



CITY COUNCIL STAFF REPORT

DATE: MARCH 1, 2017

LEGISLATIVE

SUBJECT: PROPOSED ACTIONS REGARDING AN INITIATIVE MEASURE AMENDING THE PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS FILED FOR CONSIDERATION OR CALLING A SPECIAL ELECTION AND OTHER MATTERS AS REQUIRED BY LAW

FROM: Marcus L. Fuller, Assistant City Manager/City Engineer

BY: Kathleen D. Hart, Interim City Clerk
Douglas C. Holland, City Attorney

SUMMARY

The City Council will receive and file the Certificate of Sufficiency as prepared by the City Clerk for an initiative measure with determination that a sufficient number of registered voters have signed the initiative measure petition. The Council is required to take one of two actions: (1) Submit the initiative measure petition to the voters at a special election, to be held on June 6, 2017, or (2) Adopt the initiative measure without alteration, hereafter referenced as the "ordinance".

David H. Ready, City Manager, owns property within 500 feet of the Oswit Cone area, and is not participating in any actions associated with this initiative petition.

RECOMMENDATION:

1. Receive and File the Certificate of Sufficiency as prepared and executed by the City Clerk; **and**
2. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, JUNE 6, 2017, FOR THE SUBMISSION TO THE QUALIFIED VOTERS AN INITIATIVE MEASURE AMENDING THE CITY OF PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTAL SENSITIVE AREA REGULATIONS OF THE CITY."

A. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, REQUESTING THE

ITEM NO. 3.A.

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 6, 2017.”

- B. Adopt Resolution No. _____, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AT THE TUESDAY, JUNE 6, 2017, SPECIAL MUNICIPAL ELECTION AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.”
- C. Adopt Resolution No. _____, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR A CITY MEASURE SUBMITTED AT THE TUESDAY, JUNE 6, 2017, SPECIAL MUNICIPAL ELECTION.”
- D. Adopt Resolution No. _____, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA ORDERING THE CANVASS OF THE SPECIAL MUNICIPAL ELECTION TO BE HELD TUESDAY, JUNE 6, 2017, BE MADE BY THE CITY CLERK.”
- E. Adopt Resolution No. _____, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2016-17 FOR THE PURPOSE OF A SPECIAL ELECTION;”

or

- 3. Adopt Ordinance No. _____, “AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTAL SENSITIVE ARE REGULATIONS.”

STAFF ANALYSIS:

On January 26, 2017, William Stiles, a qualified registered voter of the City of Palm Springs, filed an initiative petition to amend the Palm Springs Zoning Code, Canyon South Specific Plan, and General Plan to designate Oswit Cone as an area subject to the Environmentally Sensitive Area Regulations of the City, pursuant to California Elections Code (E.C.) § 9210.

The City Clerk examined and/or caused the counting and examination by means of a 100% verification process of the signatures on said petition. The number of valid

signatures required to qualify said petition to call a special election is 3,810, and the number of valid signatures on said petition was 4,057. Pursuant to EC § 9214, when a petition has been filed with the City, signed by more than 15 percent (15%) of the number of registered voters of the City, it must be enacted by the legislative body of the City or submitted to a vote of the people. The City Clerk issued a Certificate of Sufficiency (Attachment 1) declaring the initiative petition as sufficient.

E.C. § 9241 requires the City Council to take one of the two following actions:

1. The City Council's first option is to submit the initiative (hereafter referenced as ordinance) to the voters at a special municipal election, Tuesday, June 6, 2017.
NOTE: The ballot measure prepared for the ballot is the initiative petition language without alteration, pursuant to EC § 9214 (b) *"Immediately order a special election, to be held pursuant to subdivision (a) of Section 1405, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city."*
2. The City Council's second option is to adopt the ordinance without alteration in accordance to EC § 9214.
NOTE: The ordinance prepared for adoption is the initiative petition language without alteration, pursuant to EC § 9214 (a) *"Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented." This ordinance will not require two (2) readings, due to the fact that the City Council only has two options, 1) Call for a Special Election, or 2) Adopt the ordinance.*

By certifying the sufficiency of the petition, calling a special election, and placing the initiative petition on the ballot; the City Clerk and the City Council have performed their ministerial and official duties as required in the Election Codes. Local government officials are not empowered to refuse to place a duly certified initiative petition on the ballot.

Palm Springs City Charter § 803 reserved the powers of initiative petitions to the electors as exist in State law.

ALTERNATIVE ACTIONS (MOTIONS):

Option No. 1. The City Council to submit the ordinance to the voters at a Special Election to be held Tuesday, June 6, 2017:

1. Receive and File the Certificate of Sufficiency as prepared and executed by the City Clerk.
2. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY,

JUNE 6, 2017, FOR THE SUBMISSION TO THE QUALIFIED VOTERS AN INITIATIVE MEASURE AMENDING THE CITY OF PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS OF THE CITY."

- A. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 6, 2017."
- B. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AT THE TUESDAY, JUNE 6, 2017, SPECIAL MUNICIPAL ELECTION AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS."
- C. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR A CITY MEASURE SUBMITTED AT THE TUESDAY, JUNE 6, 2017, SPECIAL MUNICIPAL ELECTION."
- D. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA ORDERING THE CANVASS OF THE SPECIAL MUNICIPAL ELECTION TO BE HELD TUESDAY, JUNE 6, 2017, BE MADE BY THE CITY CLERK."
- E. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2016-17 FOR THE PURPOSE OF A SPECIAL ELECTION."

Option No. 2. The City Council to adopt the ordinance without alteration:

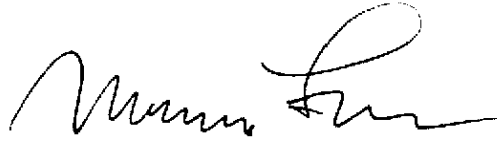
- 1. Receive and File the Certificate of Sufficiency as prepared and executed by the City Clerk.
- 2. Adopt Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTAL SENSITIVE AREA REGULATIONS."

