



## Planning Commission Staff Report

DATE: November 12, 2014 PUBLIC HEARING

SUBJECT: CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE SECTION 91.00.10 – DEFINITIONS AND, SECTIONS 92.00, 92.01, 92.02, 92.03 AND 92.04 - PERMITTED, ACCESSORY AND CONDITIONALLY PERMITTED USES AND TO REPLACE 93.23.14 - ACCESSORY APARTMENT HOUSNG IN ITS ENTIRETY (CASE 5.1341 ZTA). (FF)

FROM: Department of Planning Services

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### SUMMARY

California State law requires all local jurisdictions to allow accessory second units and establishes standards for the development of such units; the proposed amendment is intended to bring the Palm Springs Zoning Code into compliance with State Law. The Planning Commission originally reviewed the proposal in June 2014, and is being asked to review the restriction imposed at that time against utilizing accessory second units for vacation rentals.

### RECOMMENDATION

To open the public hearing and recommend approval to the City Council.

### BACKGROUND INFORMATION

The Planning Commission reviewed and recommended approval of modifications to the City's accessory unit regulations in June 2014. As a condition of approval, the Planning Commission recommended that the use of accessory second units for vacation rentals be prohibited. In light of recent changes to the regulations and enforcement procedures for vacation rentals, staff has been requested to bring the restriction against vacation rentals back to the Planning Commission for reconsideration. No other changes to the ordinance are proposed.

### ANALYSIS

Vacation Rental Restrictions: At the June 2014 Planning Commission meeting, the

commission voted to recommend approval of the proposed changes to the accessory second unit regulations, with an added condition that the units not be rented for periods of less than 30 days. As part of the staff review process in preparing the ordinance for consideration by City Council, concerns have been raised about the unintended consequences of restrictions that prevent the rental of accessory units for periods of less than 30 days, and conflicts that may result with the City's newly-adopted vacation rental regulations.

In April 2014, the City Council adopted a revised vacation rental ordinance, based upon extensive review and input from PSNIC and vacation rental stakeholders. The revisions to the ordinance include the following:

- Minimum age requirement for renters increased from 18 to 25 years old;
- Rental contracts must be maintained by the owner and made available to the City for inspection;
- Decreased response times for the local contact person and verification that the local contact person can respond on-site;
- Definition of bedroom added to assist in establishing occupancy limits for overnight guests;
- Requirement for the Palm Springs permit number to be included in all advertising;
- Definition of amplified music/sound clarified to assist in enforcement efforts;
- Administrative citations (with a fine) are now permitted upon the first violation; and
- Increase in the vacation rental permit and renewal fee.

These adopted changes assist in reducing the impact of vacation rentals on residential neighborhoods and in improving the experience for visitors and affected residents.

One of the conflicts that may arise with the restriction against vacation rentals is relative to Chapter 5.25 (Vacation Rentals), which otherwise permits the use in all single- and multifamily zoning districts. The restriction would prevent vacation rentals at any property with an accessory second unit, except in situations where the owner was occupying the accessory unit. Furthermore, the definition of "Vacation Rental" includes a single-family dwelling or any portion of such a dwelling, which could be construed to include an accessory unit and directly conflicts with the proposed language in Chapter 93.23. Removal of the restriction would correct these conflicts.

Summary of Proposed Regulations: As previously noted, no other changes are proposed to the accessory second unit regulations as last reviewed in June 2014. The table below presents a summary of those changes; a copy of the original staff report, detailing all of the proposed changes and applicable state regulations, is included as an attachment to this report.

Accessory Second Unit Regulations – June 2014 Proposal		
Standard	By-Right	CUP Required
Lot size	15,000 SF or greater	Over 7,500 SF/less than 15,000 SF

Accessory Second Unit Regulations – June 2014 Proposal		
Standard	By-Right	CUP Required
Unit size	1,200 SF max./400 SF min.	Same
	Not to exceed 30% of principal dwelling	Not to exceed 99% of principal dwelling
Lot coverage	Per zoning district	Same
Setbacks	Must conform to zoning district	Same
Height	Limited to 15' or height of principal dwelling	Same
Parking	1 space/bedroom (tandem or within setback)	1 space/unit (tandem or within setback)
	Principal dwelling must have conforming parking	Same
Kitchen	Allowed	Same
Rental	May be rented	Same
Occupancy	One unit must be owner occupied	Same
Configuration	Attached or detached	Same
Ownership	May not be sold separately	Same
Meters	No separate utility meters	Same

ENVIRONMENTAL ASSESSMENT

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is a Class III exemption and is categorically exempt per Section 15303(a) (New Single-Family Residence and Accessory Structure).

