to this effect, including a request to withdraw the application for a PDD for the Boulders project.

No changes are proposed to the Crescendo application from that described and analyzed in prior staff reports.

ANALYSIS

Revised Boulders Project

As newly revised, the proposed Boulders subdivision would only grade the streets, utilities, infrastructure (drainage, retention facilities) and easterly retaining walls adjacent to the DWA water tanks. Staff has reviewed the revised preliminary grading plan and has concluded that the amount of grading required for the tract has been substantially reduced. Final grading of individual sites would be occur as part of the development of each future dwelling.

The revised Boulders project yields a subdivision design that more closely conforms to the requirements of the R-1-A zone, as indicate in the amended conformance chart:

Type of Standard	R-1-A Development Standards	Proposed PD-287
Minimum Lot Size	20,000 Square feet	20,177 to 36,876
Lot Dimensions:		
-Width; Interior Lots	130 feet	440 feet 117 feet*
-Width; Corner Lots	140 feet	420 feet 126 feet*
-Depth	120 feet	420 feet 116 feet*
Density	2 units / acre	1.5 units per acre
Building Height	1 story 18 feet (30 feet with AMM)	2-story with 26 feet up to 30 feet, subject to Hillside Dev't Review
Setbacks; Front	25 feet	25 feet HDR**
Setbacks; Side Yards	10 feet	40 feet HDR
Setbacks; Rear Yards	15 feet	45 feet HDR
Coverage	35%	35% HDR
Minimum dwelling size	1,500 square feet	3,826 square feet HDR
Parking	2 spaces for each dwelling unit	2-3 auto-garages HDR

* Subject to Administrative Minor Modification

** HDR – Hillside Development Review

PLANNED DEVELOPMENT DISTRICT

Of the forty-five lots, fourteen – about one-third of the total – will require an Administrative Minor Modification for one or more lot dimensions (depth or width). These lots are nos. 5, 7 – 13, 23, 25, 26, 33, 34, and 44. Staff believes that these modifications do not adversely affect the overall design or character of the subdivision as the map includes fourteen or more lots that significantly exceed these minimum standards (see lots 1 – 4, 15, 16, 19, 22, 27, 30 – 32 and 36 – 40).

While the subdivision is closer to the requirements of the zone, the final look and character of the development is more difficult to predict. The design of each dwelling will be subject to an individual owner's desires and to case-by-case review by the City. This is likely to yield a more eclectic look within the project, which staff believes to be more in keeping with the immediate vicinity as well as with the city's single family neighborhoods as a whole. However, there is also potential for a neighborhood of 30-foot high homes on a large and visible site.

Staff does not propose any conditions of approval related to future review – the City already retains full discretion over each home in any hillside project, including findings for appropriate and compatible design. If the Boulders subdivision is approved as now proposed, each future home application would be subject to any revisions to the Zoning Code adopted prior to application submittal.

Staff has prepared a revised set of recommended conditions for the Boulders project (see attachments). Both the revised Boulders project and the Crescendo project would remain subject to all applicable mitigation measures of the Environmental Impact Report.

Commission Issues

The Planning Commission directed staff to address five issues for this project:

- Economic benefits of the project to justify the EIR's Findings of Overriding Significance
- The wind conditions at the site as related to PM10 mitigation
- Updated construction schedules for the projects
- The availability of water to serve the project
- The status of the water storage tanks adjacent to the site

Each item is addressed below.

Economic Benefits – The applicant has provided a summary of economic effects of the two projects, including one-time fee payments (estimated at \$4 million) and on-going contributions (see attachment). The projects are anticipated to generate property taxes from the addition of the developments to the city's roles of \$2.86 million, as well as sales taxes from the spending of the new households (estimated total household income \$8.5 million / year). While no estimate of city expenditures is provided, staff believes that the costs of city services to support low-density single family development

is typically well below the property tax revenues from such development, yielding significant net positive revenues from the projects.

Wind and PM10 – Staff consulted with the EIR consultant who re-affirmed that the analysis of wind conditions is not a recognized method for determining the impacts of particulates from a project. A project is evaluated for the amount of particulates anticipated from its implementation, and mitigation measures are designed to reduce the impacts to non-significant levels. The EIR for the Boulders and Crescendo projects provides this analysis. The mitigation measures themselves address wind conditions by requiring, among other things, that no work occur on days that have winds in excess of 25 mph. This is in addition to measures that require watering of exposed areas to reduce dust and particulate generation and sweeping traffic lanes to reduce the transmission of dirt and dust. The applicant has provided information to show that projects in the vicinity have been affected by these measures, including shut-downs on windy days.

Construction Schedules – The applicant has provided a revised schedule of construction for the Boulders and Crescendo projects. Staff notes that the preparation phase for each project, including preliminary grading and construction of infrastructure, is estimated to be less than one year. The construction of homes appears to be more difficult to assess since – whether custom or production-built – they will be built as they are sold.

Water Supply and Water Tanks – As previously noted by staff, the City does not provide nor control the supply of water to development within the City of Palm Springs. The Desert Water Agency is a separate governmental entity and has given no indication that either the supply of water to these projects or the state of the water storage tanks is of concern. Staff believes that the Planning Commission's authority in this matter is limited, and that the DWA's determination on these matters is conclusive.

RECOMMENDATION

- That the Planning Commission certify the Final Environmental Impact Report (FEIR), approve PD-294 (Crescendo) and the project's architecture (Crescendo), subject to the recommended conditions of approval.
- That the Planning Commission recommend certification of the Final Environmental Impact Report to the City Council, and recommend Tentative Tract Map 31095 (Boulders) and Tentative Tract Map 31766 (Crescendo) subject to the recommended conditions of approval

NOTIFICATION

No other changes to the projects or staff's analysis have occurred except as described in this memo. A public hearing notice for this hearing was advertised and mailed to surrounding property owners. Staff has received inquiries and comments since the notification of the hearing. Copies of the Final EIR have been obtained for review by concerned citizens as well.