FISCAL IMPACT:

If the City Council calls a special municipal election for Tuesday, June 6, 2017, the City Clerk is requesting a budget transfer from General Fund Balance to City Clerk Elections in the amount of \$85,000, to conduct the special municipal election.



Kathleen D. Hart, MMC
Interim City Clerk



Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer



Douglas C. Holland, City Attorney

Attachments:

1. Certificate of Sufficiency
2. Resolution Calling a Special Election
 - A. Resolution for County Services
 - B. Resolution for Arguments
 - C. Resolution for Rebuttal Arguments
 - D. Resolution for Canvass
 - E. Resolution Amending Budget for a Special Election
3. Ordinance to be adopted without alteration

ATTACHMENT 1

CERTIFICATE OF SUFFICIENCY

State of California)
County of Riverside) ss.
City of Palm Springs)

WHEREAS, Pursuant to Article 2, of Chapter 3, of Division 9, of the California Elections Code, on January 26, 2017, William Stiles, a qualified registered voter of the City of Palm Springs submitted an initiative petition proposing amendments to the Palm Springs General Plan and Zoning Code:

AN INITIATIVE MEASURE AMENDING THE CITY OF PALM SPRINGS ZONING, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS OF THE CITY

WHEREAS, Election Code § 9240 requires the election official to examine the petition and certify the results.

WHEREAS, the Charter of the City of Palms Springs, Section 501(g), designates the City Clerk as the election official for the City of Palm Springs.

WHEREAS, I examined and/or caused the counting and examination by means of a 100% verification process of the signatures on said petition or until the sufficient number of requisite signatures are checked.

WHEREAS, the number of valid signatures required to qualify said petition to call for a special election is 3,810, and the number of valid signatures on said petition was 4,057.

NOW THEREFORE, I, Kathleen D. Hart, Interim City Clerk of the City of Palm Springs, California, do hereby certify the initiative Measure Petition relating to Oswit Canyon is declared sufficient.



dated this 16th day of February, 2017


KATHLEEN D. HART, MMC
Interim City Clerk

ATTACHMENT 2

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, JUNE 6, 2017, FOR THE SUBMISSION TO THE QUALIFIED VOTERS AN INITIATIVE MEASURE AMENDING THE CITY OF PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS OF THE CITY

WHEREAS, pursuant to Article 1, of Chapter 3, of Division 9, of the California Elections Code, on January 26, 2017, an initiative petition was received proposing amendments to the Palm Springs General Plan and Zoning Code;

WHEREAS, the Charter of the City of Palms Springs, Section 501(g), designates the City Clerk as the election official for the City of Palm Springs;

WHEREAS, the City Clerk examined and/or caused the counting and examination by means of a 100% verification process of the signatures on said petition;

WHEREAS, the number of valid signatures required to qualify said petition to call a special election is 3,810, and the number of valid signatures on said petition was 4,057;

WHEREAS, pursuant to California Election Code Section 9214 requires that when a petition has been filed with the City, signed by more than 15 percent (15%) of the number of registered voters of the City, it must be enacted by the legislative body of the City or submitted to a vote of the people;

WHEREAS, the City Council of the City of Palm Springs has determined to call a special election in compliance with California Election Code Section 9214;

WHEREAS, pursuant to California Election Code Section 1000(b) June 6, 2017, is an established election date.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, AS FOLLOWS:

SECTION 1. Pursuant to the requirements of the Palm Springs City Charter, Palm Springs Municipal Code, and the laws of the State of California relating to elections; there is called and ordered to be held in the City of Palm Springs, California, on Tuesday, June 6, 2017, a Special Municipal Election for the purpose of submission to the qualified voters an initiative measure amending the City of Palm Springs Zoning Code, Canyon South Specific Plan, and General Plan to designate Oswit Cone as an

area subject to the environmentally sensitive area regulations of the City.

SHOULD THE PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN BE AMENDED TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS OF THE CITY?	YES _____	NO _____
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The ballot measure is attached as Exhibit A.

SECTION 2. The ballots to be used at the election shall be in form and content as required by law.

SECTION 3. The City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter, supplies, and equipment that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. The Polls for the election shall be open at seven o'clock a.m. (7:00 a.m.) of the day of the election and shall remain open continuously from that time until eight o'clock p.m. (8:00 p.m.) of the same day when the polls shall be closed, except as provided in California Elections Code Section 14401.

SECTION 5. In all matters not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 7. Pursuant to California Elections Code Section 10263, the canvass of the Special Municipal Election is ordered to be made by the City Clerk. The City Clerk may designate that the Registrar of Voters for the County of Riverside, conduct and complete the canvass.

SECTION 8. The City Clerk or designee shall cause the canvass to be completed for the Special Municipal Election and shall certify the results to the City Council by July 7, 2017.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 1st DAY OF MARCH, 2017.

Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer

ATTEST:

Kathleen D. Hart, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true, and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the ____ day of March, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK

CITY OF PALM SPRINGS

MEASURE “??”

FULL TEXT OF THE MEASURE SUBMITTED TO THE VOTERS

AN INITIATIVE MEASURE AMENDING THE CITY OF PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS OF THE CITY

BALLOT SUMMARY

This initiative measure designates Oswit Cone, as defined, as a Special Policy Area of the City. The initiative measure amends selected provisions of the General Plan and the Canyon South Specific Plan, and readopts with amendments provisions of the Zoning Code relating to the "ESA-SP" (environmentally sensitive area specific plan) Zone of the City in their entirety, for the purpose of implementing special policy treatment to Oswit Canyon property.

The measure establishes Oswit Canyon as Planning Area 10 within the ESA-SP land use designation in the Zoning Code. The measure, by readopting the ESA-SP Zone, incorporates various regulations pertaining to uses, property development standards, design standards, and specific requirements for the preparation of specific plans. In addition to uses allowed in Planning Areas 1 through 9, the measure permits tourist serving commercial uses, including services primarily oriented to eco-tourism in Oswit Cone.