NOTIFICATION

A public hearing notice was published. The Planning Department has not received correspondence regarding this issue.

  
Flinn Fagg, AICP  
Director of Planning Services

Attachments:

1. Draft Resolution – Revised
2. Staff Report – June 11, 2014
3. Planning Commission Meeting Minutes – June 11, 2014

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

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND SECTION RELATING TO CODE SECTION 91.00.10-DEFINITIONS, AND SECTIONS 92.00, 92.01, 92.02, 92.03 AND 92.04 - PERMITTED, ACCESSORY AND CONDITIONALLY PERMITTED USES AND TO REPLACE 93.23.14 - ACCESSORY APARTMENT HOUSING IN ITS ENTIRETY.

WHEREAS, the Palm Springs Zoning Ordinance is establishing regulations for creation of accessory dwelling units that comply with state law to provide housing for family, students and the elderly providing much needed affordable housing options; and

WHEREAS, on November 12, 2014, the Planning Commission conducted duly noticed public hearings on the proposed amendment, at which hearings the Commission carefully reviewed and considered all of the evidence presented in connection with the project, including but not limited to the staff report and all written and oral testimony presented; and

WHEREAS, the Planning Commission hereby determines that the proposed Zoning Ordinance text amendment is Categorically Exempt under Section 15305 – Minor Alterations in Land Use Limitations – of the Guidelines for the Implementation of the California Environmental Quality Act and that the proposed amendment does not result in any changes in land use or density; and therefore

THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS;

Section 1: The Planning Commission hereby finds that adoption of the proposed Zoning Text Amendment would:

- a. Provide a means by which The City may create new opportunities for housing at below market prices within existing neighborhoods.
- b. Comply with State Law regarding second units.

Section 2: The adoption of the proposed Zone Text Amendment would be consistent with the intent of the Zoning Ordinance and the City's General Plan because it provides:

Section 3: The PSZC section 91.00.10 definitions shall be amended to delete the following definitions: accessory living quarters, administrator, attached, dwelling, guest, guest house, guest room, and rental unit.

Section 4: The PSZC see 91.00.10 Definitions shall be amended to add the following definitions:

"Living area" means the interior habitable area of a dwelling unit including basements, attics and mezzanines, but does not include a garage or accessory structure."

"Accessory Second unit" means any attached or detached residential dwelling unit which provide complete independent living facilities or one or more persons. Any room or series of rooms having separate exterior access and no interior access from the living area of the main use shall be considered a second unit. It may include permanent provisions for living, sleeping, eating, cooking and sanitation. A second unit also includes the following:

- A.) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- B.) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Section 5: The PSZC shall be amended to delete the following subsections:

92.00.01.C.10  
92.01.01.A.2  
92.01.01.D.3  
92.01.01.D.3  
92.02.01.A.3  
92.02.01.C.6-7  
92.03.01.A.4  
92.03.01.C.1-2  
92.03.01.C.1-2  
92.04.01.A.3  
92.04.01.A.3  
93.23.14

Section 6: The Palm Springs Zoning Code shall be amended to add:

#### **Chapter 93.23.14**

#### **Accessory Second Units**

##### **A. INTENT**

The intent of this chapter is to provide for the creation of accessory second units in the City's single-family and multiple-family residential districts, in accordance with Government Code Section 65852.2. This Chapter prescribes standards for such second units to minimize adverse impacts on the public health, safety, and general welfare from the establishment of the second units.

An accessory second unit which conforms to these requirements shall not be considered to exceed the allowable density for the lot upon which it is located,

and shall be deemed to be a residential use consistent with the Palm Springs General Plan and zoning designation for the lot.