ATTACHMENTS:

1. Draft Planning Commission Resolutions (sent under separate cover)
2. Letter from applicant revising Boulders project (September 19, 2007)
3. Response from applicant on economic benefit, wind and PM10 conditions and project schedule



Planning Commission Staff Report

Date: July 11, 2007

Case No.: 5.0973 – PD 287 & TTM 31095 (Boulders)
5.0996 – PD 294 & TTM 31766 (Crescendo)

Application Types: Planned Development Districts, Tentative Tract Maps and Architectural Approvals

Locations: 751 West Via Escuela (APN # 504-150-002 & 009)
1000 West of Racquet Club, south of Tram Way & west of Vista Grande Road

Applicant: Wessman Development

Zone: R-1-A (Single-Family Residential, with a minimum lot size of 20,000 square feet)

General Plan: H43/21 (High Density Residential)

APNs: 504-150-002 & 008 / 504-040-046

From: Craig Ewing, AICP, Director of Planning Services

Project Planner: Edward O. Robertson, Principal Planner

This report covers the Boulders and Crescendo projects, staff decided to combine the report for these reasons;

- A single Environmental Impact Report was prepared for both projects
- Both projects have the same applicant; John Wessman
- Both projects have the same development proposals, Planned Development District, Tentative Tract Maps and single-family residential development
- Both locations are in close proximity, with similar characteristics

- Over the years, the two have been linked by name, sponsor and similar issues concerning the proposed developments

The first part of the report covers Case No. 5.0973 – PD 287 / TTM 31095 (Boulders), the second part covers Case No. 5.0996 – PD294 / TTM 31766 (Crescendo). The organization of the report covers the projects descriptions, proposed staff recommendations, prior actions, background and setting, analysis of general plan and zoning as they relate to both projects, the proposed projects and a brief summary of some highlights contained in the Final Environmental Impact Report.

RECOMMENDATION

- That the Planning Commission take staff reports, presentations and public comments for both projects;
- Identify any further questions / clarifications or necessary information for staff and;
- Continue the public hearing of Case Nos. 5.0973-PD 287 and 5.0996-PD 294 to the meeting of July 25, 2007.

PART ONE – BOULDERS

PROJECT DESCRIPTION

The project consists of a Tentative Tract Map (TTM 31095), for the subdivision of approximately 30.4-acre land and Planned Development District (PDD 287) to establish new design standards and guidelines for a proposed 45 single-family residential units. The subdivision is proposed to create 45 single-family residential lots and three lettered lots (Lots A, B & C), for site improvements and infrastructure. The proposed lots will range between 20,177 square feet and 36,876 square feet in size; the average lot size is 24,478 square feet. The subject property is located west of Via Escuela, south of Racquet Club Road and north of Chino Canyon Road. The applicant is Wessman Development Company. Currently, the site is vacant with low-growing vegetation, rocks and boulders scattered across the property.

The site would be accessed from Chino Canyon Road, Sanborn Way and from Via Escuela. A gated entry is proposed at Via Escuela only. The proposed project will have internal streets, parkways and retention basins. As proposed, eight of the forty-five lots (Lots 2, 3, 6, 7, 8, 9, 36 & 45), located southerly portion of the tract will not be mass-graded; these lots would be sold separately and built as custom homes.

Pursuant to Section 15063 of the California Environmental Quality Act (CEQA) Guidelines, a Notice of Preparation of an Environmental Impact Report was prepared and circulated for this project. Copies of the Draft EIR were previously distributed to the Commission as well. Furthermore, Notices and Draft Reports were sent to all applicable

agencies, stakeholders and interested parties and published in accordance with CEQA. The review period ended on December 20, 2006. A Final Environmental Impact Report along with mitigation and monitoring program has been prepared and previously distributed to the Commission for review and certification.

PRIOR ACTIONS

On August 26, 2003, the Office of Neighborhood Involvement and Public Participation conducted a general information meeting for the neighborhood; all property owners within 400 feet radius of the project location were notified of the meeting.

On January 10, 2005, the Architectural Advisory Committee (AAC) reviewed the project; and recommended approval of the proposed development to the Planning Commission. The Committee's recommendation for approval was subject to the following:

- AAC to review site cross-sections including grades and berms
- Re-naturalize the site following grading operations
- Integrate site into existing neighborhoods with pedestrian trails and bike paths

On January 26, 2005, the Planning Commission reviewed the project and voted 6-0 to continue the public hearing and directed the applicant to make some modifications to the project.

On February 9, 2005, the Planning Commission reviewed the project for the second time and continued the hearing to the meeting of February 23, 2005. At this meeting, with a vote of 6-1, the Commission approved the project with added conditions of approval. The Planning Commission also recommended approval of Planned Development District 287 and Tentative Tract Map 31095 to the City Council.

BACKGROUND AND SETTING

As mentioned above, on February 23, 2005, Case No. 5.0973 – PD 287 / TTM 31095, also known as the "Boulders" was previously reviewed and approved for the development of forty-six (46) single-family units by the Planning Commission. The planned development district along with the tentative tract map (TTM 31095) was recommended for approval to the City Council by the Planning Commission.

Prior to City Council hearing of the project, and in response to concerns and issues raised by surrounding property owners, interest groups and others, the applicant, decided to withdraw the project in order to prepare an Environmental Impact Report (EIR), in place of a Mitigated Negative Declaration. The City accepted the applicant's request to prepare a new environmental assessment for the Boulders. Meanwhile, another previously approved residential development within the same vicinity, (5.0996 –

PD 294 / TTM 31766) also submitted by the same applicant known as the "Crescendo" was directed by City Council to be included in the EIR.

The Boulders site is located west of Via Escuela, north of Chino Canyon Road and south of East Racquet Club Road. The subject property is vacant but is surrounded on three sides by existing single-family residential development to the north, east (Little Tuscany neighborhood), and south (Chino Canyon neighborhood). There are two water tanks belonging to the Desert Water Agency (DWA) and vacant land on the Agua Caliente Band of Indian Reservation to the west. The site slopes from west to the east and average of approximately ten percent (10%), and is covered with large rocks, loose cobbles, boulders, sand with silt, gravel and desert type vegetation that includes cactus and others.