The measure limits development in Oswit Cone to one (1) dwelling unit for forty (40) acres. Density in excess of this limit can be considered with the submittal of a Specific Plan and associated environmental documentation. The initiative measure identifies specific changes of significance that have occurred since the preparation of an Addendum approved in 2006 to a 1991 Environmental Impact Report (and 2003 Addendum) and expressly mandates the preparation of a new or Subsequent Environmental Impact Report prior to consideration of any development within the ESA-SP Zone, including Planning Areas 1 through 9 as well as Oswit Cone.

In the event the initiative measure is adopted by the voters, the provisions of the measure, including all provisions of the existing ESA-SP Zone, can only be amended or repealed by a vote of the voters of the City at a special or general election.

The People of the City of Palm Springs hereby ordain as follows:

Section I: TITLE

This initiative and measure may be known and referred to as “Zoning Change To Preserve Native Desert Lands In The Oswit Cone / Canyon Alluvial Fan For Future Generations Of Palm Springs Residents.”

Section II: FINDINGS AND PURPOSE

The People of the City of Palm Springs find as follows:

WHEREAS the City of Palm Springs Sustainability Plan 2016 calls to establish Palm Springs as a premiere ecotourism destination in the U.S. by improving nature-based tourism.

WHEREAS during the past 25 years, significant environmental changes have occurred rendering the Canyon South Specific Plan inconsistent with the General Plan, failing to adequately consider current economic, environmental and social considerations including Palm Springs’ tourism objectives changing from golf to the new eco-tourism, consistent with the General Plan Land Use Element.

WHEREAS the approximately 256 acres of vacant land described below is located substantially at the southwestern border of Palm Springs at the foot of the San Jacinto National Monument substantially adjacent the San Jacinto National Monument.

WHEREAS the approximately 256 acres of vacant land described below are located within Section 34 township 4 south, range 4 east San Bernardino Base and Meridian, as shown on the plat map.

WHEREAS Section 34 is classified under the General Plan as a “Biological Sensitivity and Conservation Area”, a “Cultural Resources: Prehistoric area likely to have prehistoric village sites including deep hidden deposits” and “Cultural Resources: Historic Archaeology area of known Historic Archaeological Sites”.

WHEREAS Section 34, and more specifically the Oswit Cone (Oswit alluvial fan and Oswit Canyon) includes at least the equivalent irreplaceable geological, environmental, archeological, cultural, endangered species habitats (study areas) and nature elements of the Chino Cone and Palm Hills which were rezoned to Environmentally Sensitive Area – Specific Plan (ESA-SP).

WHEREAS one or more of the six (6) lots to be zoned ESA-SP overlap the eastern edge of the Cahuilla Indian Tribal Habitat Conservation Plan (THCP) intended to preserve archeologically important cultural artifacts, endangered species and the natural wilderness, and further lies adjacent to the San Jacinto National Monument.

WHEREAS the southern border of the proposed ESA-SP zone adjoins Cahuilla Indian tribal lands owned by individual tribal allottees, and which is governed by the Bureau of Indian Affairs.

WHEREAS the slope of the lands comprising substantially the western edge of Section 34 exceeds 30 degrees, and are not developable.

WHEREAS the City has established precedent in protecting its irreplaceable natural assets by rezoning areas as ESA-SP, and that Oswit Cone (Oswit alluvial fan and Oswit Canyon) meets the conditions for rezoning as ESA-SP as established by precedent.

WHEREAS, Palm Springs General Plan Land Use Element LU1.9 mandates that "all development shall be sensitive to natural features, including washes, hillsides, and views of the mountains and surrounding desert areas."

WHEREAS, Palm Springs General Plan Land Use Element LU1.12 mandates that "land uses maintain and expand parks, recreational trails, bikeways, and pedestrian corridors and linkages throughout the City and between Palm Springs and adjacent municipalities."

WHEREAS, Palm Springs General Plan Land Use Element LU2.1 mandates that the City "Evaluate the effectiveness of using overlay zones as a technique of preserving the character of selected areas of the City."

WHEREAS, Palm Springs General Plan Land Use Element LU7.8 mandates that the City shall "Provide and maintain a variety of outdoor recreational opportunities and venues and encourage the development of eco- tourism."

WHEREAS the trailhead of the historic Lykken Trail that leads to Oswit Canyon, and the Oswit alluvial fan, and to trails that are connected to the historic trails of the Environmentally Sensitive Area known as the Chino Cone alluvial fan are located within Section 34.

WHEREAS the US Fish and Wildlife Service (USFWS) listed within Section 34 endangered species including Peninsular Bighorn Sheep, the Casey's June Beetle and other species in the immediate and adjacent vacant land, the environmental impact on the listed endangered species having not been adequately considered by Environmental Impact Reports completed before the species listings.

WHEREAS a 2014 study of climate change related changes in water resources of the San Jacinto National Monument found significant archeological features including ancient petroglyphs attributed to pre-Cahuilla Indian societies in the greater Oswit Canyon area.

WHEREAS a 2014 study of climate change related changes in water resources of the San Jacinto National Monument found more significant declines in surface water resources for Peninsular Bighorn Sheep in the Santa Rosa Mountains compared to the San Jacinto Mountains, and predicted increased sheep herd migration into the San Jacinto Mountains and the Oswit Cone area (Oswit alluvial fan and Oswit Canyon).

WHEREAS the approximately 256 acres of vacant land described below are zoned R1A, PPD established under the 1991 Canyon South Specific Plan as amended in 2003 for the purpose of developing a golf-based tourist destination.

WHEREAS the approximately 256 acres of vacant land described below host thousands of ecotourists from around the world, and is Palm Springs' most important ecotourism asset.

WHEREAS the best land use of the approximately 256 acres of vacant land described below is for preservation of Palm Springs cultural, geological and environmental assets consistent with the City of Palm Springs Sustainability Plan 2016 as an environmentally sensitive area.

WHEREAS Palm Springs City Ordinance No. 1700 created a new zone district, the Environmentally Sensitive Area Specific Plan Zone (ESA-SP), for the preservation of open space so as to preserve the character of the land consistent with the City's General Plan.