## **B. APPLICABILITY**

### **1. New Accessory Second Units**

Any construction, establishment, alteration, enlargement, or modification of an accessory second unit shall comply with the requirements of this Chapter, other development standards in this Title applicable to the district in which the lot is located, and the City's Building Code.

### **2. Non-Conforming Second Units**

All accessory second units which were legally constructed or initiated but which do not conform to this Chapter are deemed non-conforming and shall be subject to the provisions of Chapter 94.05.00-07, Non-conformance.

### **3. Existing Illegal Second Units**

The provisions of this chapter shall in no way validate any existing illegal second unit. An application may be made pursuant to this Chapter to convert an illegal second unit to a legal conforming accessory second unit, and shall be subject to the same standards and requirements as for a newly proposed accessory second unit.

### **4. Designation of Existing Primary Unit to Accessory Second Unit**

An existing residential structure may be designated as an accessory second unit at such a time as a new primary dwelling unit is constructed, provided the existing structure conforms to all the development of this Chapter.

### **5. Conflicting Provisions in Specific Plans and General Development Plans**

The provisions of this Chapter shall supersede any standard or regulation in a Specific Plan or planned development district adopted or approved by the City prior to the effective date of this ordinance.

## **C. PERMITTED SITES**

1. No more than one accessory second unit may be allowed on any residentially zoned lot. The residential lot must meet the following criteria:

- a. On lots greater than 15,000 square feet an accessory second unit shall be allowed provided all other requirements of this Title applicable to the district in which the lot is located and the city's Building Code are met. On lots of at least 7,500 square feet and less than 15,000 square feet an accessory second unit is subject to a Conditional Use Permit.
- b. All lots must be conforming in size for the zone in which it is located.
- c. The lot may contain more than one existing single-family dwelling.

## **D. ACCESSORY SECOND UNIT REQUIREMENTS**

1. An accessory second unit may include permanent provisions for living, sleeping, eating, cooking, and sanitation separate from the primary dwelling

- unit on the same lot. The accessory second unit shall not be intended or offered for sale separately from the primary dwelling unit.
2. The accessory second unit shall be either attached to the existing dwelling unit or detached from the existing dwelling and located on the same lot as the existing dwelling.
  3. An accessory second unit shall be constructed on a permanent foundation and connected to the public sewer.
  4. The following additional requirements shall apply to accessory second units in all residential districts:
    - a. The owner of the accessory second unit shall live within the primary dwelling unit or the accessory second unit, and may rent the other unit. The two units shall not be concurrently rented, excepting upon request from the property owner, the Director may grant the owner a temporary exception to the occupancy requirement for a period not to exceed twenty four (24) months.
    - b. ~~Rental of the accessory second unit must be for periods of 30 days or more.~~
    - c. Prior to issuance of a building permit for the accessory second unit, the owner shall demonstrate to the City the he/she meets this occupancy requirement, and record a deed restriction on the property prohibiting the rental or lease of both units at the same time.
    - d. An accessory second unit shall not be metered separately from the primary dwelling unit for gas, electricity, and water.

#### **E. SETBACKS, LOT COVERAGE, AND FLOOR AREA RESTRICTIONS**

1. An accessory second unit shall conform to all required setback requirements of the district in which the lot is located.
2. All development on the lot shall conform to lot coverage standards of the district in which the lot is located.
3. The floor area of an accessory unit shall not exceed 1200 square feet, nor be less than 400 square feet pursuant to the definition of efficiency unit as set forth in the Building Code.
4. The unit shall not include more than two (2) bedrooms.
5. The unit shall not exceed 30% of the floor area of the existing single-family dwelling. Upon approval of a CUP it may be up to 99% of the floor area of the primary dwelling.
6. An accessory second unit shall not be eligible for an Administrative Minor Modification of development standards.

## **F. HEIGHT RESTRICTION**

An accessory second unit shall be limited to one story and shall not exceed 15 feet in height or the height of primary unit, whichever is greater.