ANALYSIS

General Plan and Zoning:

The General Plan designation of the subject site is L-2; Low-density Residential allowing a maximum of two dwelling units per acre. The zoning designation is R-1-A, which allows the development of single-family residential with a minimum lot size of 20,000 square feet under the City of Palm Springs Zoning Code. The applicant is proposing 45 single-family residential lots on approximately 30.4 acres with a density of approximately 1.5 units per acre.

The proposed project is generally consistent with the General Plan Land Use and the zoning designations of the site and the surrounding area. The request for a Planned Development District is for the reduction of lot dimensions and building heights that are slightly higher than ten percent; overall, the proposed project is for high-end single-family residential development.

Table 1: Surrounding land uses, General Plan, Zoning

	Land Use	General Plan	Zoning
North	Single-family residential	L-2 (Low-Density Residential)	R-1-B
East	Single-family residential	L-2 (Low-Density Residential)	R-1-A
South	Single-family residential	L-2 (Low-Density Residential)	R-1-A
West	DWA Water Tanks	L-2 (Low-Density Residential)	R-1-A

Planned Development District:

Pursuant to Section **94.03.00** (Planned Development District) of the Zoning Ordinance, the Planned Development District is designed to provide various types of land use which can be combined in compatible relationship with each other as part of a totally planned development. It also states that *"It is the intent of this district to insure compliance with the general plan and good zoning practices while allowing certain desirable departures from the strict provisions of specific zone classifications"* Table 2, below, describes the development standards applicable to the R-1-A designation, and the standards which the proposed project will implement.

The PD is requested for this project to allow relief from building height and lot width criteria. The request for lot width reduction is for six interior lots from the required 120 feet to 110 feet, and three corner lots from 140 feet to 120 feet. Administrative Minor Modification (AMM) applications may be used to grant up to ten (10) percent reductions for lot dimensions. Section **92.01.03(D)(2)** of the Zoning Code, states...*Hillside lot front yards and building heights may be modified by the director of Planning Services.* Section **94.06.01(A)(8)** further states...*"For areas with a grade of ten (10) percent or more, modification of building height to a maximum of thirty (30) feet and modification of front yard to a minimum of ten (10) feet, upon approval of a site plan, elevations and a grading map showing existing and finished contours"*

The proposed building heights for this project will range from 18 to 25 feet. The grade of the subject site includes areas with slopes of ten percent (10%) and above, and thus qualifies as a hillside site. The R-1-A designation allows heights not greater than 30 feet in Hillside areas with the approval of minor modification application by the Director of Planning Services as long as such modifications will not have detrimental effects on adjacent properties. Staff has determined that with the appropriate findings, the Planning Commission could approve the proposed variations in heights and lot widths for this proposal since these variations are slightly greater than ten (10) percent.

Table 2: R-1-A Development Standards and the proposed PD – 287 Standards

Type of Standard	R-1-A Development Standards	Proposed PD-287
Minimum Lot Size	20,000 Square feet	20,177 to 36,876
Lot Dimensions:		
-Width; Interior Lots	130 feet	110 feet
-Width; Corner Lots	140 feet	120 feet
-Depth	120 feet	120 feet
Density	2 units / acre	1.5 units per acre
Building Height	1 story 18 feet (30 feet with AMM)	2 story with 25 feet
Setbacks; Front	25 feet	25 feet

PLANNED DEVELOPMENT DISTRICT

Type of Standard	R-1-A Development Standards	Proposed PD-287
Setbacks; Side Yards	10 feet	10 feet
Setbacks; Rear Yards	15 feet	15 feet
Coverage	35%	35%
Minimum dwelling size	1,500 square feet	3,826 square feet
Parking	2 spaces for each dwelling unit	2-3 auto garages

As shown in the Table above, the Planned Development District is required in this case to address variations in required lot widths and building heights.

Project Description

The proposed project will create 45 lots for single-family residential homes of one and 2-story options; the 2-story option will not exceed 500 square feet on the second story. The project also includes the construction of two retention basins and internal circulation system of private streets.

A Tentative Tract Map (TTM 31905) to subdivide the approximately 30.4-acre parcel was submitted as part of the project application. The property is proposed to be subdivided into 45 individual lots and three lettered lots. The proposed lots will range between 20,177 square feet and 36,876 square feet in size; the average lot size is 24,478 square feet. The applicant has indicated that construction of the project will involve the mass grading of 37 lots only; the remainder eight lots will not be graded but will be sold and developed separately as custom homes. The applicant has made modifications to this project compared to the previously approved map which created 46 lots; the revised tentative tract map will consist of 45 lots.

Adjacent areas to the west, east and south are zoned R-1-A and to the north is R-1-B. Existing adjacent lot sizes range from 11,325 square feet to 76,230 square feet. The average lot size is approximately 18,616 square feet. The proposed residential development will provide various types of low density residential development, including large estate lots and traditional single-family homes that are very similar to existing surrounding housing types.

Architecture

As part of the Planned Development District for the project, the applicant has submitted architectural plans and elevations for the proposed development. The proposal features up to five models; each with three single story elevations at 20 feet in height. Some units include an optional second floor master bedroom, at a maximum of 25' in height. The proposed architectural styles are the Modern, Tuscan, Mediterranean and Traditional. These styles feature variation of architectural elements that include brick, stone, clay tile roof, stucco, pre-cast concrete, trim and combination of earth tone colors.

The units average 3,800 square feet in size. Second stories will not exceed 500 square feet on the second floor. Other available options include guest suites, 3-car garages and media rooms. The applicant's intent is to create varied elevations and rooflines in order to diversify the roof profiles and provide the feel of a "custom home" style development. All proposed residences will feature a minimum of two parking spaces in a garage and an additional two spaces in front of the garage in accordance with established parking standards.