WHEREAS the ESA-SP zone is divided into planning areas (PA) consisting of PA-1 through PA-9.

WHEREAS Palm Springs City Ordinance No. 1700 authorizes the City Council to change zoning for additional areas to ESA-SP from time to time.

WHEREAS Palm Springs City Council may change zoning on the vacant land described below to ESA-SP.

WHEREAS Palm Springs Municipal Code 92.21.1.06, et. seq., establishes that before any land within a planning area may be subdivided pursuant to the Subdivision Map Act (Government Code Sections 66410, et. seq.), a specific plan shall be prepared and adopted for the entire planning area, and that an environmental impact report ("EIR") is required for each specific plan.

WHEREAS all rules and regulations for ESA-SP are codified as Palm Springs Municipal Codes 92.21.1.00, 92.21.1.01, 92.21.1.02, 92.21.1.03, 92.21.1.04, 92.21.1.05, 92.21.1.06, 92.21.1.07, and 92.21.10 as amended.

WHEREAS the General Plan shall be amended and submitted concurrently with the Specific Plan Amendment. As part of this Amendment, the Low Density Residential (L2), Conservation (C), and Fire Station (F) designations west of South Palm Canyon will be removed, leaving only the Environmentally Sensitive Area – Specific Plan (ESA-SP) designation for this area.

WHEREAS ESA-SP west of South Palm Canyon shall be referred to as planning area number ten (PA-10).

WHEREAS a Zoning Map amendment is not included in this Specific Plan Amendment since the entire project area is to be implemented through the City of Palm Springs protocols, consistent with the new Canyon Specific Plan amendment as described herein.

WHEREAS the city of Palm Springs is directed to change Canyon Specific Plan and General Plan zoning maps to reflect the newly zoned ESA-SP, Planning Area 10.

WHEREAS any amendment or change to ESA-SP zoning for the approximately 256 acres of vacant land shall be made only by voter approved initiative.

Section III: SPECIFIC CHANGES TO THE MUNICIPAL CODE

Chapter 92.00, Sections 92.21.1.00 through 92.21.1.07 are amended as follows. All changes to existing text shown as underlined, deletions are shown as ~~strikeouts~~.

92.21.1.00 "ESA-SP" environmentally sensitive area specific plan zone.

A. The ESA-SP zone is intended to provide for the development of environmentally sensitive areas of the city in a manner that will preserve the open, rural character of these areas while allowing development of ranchettes and clustered single- and multiple family or resort projects.

B. The purpose of the zone is to facilitate the preservation of open space through the creation and implementation of development review considerations that will ensure the evaluation of the suitability of the land for development in a manner which would preserve the character of the land consistent with the policies in Section 92.21.1.05 of this code.

C. The ESA-SP zone is divided into planning areas, as indicated on the zoning map. The ESA-SP zone includes the Chino Cone, North Palm Canyon Drive north entry corridor, and other areas which the city council may designate from time to time by ordinance. A specific plan, allowing only sensitive and appropriate uses, densities, distributions, and design standards, is required for each Planning Area. All development will be required to be consistent with the adopted specific plan.

D. The provisions of the ESA-SP zone shall supersede any conflicting provisions of the Palm Springs Zoning Code. The regulations in this Section and 92.21.1.01 through 92.21.1.07 inclusive shall apply to those areas designated "ESA-SP" on the zoning map and shall be liberally construed to effectuate their purposes. Specifically, the provisions of Section 94.03.00 (Planned Development District – PD) shall not be used to increase the density or intensity of development or modify design standards beyond that expressly permitted under the ESA-SP zone or an applicable specific plan. (Ord. 1700 § 3, 2006)

92.21.1.01 Uses permitted.

A. Uses Permitted in All Planning Areas, subject to special planning area exceptions herein.

1. Single-family dwellings, not to exceed one (1) unit per forty (40) net acres, excluding for density calculation purposes all lands with slopes in excess of thirty (30) percent or within established flood zones.

2. Accessory buildings and uses customarily incidental to the permitted use when located on the same lot therewith. It is unlawful to

construct, erect or locate any accessory building without a permitted main building. Servants quarters, guest houses and accessory living quarters may be erected in detached structures but shall not be provided with kitchen arrangements or other provisions for meal preparation.

3. Home occupations subject to the provisions of Chapter 5.21 of the Palm Springs Municipal Code.

B. Uses Permitted by Specific Plan in all Planning Areas.

The following uses may be permitted in all planning areas, subject to enactment of a specific plan by California Government Code Section 65450 et seq., as amended:

1. Single-family dwellings.
2. Multiple-family residential.
3. Public parks, recreational areas, and open space, but not to include places of assembly, except as otherwise permitted in this chapter.
4. Resort hotels, hotels, condominiums, time-shares, including incidental or accessory commercial uses operated primarily for the convenience of residents and guests.
5. Nature centers, museums and other facilities that interpret and support the natural environment.
6. Accessory structures and uses customarily incidental to the above uses, located on the same lot therewith, and designed as an integral part of any residential or hotel facility, including:
 - a. Athletic, sport and recreation clubs.
 - b. Country clubs, golf courses driving ranges, tennis and swimming facilities.
 - c. Restaurants, not including drive-in, drive-through or fast-food establishments.
 - d. Spas, subject to compliance with Chapter 5.34 of the Municipal Code.

C. Uses Permitted by Specific Plan in Planning Area 5A.

In addition to the uses specified in subsection B of this section, the following uses may be permitted in Planning Area 5A, subject to enactment of a specific plan by California Government Code Section 65450 et seq., as amended:

1. Tourist-serving commercial activities, including retail goods and services primarily oriented to the traveler, including restaurants and entertainment. Community-oriented retail, such as a shopping center anchored by a grocery store, is not permitted for this site.