## **G. ARCHITECTURAL STANDARDS**

1. All exterior surfaces, roofing, window, light fixtures, and other architectural details of the accessory second unit shall be of the same style, materials, colors, and quality as used for the primary dwelling unit, although a proposed higher quality material shall be allowed.
2. The accessory second unit shall be provided with an entrance separate from that of the primary dwelling and pedestrian access shall be provided to the entrance from a public street or alley.
3. The entrance to the accessory second unit shall not be oriented to the street or otherwise alter the single-family appearance of the property from the street.
4. All second unit proposals shall include landscaping plans, and the landscaping shall be installed prior to the final inspection of the second unit by the City's Building Department.

## **H. PARKING AND DRIVEWAY PROVISIONS**

1. No accessory second unit may be permitted on a lot where the required parking for the existing dwelling unit has not been met.
2. One (1) off-street parking space shall be required for each bedroom of the accessory second unit. Such parking space shall be nine feet wide and 17 feet long, and be provided on the same lot as the second unit. A covered parking space is preferred but not required. The parking space for the second unit shall be in addition to the parking required for the primary residence.
3. No additional driveway approaches from public streets shall be permitted for the parking for accessory second units. Access to the parking can be provided from an alley.
4. The required parking space for the accessory second unit may be located in rear or non-street side setbacks or through tandem parking on existing driveways, but such space shall not interfere with access to the required parking for the primary residence.
5. Upon approval of a CUP, one parking space for the accessory second unit may be allowed.



## I. PERMIT REQUIREMENT

### 1. Filing

Any accessory second unit shall require approval of an Accessory Second Unit Permit. The application for such permit shall be made on forms provided by the Department of Planning Services together with any applicable fees. The application shall include all information needed to determine compliance with this Chapter. The application fee shall include all information needed to determine compliance with this Chapter. The application fee shall be established by resolution of the City Council.

### 2. Application Screening

Upon receipt of an application for an accessory second unit, staff shall review the application; inform the applicant as to the completeness of the submittal and of any additional information materials required, if any.

### 3. Noticing of Application

Pursuant to Government Code Section 65852.2, notice of an application for an accessory second unit shall not be given to owners of surrounding properties.

### 4. Notification of Application for Conditional Use Permit shall be pursuant to and processed to said section.

### 5. Action of Application

- a. Staff shall approve a completed application if the proposed accessory second unit complies with the requirements of this Chapter. As a condition of the permit, the applicant shall record a deed restriction on the property limiting the rental or lease of both units in compliance with this Chapter.
- b. Staff shall deny an application for an accessory second unit if the proposed second unit is not in compliance with all requirements of this Chapter.
- c. Within five days of its decision on the application, staff shall give notice of the decision to the applicant.

### 6. Permit "Runs With the Land"

An Accessory Second Unit Permit that was granted pursuant to this Section, and is valid and in effect, shall continue to be valid upon change of ownership of the property.

### 7. Permit Revocation

The Director of Planning Services shall have the right to revoke the permit granted under this Chapter if the accessory second unit for which the permit was granted violates one or more requirements of this Chapter. The Director shall give notice of permit revocation to the property owner. If a permit for an accessory second unit is revoked, the owner shall remove the kitchen

facilities for unit space, and shall not rent the unit space except together with the primary residence to a single household.

8. Any person aggrieved by a decision of the Director or staff on an application for revocation of an Accessory Second Unit Permit may appeal such action.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves Case Number 5.1341-ZTA.

ADOPTED this 12th day of November, 2014.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Flinn Fagg, AICP  
Director of Planning Services



## Planning Commission Staff Report

DATE: June 11, 2014

PUBLIC HEARING

SUBJECT: CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE SECTION 91.00.10 – DEFINITIONS AND, SECTIONS 92.00, 92.01, 92.02, 92.03 AND 92.04 - PERMITTED, ACCESSORY AND CONDITIONALLY PERMITTED USES AND TO REPLACE 93.23.14 - ACCESSORY APARTMENT HOUSNG IN ITS ENTIRETY (CASE 5.1341 ZTA). (MW)

FROM: Department of Planning Services

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### SUMMARY

California State law requires all local jurisdictions to allow accessory second units. There are standards that are set by the State which must be set. Local jurisdictions may be more lenient in their requirements but cannot be more strict. This Amendment will make the City of Palm Springs compliant with State Law.