Access

Access into the subdivision will be provided from five main locations; Chino Canyon Road, Via Escuela, Sanborn Way, and Janis Drive. The proposed private streets within the site will have widths of 24 feet, and will have similar design and appearance as existing streets in the surrounding neighborhoods. These streets will be privately maintained by the HOA. Sidewalks and pedestrian paths are not proposed for this development. The project is proposed to be gated at Via Escuela; retaining walls of various heights with landscaping are proposed along the project interior and perimeters. The proposed retaining walls will range in height from approximately two to six feet.

Parking

As single-family residential development, each unit is required to provide a minimum of two-car garage. Additional parking spaces are provided along individual driveways as well. For this project, most of the homes will have three-car garages along with driveway parking spaces.

Landscaping

The proposed landscaping for this project would consist mainly of native boulders and typical desert type plant materials such as lawns, shrubs, groundcovers, vines and trees. Individual front yards, side yards, open space areas and retention basins will be fully landscaped. Some slopes within the site will have view fences consisting of wrought iron will be used to provide viewing areas. The retention basins are proposed to be fenced with tubular steel and other decorative materials.

REQUIRED FINDINGS

Findings can be made in support of establishing the proposed Planned Development District as follows:

- a. *The proposed planned development is consistent and in conformity with the general plan pursuant to Sections 94.02.00 (A)(4) of the Palm Springs Zoning Code.*

The current zoning designation of the subject location is R-1-A, single-family residential with a minimum lot size of 20,000 square feet. The proposed lot sizes will range from 20,177 square feet to 36,876 square feet. With these lot sizes and density, the planned development is in conformity with the requirements of the Zoning Code. Additionally, the proposed project is consistent with the existing residential developments on all sides of the site. The general plan designation of L-2 allows a maximum density of two units per acre; this project will not exceed the density at approximately 1.5 units per acre. The planned development district will grant relief to lot dimensions and building heights only; therefore, the addition of new residential use to this location will be in conformity with the general plan.

- b. *The subject property is suitable for the uses permitted in the proposed planned development district, in terms of access, size of parcel, relationship to similar or related uses, and other relevant considerations.*

The project site is relatively rugged with loose cobbles, boulders and low-growing vegetation, but can accommodate building pads, internal streets, and drainage when constructed in accordance with the conditions of approval and the environmental impact report (EIR) mitigation measures (see discussion below). Adequate access is proposed onto main streets; Chino Canyon Road, and Via Escuela to State Highway 111. The size of the parcel is approximately 30.4 acres; relative to similar developments within the City, the location will accommodate the proposed planned residential development.

- c. *The proposed establishment of the planned development district is necessary and proper, and is not likely to be detrimental to adjacent property or residents.*

The proposed establishment of the planned development district is necessary to provide an upscale design concept compared to the existing development within the surrounding. The proposed district will not be detrimental to adjacent properties or residents because streets are internal to the project. Furthermore, the planned development district only seeks to modify heights and lot dimension requirements in a manner that will not be detrimental to the existing land uses in the immediate vicinity and the vista of the San Jacinto Mountains.

Additional findings are required for the proposed Tentative Map pursuant to Section 66474 of the Subdivision Map Act. These findings and a discussion of the project as it relates to these findings follow:

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

Tentative Tract Map 31095 is for the subdivision of approximately 30.4 acres into 45 single-family residential and lettered lots. The residential project is consistent with the General Plan designations of L-2 the overall density of the new subdivision is approximately 1.5 units per acre, this is well within the threshold of 2 units per acre allowed within the district. The proposed map has been reviewed by City staff and other outside agencies for comments; the map is consistent with the general plan designation of the subject site.

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

The proposed project design and improvements are consistent with the R-1-A zone in which the property is located. Furthermore, the design of the Map is consistent with the allowable uses under the Planned Development District for this property. The proposed residential development standards, street improvements, internal circulation, proposed drainage and overall site development are in conformity with City standards.

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

Majority of the site area is rugged terrain full of loose cobbles, boulders and vegetation with slopes from east to the west. The site is surrounded by existing development and City streets. The construction of residential buildings on the site is appropriate at this location when constructed according to the condition and EIR mitigation measures (see discussion below). Also, there are existing urban services and utilities in the immediate surroundings of the location.

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

The Tentative Tract Map and associated Planned Development District have been reviewed under the California Environmental Quality Act, and a Final Environmental Impact Report (FEIR) is proposed. Mitigation measures have been included which will reduce potential impacts to less than significant levels. There are no bodies of water on the subject property and therefore will not damage or injure fish, wildlife or their habitats.

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

The proposed subdivision is designed to meet or exceed City standards. The proposed homes and streets will be required to meet or exceed City development codes. The circulation system within the subdivision provides for an orderly

system of internal driveways; therefore, the project will not cause public health problems.

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

There are no known public easements or existing access across the subject property, therefore the design of the subdivision will not conflict with easements for access through or use of the property. Any utility easements can be accommodated within the project design.

PART TWO – CRESCENDO

PROJECT DESCRIPTION

The proposed project consists of a Planned Development District (PD 294) and a tentative tract map (TTM 31766). The Planned Development District application was a request to set new design and development standards for the proposed development while the Tentative Tract Map was to subdivide approximately 42-acre parcel into 79 single-family residential lots and construct 79 high-end homes. The proposal also included the vacation of the westerly 23 feet of Vista Grande Avenue right of way. This development is not proposed to be a gated community. The subject property is located along West Racquet Club Road, south of Tram Way and east of Vista Grande Avenue.

Tentative Tract Map 31766 will create 79 individual lots that will range between 15,077 square feet and 54,500 square feet in size; the average lot size is 21,195 square feet. About 27 or 34 percent of the proposed lots are 20,000 square feet or larger. Existing adjacent lot sizes range from approximately 9,455 square feet to 20,000 square feet. The proposed density of approximately 1.9 units per dwelling acre is well within the underlying zone requirement of a maximum of two units to the acre.