D. Uses Permitted by Specific Plan in Planning Area 10.

In addition to the uses specified in subsection A of this section, the following uses may be permitted in Planning Area 10, subject to enactment of a specific plan by California Government Code Section 65450 et seq., as amended:

1. Tourist-serving commercial activities, including services primarily oriented to the eco-tourist, including nature tourism and guided touring such as bird watching, geological or environmental tourism, culture and history educational activities, artistic activities such as photography and painting, nature hiking, and equestrian activities as approved. Community-oriented retail primarily selling merchandise is not permitted for this site.

(Ord. 1700 § 4, 2006)

92.21.1.02 Uses prohibited.

All uses and structures not permitted in Section 92.21.1.01 are deemed to be specifically prohibited. The following classifications of uses shall not be permitted in the zone by commission determination:

- A. Commercial uses, excepting those otherwise provided for herein.
- B. Industrial uses.
- C. Institutional uses.
- D. Mobile home parks.
- E. Equestrian facilities.
- F. Recreational vehicle parks.

(Ord. 1700 § 5, 2006)

92.21.1.03 Property development standards—Permitted uses.

The following property development standards shall apply to all land and buildings in the ESA-SP zone for uses permitted under Section 92.21.1.01(A), except that any lot created in compliance with applicable laws and ordinances in effect at the time of its creation may be used as a building site.

- A. Density. The allowable density shall be one (1) dwelling unit per forty (40) acres.
- B. Lot Area. Each lot shall have a minimum net lot area of twenty (20) acres.

C. Lot Dimensions.

All lots hereafter created shall comply with the following minimum standards and lots now held under separate ownership or of record shall not be reduced below these standards.

1. Each lot shall have a minimum width of five hundred (500) feet.
2. Each lot shall have a minimum depth of five hundred (500) feet.

D. Building Height.

1. Buildings and structures erected for single family residential use shall have a height not greater than fifteen (15) feet above approved finished grade. The total height of the building or structure, measured from the approved finished grade immediately adjacent to the lowest point of the structure to the highest point of the structure, shall not exceed twenty-five (25) feet.

E. Yards.

1. General provisions. The provisions of Section 92.01.00 shall apply.
2. Front yard. There shall be a front yard of not less than fifty (50) feet.
3. Side yard. Each lot shall have a side yard on each side of not less than fifty (50) feet.
4. Rear yard. Each lot shall have a rear yard of not less than fifty (50) feet.

F. Distance Between Buildings. The minimum distance between buildings shall be fifteen (15) feet except as otherwise provided in this section.

G. Walls, Fences and Landscaping. The provisions of Sections 93.02.00 and 94.21.1.06(F)(3) shall apply, except that no more than one (1) acre of land per lot shall be enclosed by any wall or fence.

H. Access. The provisions of Section 93.05.00 shall apply.

I. Off-street Parking. The provisions of Section 93.06.00 shall apply.

J. Design Standards. All development shall be designed to comply with the design standards for the environmentally sensitive areas, Section 94.21.1.05 of this code.

(Ord. 1700 § 6, 2006)

92.21.1.04 Property development standards—Uses subject to a specific plan.

The following property development standards shall apply to all land and buildings in the ESA-SP zone for uses permitted under Section 92.21.1.01(B).

A. Requirement for Area-wide Specific Plan.

A specific plan submitted under this ordinance shall include not less than an entire planning area, except Planning Area 3. A specific plan submitted for Planning Area 3 shall include not less than ten (10) acres. Minor adjustments to planning area boundaries may be allowed.

B. Density and Open Space.

1. The following dwelling unit densities and requirements for open space are established for the planning areas within the ESA-SP. For purposes of calculating densities of hotels and other tourist accommodations, a hotel room or similar unit shall count as 0.70 of a residential dwelling unit:

Planning Area	Maximum Allowed Density	Minimum Required Open Space: All Forms	Minimum Required Open Space: Undeveloped	Maximum Floor Area
1	Go to Base Zone (One DU / 40 Acres)			
2	2 DU / Acre	72% of Project Area	35% of Project Area	6,000 SF / DU
3	Tribe Specific Plan			
4	2 DU / Acre	72% of Project Area	35% of Project Area	6,000 SF / DU
5	6 DU / Acre	72% of Project Area	35% of Project Area	2,000 SF / DU
5A	0.25 Floor Area Ratio	Not Applicable	Not Applicable	Not Applicable
6	1.5 DU / Acre	79% of Project Area	40% of Project Area	6,000 SF / DU
7	Go to Base Zone (One DU / 40 Acres)			
8	2 DU / Acre	72% of Project Area	35% of Project Area	6,000 SF / DU
9	1 DU / Acre	81% of Project Area	40% of Project Area	8,000 SF / DU
10	Go to Base Zone (One DU / 40 Acres)			

2. Undeveloped open space shall exclude all lands with slopes in excess of thirty (30) percent above the toe of slope, and shall be limited to natural and renaturalized land, and hiking trails. Dedication for public access shall be provided to undeveloped open space.

3. Floor area shall include all enclosed and covered structures, including all habitable space, garages and carports, solid roofed patios, porte cocheres and other solid roofed accessory buildings and structures. Open, uncovered patios, driveways, walkways, water and landscaping features shall not be included.

4. Remaining open space may include roads and other paved accessways, recreational facilities, golf courses, landscaping, water features and other uncovered features.

5. In all Planning Areas other than Planning Area 5A, commercial uses shall not exceed fifteen (15) percent of the total floor area of the development (including all residential and hotel units). For purposes of calculating commercial density, all leasable commercial space shall be counted, including retail, restaurants, pro shops and convention space. Common facilities, such as lobbies, rest rooms, general service areas and management offices shall not be included.

6. In Planning Area 5A, total enclosed building area shall not exceed a floor area ratio of 0.25.

7. In Planning Area 9, lands within the floodplain and lands exceeding thirty (30) percent slope shall be excluded from the density calculation. It is expected that remaining land available for calculation of density is approximately two hundred forty-four (244) acres.

C. Building Height.

Buildings and structures erected for single family residential use shall have a height not greater than fifteen (15) feet above approved finished grade. The maximum height of the building or structure, measured from the approved finished grade immediately adjacent to the lowest point of the structure to the highest point of the structure shall not exceed twenty-five (25) feet.