### RECOMMENDATION:

To open the public hearing and recommend approval to the City Council.

### BACKGROUND INFORMATION

Accessory second units are important in meeting the State-mandated housing requirements given to cities through the Regional Housing Needs Assessment (RHNA) numbers. State law declares:

Second units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income and an increased sense of security.

Current City of Palm Springs zoning code has differencing sections and requirements. The purpose of this text amendment is to create a single section in compliance with state law.

**ANALYSIS:**

There has been a significant amount of State law in the past several decades regarding granny flats or second units or accessory apartments. Since 1982, State law has mandated that municipalities allow these uses either using state standards or adopting their own, in full compliance with State law.

Local governments may still set height, setback and lot coverage standards and set minimum unit sizes and establish parking requirements. Conditional Use Permits may not be required for units that meet state imposed minimums.

State law requires:

- Ministerial approval
- Rental allowed
- Detached allowed
- Up to 30% existing living area
- Up to 1200 square feet
- Parking may not exceed one space, which may be located in required setback or tandem
- Kitchen allowed

Current Code						
	Zoning	Unit Size	Attach/Detach	Kitchen	By-right/ CUP	Lot Size
92-01501 A2	R-1AH-D	<1/50th lot area	detached	kitchen	by-right	
93-23-11A	SAA + GR5-8 & R2 No PD unless part of original	15% sq. ft. of primary & ≤ 640	attached		CUP	
92-01501 D13	SAA	≤ 1/50th lot		kitchen	CUP	15,000 sq. ft.

\*no separate ownership  
no more than 2 persons  
no more than 1 per lot  
no separate meter

Based on these conflicting provisions using the most stringent requirements the allowance would be as follows:

- \*CUP required  
lot over 15,000
- \*attached

- \* < 1/50th of lot and < 15% of primary sq. ft. and ≤ 640 sq. ft.
- not in PD's unless in original
- no more than 2 persons
- no more than 1 per lot
- no sep. meter
- Zones R1AH-D
- \* not in compliance with State law.

As mentioned, the State has invalidated the CUP requirements for some accessory units. In order to create an ordinance that meets State law yet keeps components of existing code, the following proposal is made:

	By-right	CUP
Lot size	≤ 15,000	≤ 7500 sq. single family
Unit size	≤ 12,000 sq.ft.	no changes
	≤ 30% existing sq.ft.	≤ 50% existing single family
Parking	1 space per bedroom may be tandem &/or w/in setback	1 space per unit
Kitchen	Allowed	No change
Lot coverage	Max. 35%	No change
	May be rented	No change
	Single family or multi-family developed w/ single family	No change
	One unit must be owner occupied	No change
	May be detached	No change
	May not be sold separately	No change

Requirements in all cases:

- Single-family home must have conforming parking
- One accessory unit per single-family lot
- No separate utility meter
- Must meet all setbacks, not eligible for AMM
- Parking space must be covered
- May not exceed 1 story nor height of existing single-family house
- No discretionary review in hillside areas unless CUP is required

Changes in definitions are also necessary to implement this ordinance.

B 9.00.10 add:

"Living area" means the interior habitable area of a dwelling unit including basements, attics and mezzanines, but does not include a garage or accessory structure."

"Second unit" means any attached or detached residential dwelling unit which provide

complete independent living facilities or one or more persons. Any room or series of rooms having separate exterior access and no interior access from the living area of the main use shall be considered a second unit. It may include permanent provisions for living, sleeping, eating, cooking and sanitation. A second unit also includes the following:

- A.) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.
- B.) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

Existing definitions to be eliminated:

Section 91.00.10 delete:	Sections 92.04.01.A.3
"Accessory Living Quarters"	92.03.01.C1-2
"Administrator"	92.01.01A.2
"Attached"	93.23.14
"Dwelling, guest"	92.03.01.A.4
"Guest house"	92.00.01.C.10
"Guest room"	92.01.01.D.3
"Rental unit"	92.01.01.D.3
	92.02.01.A.3
	92.02.01.C.6-7
	92.03.01.C.1-2
	92.04.01.A.3

Replace in its entirety 93.23.14. This new section will comply with state law, and allow all homeowners to know the requirements and make for consistent administration by city staff.