Approximately 23 feet of the westerly Vista Grande Avenue right-of-way is proposed to be vacated by the applicant; the vacated portion will be incorporated into the landscaped perimeter that includes the pedestrian trail and manufactured slope area. Vista Grande Avenue will be widened from the existing 25-foot width to 30 feet. The remaining 30 foot paved street (Vista Grande Avenue) will remain for future needs.

As with the Boulders project, Pursuant to Section 15063 of the California Environmental Quality Act (CEQA) Guidelines, a Notice of Preparation of an Environmental Impact Report was prepared and circulated for this project as well. Copies of the Draft EIR were previously distributed to the Commission. Furthermore, Notices and Draft Reports were sent to all applicable agencies, stakeholders and interested parties and published in accordance with CEQA. The review period ended on December 20, 2006. A Final

Environmental Impact Report along with mitigation and monitoring program has been prepared and previously distributed to the Commission for review and certification.

PRIOR ACTIONS

On April 22, 2004, a general information meeting for the neighborhood was held; property owners within 400 feet radius of the project site were notified of the meeting through the Office of Neighborhood Involvement and Public Participation.

On July 26, 2004, the Architectural Advisory Committee (AAC), then known as the Development Review Committee (DRC), recommended approval of the project to the Planning Commission with the following conditions:

- Applicant to provide detailed plans of slope treatments for further review
- Photo simulations of project along Tram Way Road
- Encourage the applicant to incorporate modern architecture
- Project streets should connect in a seamless relationship to the neighborhood especially to the south and east
- Mitigate slope differences on each side of street, and
- Step floor plans where feasible.

BACKGROUND AND SETTING

The proposal was previously reviewed and approved by the Planning Commission by a vote of 5-1-1 on December 22, 2004. On January 19, 2005, the City Council adopted a mitigated negative declaration and approved Case No. 5.0996 – PD294 and TTM 31766 subject to the attached conditions of approval. As with the Boulders project, the applicant, decided to withdraw the approvals for Crescendo and request an Environmental Impact Report (EIR) in light of the concerns expressed by various groups including surrounding property owners.

As indicated in the Final Environmental Impact Report, when the Crescendo was approved, the City Council made changes made to the project, and were agreed upon by the applicant at the time. These changes and conditions include the following:

- Eliminate all two story units
- External project slopes be changed from 2:1 to 3:1 and 4:1
- All proposed walls be located back from the top of slope to allow screening by landscaping and stacked boulders
- The installation of six feet wide trail system around the project site
- The Planning Commission recommended that all lots be split-level.

However, the applicant is now seeking reconsideration of these conditions; staff believes that these conditions should be retained (see discussion below).

PLANNED DEVELOPMENT DISTRICT

The proposed Crescendo site is a 42-acre triangular parcel bounded by Racquet Club Drive, the Chino Canyon neighborhood to the south, Tram Way to the north and portion of the Agua Caliente Indian Reservation to the west. The site is currently vacant but full of rocks, loose cobbles and large boulders. The slopes are between eight and ten percent from east to west; the elevation ranges from 680 to 840 feet above sea level. The subject property is surrounded by well established residential developments with unique building pads and street patterns. Access to the proposed development will be provided from two main points along West Racquet Club Drive.

ANALYSIS

General Plan and Zoning:

The General Plan designation for the project site is L-2 Low-Density Residential which allows two dwelling units per acre to accommodate various types of low density residential development, including large estate lots and traditional single-family homes. The current zoning designation of the property is R-1-A; single-family residential, which requires a minimum lot size of 20,000 square feet. Surrounding adjacent lot sizes range from 9,455 square feet to 20,000 square feet in area.

Table 1: Surrounding land uses, General Plan, Zoning

	Land Use	General Plan	Zoning
North	Single-family residential	L-6, (Low-Density Residential) M43/30 (High-Density / Apartments)	U-R, R-3
East	Single-family residential	L-4(Low-Density Residential)	R-1-C
South	Single-family residential	L-2 (Low-Density Residential)	R-1-B
West	DWA Water Tanks	L-2 (Low-Density Residential)	R-1-A

As stated above, the zoning designation of the site is R-1-A, which allows the development of single-family residential with a minimum lot size of 20,000 square feet under the City of Palm Springs Zoning Code. The applicant is proposing 79 single-family residential lots on approximately 42 acres with a density of approximately 1.9 units per acre. The proposed lot sizes range between 15,077 to 54,500 square feet. The proposed project is generally consistent with the General Plan and the zoning designation of the site and the surrounding area. The request for a Planned Development District is for the reduction in minimum lot size and lot width, front yard setbacks, corner lot side setbacks and minimum interior lot rear setbacks. The project also requests additional building heights.

Planned Development District:

Pursuant to Section **94.03.00** (Planned Development District) of the Zoning Ordinance, the Planned Development District is designed to provide various types of land use which can be combined in compatible relationship with each other as part of a totally planned development. It also states that *"It is the intent of this district to insure compliance with the general plan and good zoning practices while allowing certain desirable departures from the strict provisions of specific zone classifications"* Table 3, below, describes the development standards applicable to the R-1-A designation, and the standards which the proposed project will implement.

The PD is requested for this project to allow relief in minimum lot size and lot width, front yard setbacks, corner lot side setbacks and minimum interior lot rear setbacks. The proposed building heights for this project will range from 20 to 26 feet. The subject location has grade of ten percent (10%) and above, therefore the land is hillside lot. Pursuant to Section **93.13.00** of the Zoning Code, *"hillside area" is defined as any parcel of land within the city of Palm Springs which contains any portion thereof with a grade of ten (10) percent or more* The R-1-A designation allows heights not greater than 30 feet in Hillside areas with the approval of minor modification application by the Director of Planning Services as long as such modifications will not have detrimental effects on adjacent properties. The Planning Commission could approve the proposed variations in heights for this proposal with the necessary findings