For all buildings, the maximum allowed height shall be as established by the applicable adopted Specific Plan.

D. Lot Area, Lot Dimensions, Yards, and Distance Between Buildings.

Development standards shall be as established by the applicable adopted specific plan.

E. Walls, Fences, and Landscaping.

The provisions of Sections 93.02.00 and 94.21.1.05(H)(3) shall apply. Development standards for walls, fences, and landscaping shall be as established by the applicable adopted specific plan.

F. Access.

The provisions of Section 93.05.00 shall apply, except as may be modified by the applicable adopted specific plan.

G. Off-street Parking.

The provisions of Section 93.06.00 shall apply, except as may be modified by the applicable adopted specific plan.

H. Design Standards.

All development shall be designed to comply with the design standards for environmentally sensitive areas, Section 94.21.1.05 of this code.

(Ord. 1700 § 7, 2006)

92.21.1.05 Design standards.

The purpose of the ESA-SP zone is to protect environmentally sensitive lands by establishing standards for the design, construction, operation, and maintenance of development projects. The design and preparation of the site shall have as their first objective the minimal disturbance of the underlying landforms, site topography, and surface environment of the affected planning area. Any proposed project shall introduce development which appears and functions as an integral part of the site's natural environment. To protect environmentally sensitive land, all development projects within any planning area shall be subject to a design review process with the following components:

A. Environmental Analysis.

Concurrent with the submission of any proposed project application for a specific plan, tentative map or building permit application, an environmental analysis shall be prepared and submitted to the city. The analysis shall include a map and text which identify all major and minor environmental conditions on the subject site and major environmental conditions in the surrounding area, including lands within five hundred (500) feet of the site, with the surrounding area subject to final determination by the director of planning services. At a minimum, the analysis shall identify and describe the following subjects:

1. Geologic conditions.
2. Cultural resources.
3. Topographic conditions.
4. Unique rock formations and mineral deposits.
5. Drainage patterns and local watershed boundaries.
6. Minor and major water channels.
7. Significant landscape features, oases, etc.
8. Flora and fauna.
9. Non-native plant species.
10. Significant animal species.
11. Prior development history.
12. Existing development.

A plan for the removal or other treatment of boulders shall be prepared as part of the specific plan and evaluated in the associated environmental impact report.

The analysis provides the basis for project site planning, and the applicant shall design and locate proposed development to minimize impacts on environmental conditions.

B. View Analysis.

Concurrent with the submission of any proposed project application for a specific plan, tentative map or building permit application, a view analysis shall be prepared and submitted to the City. The analysis shall include a map, photos and text which identify views of the project site from the North Palm Canyon Drive, Tram Way and other viewpoints, with the actual viewpoints subject to final determination by the Director of Planning Services. At a minimum, the analysis shall address the following related to the selected viewpoints:

1. Areas of the subject site which are visible.
2. Areas of the site which may be screened or otherwise oriented so as not to be visible.
3. Potential building envelopes (volumes) that would not be visible.
4. Strategies for maintaining existing screening features.
5. Strategies for implementing and maintaining proposed screening features.

A three (3) dimensional graphic representation of final build-out shall be required as part of any specific plan application, including scale model, computer simulation or similar presentation. All proposed grading, including roads and parking lots; and all structures, including habitable and non-habitable buildings, storage tanks, and all walls shall be shown.

The analysis provides the basis for establishing the locations and heights of structures and other support features, and the applicant shall locate proposed development to minimize off-site views of the project.

C. Trails Analysis.

Concurrent with the submission of any proposed project application for a specific plan, tentative map or building permit, a trails analysis shall be prepared and submitted to the city. The analysis shall include a map and text which identify all existing trails and all proposed trails within the project area. Existing trails shall include public trails established by dedication of easement or similar conveyance and trails established by use.

D. Mandatory Standards.

The following standards shall apply to all development in environmentally sensitive areas and shall not be modified by any specific plan.

1. Mass grading to create large, single-level flat pads is prohibited.
2. Pad heights are not significantly raised beyond the natural topography. Any pad height more than two (2) feet above natural topography may be deemed significant.
3. The master plan of drainage shall be implemented.
4. Retention basins are prohibited where a sufficient master plan of drainage has been implemented. Street and site plan layout shall follow natural terrain.
5. Streets and paving areas are paved with decorative or colored concrete or pavers to match color of existing terrain. Asphaltic concrete shall not be allowed.
6. No street lighting is allowed.
7. Vegetation removed for utility construction or maintenance is replaced with appropriate landscaped areas.
8. All utility lines are located underground, except screening from public view in a manner that represents natural desert landscaping may be allowed when undergrounding is not feasible.
9. All water lines located in public or private street rights-of-way are located within the pavement sections.
10. Water lines located outside of rights-of-way require waterline easements.
11. Any visible portion of a water storage facility has an exterior color to match surrounding native stone, soil color or backdrop.
12. Location and design of water storage facilities are coordinated in advance with the Desert Water Agency.
13. Water tanks are not located on slopes greater than 3:1.
14. All wastewater lines, including force mains, located in public or private street rights-of-way are located within the pavement sections.
15. Wastewater lines located outside of rights-of-way require sewer line easements that include full vehicular and equipment access.
16. All exterior colors, materials and finishes blend with the color and texture of surrounding stone or soil.
17. Reflective building materials are not used. Solar panels shall be non-reflective.
18. The forms of buildings, structures and other improvements are not repetitive, but respect and interpret the forms of the surrounding landscape and present a custom design appearance.
19. Stepped elevations and floor levels are used to avoid massive building forms and wall surfaces.

20. All exterior mechanical equipment is screened with material that complements the surrounding structures and environment.
21. Project gates, if proposed, shall be limited to vehicular access control only.
22. Project signage shall be designed to blend with the natural environment.
23. No curbs shall be allowed.
24. At least one nature interpretive center in each planning area shall be provided as part of the development of the public trails system, if applicable.