SUMMARY:

	State Law	Current Code (most restrictive)	Proposed Code By-Right	Proposed Code CUP
Lot size	legal lot sq.ft.	15,000 single-family	legal lot & 15,000 sq.ft.	legal lot & 7500 sq.ft.
Unit size	1200 sq.ft.	640 sq.ft.	same as state	same as State
	30% of exist. unit	15% of exist. unit	state	50% exist.
Lot Coverage	code	code 35%	Code	Code
Kitchen	allowed	allowed w/ CUP	allowed	allowed
Rental	ok	ok	ok	ok
Detached	yes	no	yes	yes
Parking	one per bedroom,	one	same as state	one per unit

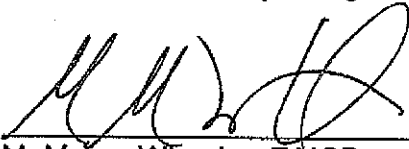
	allowed in setback			
	State Law	Current Code (most restrictive)	Proposed Code By-Right	Proposed Code CUP
	or tandem		same as state	same
Rental	yes	n/a	yes	yes
Own occ.	allowed	n/a	primary own occ.	primary, own occ.
Review	ministerial	discretionary	ministerial	ministerial

### ENVIRONMENTAL ASSESSMENT

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is a Class III exemption and is categorically exempt per Section 15303(a) (New Single-Family Residence and Accessory Structure).

### NOTIFICATION

A public hearing notice was published. The Planning Department has not received correspondence regarding this issue.



M. Margo Wheeler, FAICP  
Director of Planning Services

### Attachments:

1. Draft Resolution

A recess was taken at 4:23 pm.

The meeting reconvened at 4:33 pm.

**2G. CITY OF PALM SPRINGS TO AMEND THE PALM SPRINGS ZONING CODE SECTION 91.00.10 - DEFINITIONS AND SECTIONS 92.00, 92.01, 92.02, 92.03 AND 92.04 -PERMITTED, ACCESSORY AND CONDITIONALLY PERMITTED USES AND TO REPLACE 93.23.14 - ACCESSORY APARTMENT HOUSING IN ITS ENTIRETY (CASE 5.1341 ZTA).**

DIRECTOR WHEELER introduced the item and asked for input on specific issues.

COMMISSIONER WEREMIUK offered that rental should be allowed for 30 day periods or more to serve as housing not vacation rentals.

DIRECTOR WHEELER discussed that the proposal is for only one accessory second unit on any lot. State law requires up to 1200 square feet and 30% of primary unit size allowed ministerially. She indicated that staff's proposal was to allow up to 50% of primary unit with Conditional Use Permit.

CHAIR DONENFELD opened the public hearing and with no appearances coming forward the public hearing was closed.

COMMISSIONERS discussed the matter and recommended up to 99% of primary unit be allowed to be considered with Conditional Use Permit.

ENGINEERING ASSOCIATE MINJARES advised the Commission about this type of approval would trigger certain requirements.

**ACTION:** Recommend approval to City Council, as amended.

**MOTION:** Commissioner Weremiuk, seconded by Commissioner Lowe and unanimously carried on a 7-0 roll call vote.

**AYES:** Commissioner Calderline, Commissioner Klatchko, Commissioner Lowe, Commissioner Roberts, Commissioner Weremiuk, Vice- Chair Hudson and Chair Donenfeld

**3. NEW BUSINESS:**

**3A. VIVANTE PALM SPRINGS, LLC, FOR ARCHITECTURAL REVIEW OF FINAL DEVELOPMENT PLANS FOR THE FIRST PHASE OF PD 341, INCLUDING AN ASSISTED LIVING FACILITY OF APPROXIMATELY 148,000 SQUARE FEET, SITE LANDSCAPING AND OFF-STREET PARKING ON A VACANT LOT**