Table 3: R-1-A Development Standards and the proposed PD – 294 Standards

Type of Standard	R-1-A Development Standards	Proposed PD-294
Minimum Lot Size	20,000 Square feet	15,000 to 54,500
Lot Dimensions:		
-Width; Interior Lots	130 feet	100 feet
-Width; Corner Lots	140 feet	100 feet
-Width; secondary fare	155 feet	100 feet
-Depth	120 feet	120 feet
Density	2 units per acre	1.9 units per acre
Building Height	1 story 18 feet (30 feet with AMM)	20 feet, 1 story, 26 ft. 2 story
Setbacks; Front	25 feet	10 feet
Fronting cul-de-sacs	20 feet	10 feet
Setbacks; Side Yards	10 feet	10 feet
on local/collector streets	20 feet	12 feet
Setbacks; Rear Yards	15 feet	15 feet
Coverage	35%	35%
Minimum dwelling size	1,500 square feet	3,826 square feet
Parking	2 spaces for each dwelling unit	2-3 auto garages

PLANNED DEVELOPMENT DISTRICT

Architecture

The proposed architecture of the development is Spanish in style, and will be compatible with the architectural elements of the Boulders project. The applicant has incorporated various architectural elements into the design of the building elevations to complement the site. The proposed plans will feature three models, each with three single story elevations at 20 feet in height. Units 2 and 3 include optional second floor master bedroom, at a maximum of 26 feet in height. The units range in size from 2,845 to 3,732 square feet. Second story units will not exceed 500 square feet on the second floor. Other available options include guest suites, 3-car garages and media rooms. The applicant intent is to create varied elevations in order to provide the feel of a "custom home" style development.

Access

Access into the subdivision will be provided from two main locations along West Racquet Club Drive. The proposed private streets within the site will have widths of 24 to 25 feet, and will have similar design and appearance as existing streets in the surrounding neighborhoods. These streets will be privately maintained by the HOA. Sidewalks and pedestrian paths are not proposed for this development. The project is not proposed to be gated; retaining walls of various heights with landscaping are proposed along the project interior and perimeters.

Parking

As single-family residential development, each unit is required to provide a minimum of two-car garage. All proposed residences will feature a minimum of two to three parking spaces in the attached garages and an additional two spaces in front of the garage in accordance with established parking standards.

Landscaping

The proposed landscaping for this project would consist mainly of native boulders and typical desert type plant materials such as lawns, shrubs, groundcovers, vines and trees. Individual front yards, side yards, open space areas and retention basins will be fully landscaped. Some slopes within the site will have view fences consisting of wrought iron to provide viewing areas. The retention basins are proposed to be fenced with tubular steel and other decorative materials.

REQUIRED FINDINGS

Findings can be made in support of establishing the proposed Planned Development District as follows:

- a. *The proposed planned development is consistent and in conformity with the general plan pursuant to Sections 94.02.00 (A)(4) of the Palm Springs Zoning Code.*

The current zoning designation of the subject location is R-1-A, single-family residential with a minimum lot size of 20,000 square feet. The proposed lot sizes will range from 15,077 square feet to 54,500 square feet. With these lot sizes and density of approximately 1.9 units per acre, the planned development is in conformity with the requirements of the Zoning Code. Additionally, the proposed project is consistent with the existing residential developments on all sides of the site. The general plan designation of L-2 allows a maximum density of two units per acre; this project will not exceed the density at approximately 1.9 units per acre. The planned development district will grant relief to lot dimensions, building heights, lot widths and setbacks only; therefore, the addition of new residential use to this location will be in conformity with the general plan.

- b. *The subject property is suitable for the uses permitted in the proposed planned development district, in terms of access, size of parcel, relationship to similar or related uses, and other relevant considerations.*

The project site is relatively rugged with loose cobbles, boulders and low-growing vegetation, but can accommodate building pads, internal streets, and drainage. Adequate access is proposed onto main streets from Racquet Club Drive to State Highway 111. The size of the parcel is approximately 42 acres; relative to similar developments within the City, the location will accommodate the proposed planned residential development.

- c. *The proposed establishment of the planned development district is necessary and proper, and is not likely to be detrimental to adjacent property or residents.*

The proposed establishment of the planned development district is necessary to provide an upscale design concept comparable to the existing development within the surrounding. The proposed district will not be detrimental to adjacent properties or residents because streets are internal to the project. Furthermore, the planned development district only seeks to modify development standards in a manner that will not be detrimental to the existing land uses in the immediate vicinity and the vista of the San Jacinto Mountains.

Additional findings are required for the proposed Tentative Map pursuant to Section 66474 of the Subdivision Map Act. These findings and a discussion of the project as it relates to these findings follow:

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

Tentative Tract Map 31766 is for the subdivision of approximately 42 acres into 79 single-family residential lots. The residential project is consistent with the General Plan designations of L-2 the overall density of the new subdivision is approximately 1.9 units per acre, this is well within the threshold of 2 units per acre allowed within the district. The proposed map has been reviewed by City staff and other outside agencies for comments; the map is consistent with the general plan designation of the subject site.

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

The proposed project design and improvements are consistent with the R-1-A zone in which the property is located. Furthermore, the design of the Map is consistent with the allowable uses under the Planned Development District for this property. The proposed residential development standards, street improvements, internal circulation, proposed drainage and overall site development are in conformity with City standards.

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

Majority of the site area is rugged terrain full of loose cobbles, boulders and vegetation with slopes from east to the west. The site is surrounded by existing development and City streets. The construction of residential buildings on the site is appropriate at this location. Also, there are existing urban services and utilities in the immediate surroundings of the location.

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

The Tentative Tract Map and associated Planned Development District have been reviewed under the California Environmental Quality Act, and a Final Environmental Impact Report (FEIR) is proposed. Mitigation measures have been included which will reduce potential impacts to less than significant levels. There are no bodies of water on the subject property and therefore will not damage or injure fish, wildlife or their habitats.

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

The proposed subdivision is designed with adequate access to accommodate the needs of future occupants and surrounding residents in cases of emergency.