E. Site Preparation.

The design and preparation of the site shall have as their objective: The minimal disturbance of the underlying landforms, site topography and surface environment of the Chino Cone and adjacent areas, and the introduction of development which appears and functions as an integral part of the site's natural environment. The following principles describe how the objectives for site preparation would be fulfilled.

1. Guiding Principles. Grading:
 - a. New development is designed to follow existing slopes and contours.
 - b. Cut-and-fill techniques to create flat development pads is avoided.
 - c. Slopes do not exceed 1-1/2 to 1.
 - d. Retaining walls are limited to:
 1. Retaining walls that are part of a building foundation.
2. Transition retaining walls taper from a maximum height of five (5) feet with a maximum overall length of twenty-five (25) feet.
3. Walls are screened with boulders or other materials, as approved by the specific plan.
 - e. Retaining elements composed of boulders, berms or other non-manufactured materials provide variation in form and a natural appearance.
2. Guiding Principles. Drainage:
 - a. Project drainage follows best practices, while maintaining the natural run-off and channel characteristics.
 - b. Development preserves existing drainage patterns, natural streams and local watershed boundaries.

- c. Drainage volumes in existing channels are not increased over natural levels.
- d. Sedimentation characteristics of existing drainage channels are maintained.
- e. Natural, non-manufactured materials are used to assure the stability of drainage channels.
- f. The natural vegetation density and diversity of existing channels are maintained.
- g. No ponding of water occurs above cut or fill slopes.
- h. Surface drainage interceptors are provided at the top of cut or fill slopes to prevent erosion of slopes and graded areas.
- i. All erosion control, and surface and sub-surface drainage facilities are designed to provide stable and long-term erosion protection.
- j. Manufactured drainage facilities are covered or screened with boulders and other materials to produce a natural appearance.

F. Street Design.

The design and placement of street and roads shall have as their objective: The appearance of streets and roads as long strips of pavement crossing natural slopes and contours shall be minimized, and their design and construction shall minimize intrusions into local natural conditions.

The following principles describe how the objectives for street design would be fulfilled:

1. Guiding Principles. Location of streets and roads.
 - a. Streets do not divert or block primary historical drainage patterns.
 - b. The vertical profile of streets are aligned to closely match the existing natural terrain.
 - c. Habitat connections and view corridors are not interrupted by streets.
 - d. Curvilinear alignments and gently rolling profiles are consistent with site topography. Excavations and embankments are limited to the greatest extent possible.
 - e. Street alignments are located to avoid stands of vegetation, rock outcroppings and other significant natural features.
2. Street and Parking Design.

- a. Minimum public street widths are twenty-two (22) feet with no on-street parking. Off-street guest parking is located and provided in sufficient numbers to support the project.
- b. Road shoulders widths are composed of crushed native rock. Additional width may be required to accommodate drainage swales or, where necessary, concrete gutters. Drainage swales shall be composed of large stones and native soil.
- c. Street intersections are not located within the alignment and floodplain of major or minor water channels nor within boulder clusters or other sensitive environmental features.
- d. Shoulder slopes match pavement cross slope where roadway cross-slopes are used to control drainage.
- e. Maximum slope gradients within ten (10) feet of the roadway edge do not exceed 4:1 for fill slopes and 3:1 for cut slopes.
- f. Maximum height of cut and fill slopes, including any retaining walls, is eight (8) feet. Retaining walls are the minimum height necessary to meet this standard.
- g. Roadway slopes do not create a continuous wall or cut/fill condition, but vary in height and present an undulating appearance consistent with the natural slope.
- h. Slopes are rounded to blend into the existing terrain to produce a contoured transition.
- i. Street design accommodates stormwater runoff, as required by a hydrology study approved by the city engineer. When used, concrete closely matches adjacent paving materials. Standard grey concrete material shall not be allowed.
- j. Street design not meeting public street standards for sections, widths, materials or other factors may be required to be constructed and maintained as private streets. All streets on the Chino Cone are recommended to be private, except collector streets, as indicated in the specific plan.

3. Sidewalks.

- a. No sidewalks are allowed, except only as may be required to conform to state and federal accessibility requirements. Accessible pathways shall be paved with decorative or colored concrete, pavers, or other approved materials.

G. Utilities.

The location and installation of utilities shall have as their objective: The minimal disturbance of the underlying landforms, site topography and surface environment of the Chino Cone, and the introduction of services and utilities which appear as an integral part of the site's natural environment.

The following principles describe how the objectives for site preparation would be fulfilled:

1. Guiding Principles. General criteria for utilities:
 - a. Utilities are located to minimize any degradation to the key natural features identified on the environmental analysis.
 - b. Utility crossings do not obstruct or constrict drainage courses.
 - c. Utility corridors requiring frequent maintenance are not located within significant riparian, vista or habitat corridors.
2. Guiding Principles. Water distribution lines:
 - a. Water meters are located adjacent to driveways and shall minimize impacts on environmental conditions.
 - b. Water lines only cross water channels within street rights-of-way.
3. Guiding Principles. Water storage facilities:
 - a. Water storage facilities minimize impacts on the surrounding environment.
4. Guiding Principles. Wastewater collection lines:
 - a. Wastewater lines avoid side or rear yard areas and cut or fill slopes.
 - b. Wastewater lines are not located within areas subject to inundation by a one hundred (100)-year storm flow, unless approved by the director of public works.
 - c. Wastewater lines only cross water channels within street rights-of-way, and only when no other viable solution is available.
5. Guiding Principles. Other utilities:
 - a. All utility lines are located within public or private street rights-of-way, but may be located outside of pavement areas.

H. Site Planning and Design.

The site planning and design of development shall have as their objective: The minimal disturbance of the underlying landforms, site topography and surface environment of each planning area and any adjacent planning area, and the introduction of buildings, structures, and landscaping which appear and function as integral parts of the site's natural environment.

The following principles describe how the objectives for site planning and design would be fulfilled.