Proposed drainage facilities at the site are designed to meet or exceed City Standards. The proposed homes and streets will be required to meet or exceed City development codes. The circulation system within the subdivision provides for an orderly system of internal driveways; therefore, the project will not cause public health problems.

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

There are no known public easements or existing access across the subject property, therefore the design of the subdivision will not conflict with easements for access through or use of the property. Any utility easements can be accommodated within the project design.

PART THREE - ENVIRONMENTAL ASSESSMENT

As mentioned earlier, a single environmental impact report was prepared both projects; both projects are similar residential developments, the sites have similar characteristics and are in close proximity. Below are summaries of some of the more challenging issues identified in the Final EIR.

Final Environmental Impact Report (FEIR)

Pursuant to Section 15063 of the California Environmental Quality Act (CEQA) Guidelines, a Notice of Preparation of a Draft Environmental Impact Report was prepared and circulated for Boulders and Crescendo project. The Draft Environmental Impact Report was released on May 22, 2006, for a 45-day public review period. A Supplement Draft EIR was released on November 3, 2006 for another 45-day review period. Furthermore, Notices of the Reports were sent to all applicable agencies and published in accordance with CEQA. Copies of the Draft EIR and Final Environmental Impact Report (FEIR) were previously distributed to the Commission as well.

Staff has determined that the Final EIR addressed the issues the City identified for the projects: land use policies, safety, health, welfare, aesthetics biological resources, noise effects, grading, rock crushing and disposition of boulders from the site are concerned. The mitigation measures outlined in the Final EIR will be added to the conditions of approval in support of the FEIR. Below are brief summaries of identified impacts; proposed mitigation measures and monitoring programs are attached; full discussions of these impacts and mitigation measures are contained in the Final Environmental Impact Report.

- *The proposed project will have an adverse effect on vistas and scenic views due to the conversion of open rocky desert to residences. This effect will occur for virtually any development of the site.*

The primary effects of these projects are the change of the sites from the current state of vacant land to developed parcels. The development of the project will however not overwhelm a large portion of the natural features of the site, especially given the fact that proposed heights will not affect views of the surrounding mountains.

- *The project will result in emissions of nitrogen oxide and particulates that approach the significance thresholds established by the South Coast Air Quality Management District. Because such emissions are close to the thresholds, the impacts should be considered significant. This effect according to the FEIR is common for medium and large-scale projects in the Coachella Valley.*

The State of California and the Federal government along with local air quality control have established ambient air quality standards. Furthermore, mitigation measures and standard conditions are imposed on all development projects within the City to address emissions from development sites, and additional details are provided in the Final Environmental Impact Report

- *The project will also contribute to adverse changes in the aesthetics of the area due to cumulative development, to the cumulative loss of desert habitat, and to cumulative emissions of criteria pollutants; all three impacts were previously identified in the EIR for the City's General Plan.*

The proposed developments are similar to existing development within the area, and the proposed densities are well within the general plan threshold; therefore, the proposed projects are not likely to have adverse changes in the aesthetics of the area.

In addition to certifying the Environmental Impact Report, the Planning Commission will be required to make a Statement of Overriding Considerations to approve these projects. Even with incorporation of mitigation measures, the EIR concluded that the project could result in the significant and unavoidable environmental effects in: aesthetics, air quality, the loss of native desert habitat (on a cumulative basis), and temporary disruption to the existing residents during the estimated 18 to 24 months of construction for both projects.

Two of the most challenging issues involving both projects are the proposed site grading and rock crushing activities at the sites. Both were discussed extensively in the Final EIR and alternatives were recommended, below are brief summaries:

~~Chair Marantz stated a business related conflict of interest and would not be participating in the discussion and vote. She left the Council Chamber at 2:01 p.m.~~

Christopher Brown, Contract Planner, provided background information as outlined in the staff report dated September 26, 2007.

Marcus Fuller, Assistant Director of Public Works, provided further details on the two previously approved buildings requiring undergrounding of utilities.

The Commission discussed the power poles on the adjacent properties and the estimate of the cost given by Edison of \$160,000.00 for the undergrounding of utilities.

Mario Berardi, applicant, provided further details and stated that the power pole to the west, on the adjacent property, should have been under grounded.

M/S/C (Hutcheson/Caffery, 5-1/Scott), 1 abstained/ Chair Marantz) To approve, the applicant's request to defer utility undergrounding to covenant.

Commissioner Ringlein requested utility undergrounding as a discussion item for a study session.

~~Chair Marantz re-entered the Council Chamber at 2:13 p.m.~~

NOTE: ITEMS 5 AND 6 WILL BE HEARD AS A SINGLE ITEM.

5. Case 5.0973 PD 287 / TTM 31095 TTM (*Boulders*) - Planned Development District 287 and Tentative Tract Map 31095 for the subdivision of approximately 30.4-acre parcel into 45 lots. The Planned Development District would allow new design and development standards for a proposed development of up to 45 single-family residential units located at 751 West Via Escuela Road, Zone R-1-A, Section 3, APN's: 504-150-002 and 009. (Project Planner: Edward O. Robertson, Principal Planner) (Continued from September 12, 2007.)
6. Case 5.0996 PD 294 / TTM 31766 (*Crescendo*) - Planned Development District 294 and Tentative Tract Map 31766 for the subdivision of approximately 42-acre parcel into 79 lots. The applicant is also requesting for the vacation of the westerly 23 feet of the Vista Grande Avenue right-of-way. The Planned Development District would allow new design and development standards for a proposed development of up to 79 single-family residential units located at 1000 west of Racquet Club Road, south of Tram Way Road and west of Vista Grande Road, Zone R-1-A, Section 3, APN: 504-040-046. (Project Planner: Edward O. Robertson, Principal Planner) (Continued from September 12, 2007)

Edward Robertson, Principal Planner, provided background information as outlined in the staff report dated September 26, 2007. Mr. Robertson provided an overview on the revisions made to the Boulders project.

Chair Marantz noted several corrections to the conditions of approval for the Boulders project pertaining to rock crushing. Staff responded the revisions would be noted.

The consensus of the Commission is to hear one item at a time.

Chair Marantz opened the Public Hearing:

The following persons spoke in favor of the projects:

-John Wessman, applicant, provided further details on the Boulders project pertaining to the streets, the gated entrance and the retaining wall. Mr. Wessman requested condition #12, on page 4, to include the wording, "... except on new entrance on Via Escuela" and deletion of engineering condition #32, on page 12, regarding installation of sewer laterals extended to property lines.

-Bob Helbling, Palm Springs, spoke in favor of the projects; and noted Mr. Wessman has reduced the lots and the homes are in character to the surrounding neighborhood.

-Lyn Calderine, LSA Associates, responded to further comments made to the Environmental Impact Report (EIR).

-Marvin Roos, MSA Consulting, project engineer for Boulders, provided further information on the drainage, grading and emphasized that the zoning has been adopted for hillside lots.

-Paul Levitan, Palm Springs, noted that the revisions to the Boulders project fit in with the neighborhood.

-Emily Hemphill, representing the applicant and responding to testimony, addressed density, mass grading, the rock crusher for the Crescendo project, benefits to the city and the alluvial fan.

-John Wessman, applicant, provided further details on site plan for the Crescendo project.

The following persons spoke in opposition of the projects:

-Walter Baumhoff, Palm Springs, read an addendum to a report by Richard Simon, emphasizing that the project does not propose the highest and best use for the property.

-John Macon, Palm Springs, read the second part of Mr. Simon's letter, pertaining to negative environmental impacts resulting from massive grading.

-Mallika Albert, Palm Springs, requested a continuance for the Commission to review the information submitted on the alluvial fan.

-Cheryl Beverly, Palm Springs, voiced concern with the mass grading.

-Dana Stewart, Palm Springs, voiced concern with mass grading, pollution and disturbance of wild-life.

- Roxanne Ploss, Palm Springs, voiced concern with the destabilization of the alluvial fan and suggested developers submit 3-D plans for better visuals.
- Rodney Drew, Palm Springs, requested adequate review and consideration of the proposed projects.
- John Goodrich, Palm Springs, noted the calculations and effects of rock crushing.
- Andy Linsky, Palm Springs, requested a thorough review and investigation for both projects.
- Solange Taylor, Palm Springs, voiced concern with the effects of rock crushing and suggested more time be taken for a thorough review.
- Charles Sachs, Palm Springs, stated concern with the instability of the land and the alluvial fan.
- Thomas Watson, Palm Springs, urged denial of the projects.
- Paul Levitan, Palm Springs, stated that the Crescendo project will negatively impact the area.
- J.R. Roberts, Palm Springs, requested deletion of the on-site rock crushing and uniform grading or terracing of the projects.
- Frank Gaydos, Palm Springs, requested more time to research wind and noise factors due to the rock crusher.
- Jeff Welshams, Palm Springs, provided information on the disturbance to alluvial fans and its massive effects.
- Victoria Hurst, Palm Springs, voiced concern with the disruption to the environment.
- Gladys Krennick, Palm Springs, spoke of the beauty of the alluvial fan and its preservation.

There being no further appearances the Public Hearing was closed.

A recess was taken at 3:50 p.m.

The meeting resumed at 4:03 p.m.

Mr. Ewing reported three corrections to the Boulders resolution: (1) On page 5, delete conditions #21 and #23; condition #12 to add the wording at the end of the sentence, "except gates shall be allowed on Via Escuela"; and delete condition #27.

Commissioner Hutcheson requested staff address the height of the retaining wall. Staff responded the height of the retaining wall is about 20 feet high. Mr. Hutcheson concluded that the majority of mass grading will be done to this area. Staff agreed.

Vice Chair Hochanadel requested engineering staff address if it is common to have developers run a lateral sewer line. Staff responded it is not a common request, however, staff recommends running the lines to the south side of Chino Canyon Road when the road is excavated. Mr. Fuller offered an expense reimbursement agreement, to the applicant, to cover the costs of the new sewer laterals.

Commissioner Hutcheson requested an amendment to the motion to remove the 20 foot high retention wall and eliminate the mass grading. Commissioner Scott seconded the amendment. Mr. Fuller reported that removal of the wall could be done, however, each home would require a private lift station pump. The Commission further discussed the need of the retention wall. Commissioner Scott noted a benefit is that the boulders will be used for fill and not removed from the site. Commissioner Scott withdrew his second to the amendment on the motion.

M/S/C (Ringlein/Cohen, 7-0) To certify the Final Environmental Impact Report, and recommend approval of Case 5.0973, Tentative Tract Map 31095 (Boulders), to the City Council, subject to the Conditions of Approval, as amended:

*Engineering Condition #32 to include a reimbursement agreement.

CRESCENDO PROJECT - Case 5.0996 PD 294 / TTM 31766

The Commission discussed the Crescendo project and requested clarification on several items in the staff report and resolution.

Commissioner Hutcheson stated he did not see a justification for a planned development for this project.

Commissioner Scott felt this is not the best solution for this project and does not support it.

M/S/C (Ringlein/Caffery, 5-2, Hutcheson and Scott) To certify the Final Environmental Impact Report, and recommend approval of Case 5.0996 PD 294, Tentative Tract Map 31766 (Crescendo), to the City Council, subject to the Conditions of Approval, as amended:

*Condition #26 - Option 1: No second story units allowed along the perimeter of the project or adjacent to another story unit. Second story units shall be limited to a maximum of 25% of the total number of lots (19 total).

~~7. Case 3 3102 MAI - An application by Doug Jones to construct an approximate 8,863 square foot, two-story industrial building on 14.25 acres located at 3301 Micro Place, Zone W-M-1-P, Section 30, APN's: 660-160-004, 007, 013 and 021. (Project Planner: Christopher Brown, Contract Planner)~~

Commissioner Ringlein left the Council Chamber at 4:39 p.m. for the remainder of the meeting.

~~Christopher Brown, Contract Planner, provided background information as outlined in the staff report dated September 26, 2007.~~