1. Guiding Principles. General criteria:

The following elements are preserved in the site plan:

- a. Natural features, environmental functions and cultural features, as determined by the Environmental Analysis.
- b. View corridors, as determined by View Analysis.
- c. The existing and proposed trail system.
- d. Natural topography.
- e. Natural vegetation.
- f. Natural water channels and drainage ways.
- g. Significant visual features, such as peaks, ridgelines, rock outcrops, boulder fields, and significant stands of vegetation.

2. Guiding Principles. Design:

- a. Development of Planning Area 5A harmonizes with and does not overshadow Visitors Center.
- b. Buffers in setbacks fluctuating between seventy-five (75) to one hundred twenty-five (125) feet (average one hundred (100) feet) are developed on properties fronting North Palm Canyon Drive to screen development from motorists' views.
- c. Buffers in setbacks fluctuating between fifty (50) to seventy-five (75) feet (average sixty-two and one-half (62.5) feet) are developed on properties fronting Tramway to screen development from motorists' views.
- d. All rooftops in Planning Areas 5 through 8 are screened from highway view using berms, landscape materials and setbacks.
- e. Passive solar control is incorporated into the architecture. Recessed window and entry openings and deep roof overhangs are examples.

3. Guiding Principles. Walls and fences:

- a. Perimeter or property boundary walls and fences are avoided.
- b. Site walls and fences enclose the minimum area necessary to provide privacy or code compliance (swimming pools, etc.).
- c. Walls and fences do not cross significant desert vegetation, water channels or significant topographic features.
- d. Walls are designed to avoid unbroken lines, using undulations, offsets, notches and similar features.

- e. Walls and fences are screened with landscaping and boulders to minimize visual appearance.
4. Guiding Principles. Lighting:
 - a. Exterior lighting fixtures are shielded to eliminate off-site views of any direct light source. All lighting is directed downward with no up-lighting of landscaping.
 - b. Maximum height for commercial, free-standing lighting fixtures is eighteen (18) feet.
 5. Guiding Principles. Landscaping:
 - a. The plant palette for any project is limited to drought-tolerant plants, except as may be approved within a specific plan. Invasive plants are not used.
 - b. Landscape lighting is not allowed, except as may be approved within a specific plan.
 - c. Irrigation is of a non-spray design.
 - d. Turf areas are not visible from street views, except as may be approved within a specific plan.
 6. Guiding Principles. Energy conservation:
 - a. Comprehensive energy conservation and green building principles are incorporated into project design, construction and operation.
- I. Findings Required for Approval.

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

1. The project demonstrates a complete and integrated vision for design, operation and use through the use of exemplary site planning, architecture, landscape architecture, materials and color principles and techniques.
2. The project is harmonious with, adapted to, and respectful of, the natural features with minimal disturbance of terrain and vegetation.
3. The project is properly located to protect sensitive wildlife habitat and plant species, and avoids interference with watercourses, arroyos, steep slopes, ridgelines, rock outcroppings and significant natural features.
4. The project will be constructed with respect to buildings, accessory structures, fences, walls, driveways, parking areas, roadways, utilities and

all other features, with natural materials, or be screened with landscaping, or be otherwise treated so as to blend in with the natural environment.

5. The project utilizes landscaping materials, including berms, boulders and plant materials which, insofar as possible, are indigenous and drought-tolerant native species.

6. The project grading will be terrain sensitive and excessive building padding and terracing is avoided to minimize the scarring effects of grading on the natural environment.

7. The project meets or exceeds open space area requirements of this Section and in accordance with the conservation plan, and adequate assurances are provided for the permanent preservation of such areas.

8. The project provides the maximum retention of vistas and natural topographic features including mountainsides, ridgelines, hilltops, slopes, rock outcroppings, arroyos, ravines and canyons.

9. The project has been adequately designed to protect adjacent property, with appropriate buffers to maximize the enjoyment of the subject property and surrounding properties.

10. The project will not have a negative fiscal impact on the city or its citizens.

J. Performance Agreement.

Prior to the issuance of any permit for grading or construction of any improvement on any property within an ESA-SP zone, the developer shall enter into an agreement with the city, in a form approved by the city attorney, ensuring, should the improvement not be completed as permitted, that the land will be renaturalized in compliance with the provisions of this section. The obligations of the developer pursuant to such agreement shall be secured in amounts required by the city engineer necessary to complete such renaturalization consistent with the provisions of Chapter 9.65 of the municipal code; however, such security shall be in the form of cash, irrevocable letter of credit, assignment of a certificate of deposit, or similar form of security approved by the city manager and the city attorney.

K. Enforcement.

In addition to any remedy otherwise available to the city pursuant to this code or the municipal code, the failure to protect the natural terrain or the defacement, grading, grubbing, scaring or any other act disturbing the natural terrain of any property within the ESA-SP zone without prior city approval of plans for such work, or in a manner inconsistent with or in violation of plans as approved by the city pursuant to this section or as otherwise provided in any agreement as provided in subsection J of this section, shall be deemed a public nuisance which may be abated pursuant to the city's nuisance abatement procedures provided in Chapter 11.72 of the municipal code.

(Ord. 1707 § 1, 2006; Ord. 1700 § 8, 2006)

92.21.1.06. Specific plan requirements for development in ESA-SP Zone

A. Before any land within a planning area may be subdivided pursuant to the Subdivision Map Act (Government Code Sections 66410, et. seq.), a specific plan shall be prepared and adopted for the entire planning area to provide a comprehensive land use plan complying with the goals and policies of the general plan and the requirements of the ESA-SP zone. Each specific plan shall include a detailed land use evaluation as provided in this section. An environmental impact report ("EIR") is required for each specific plan. Each EIR shall include a full discussion of land use alternatives and shall address planning considerations and relationships with surrounding properties.

B. Each specific plan shall contain a land use element, a circulation and traffic element (including roadway and trail design and planning), water conservation element, recreation and open space element (including habitat mitigation), public service and infrastructure element (including a fiscal impact analysis of the effects of development on the city), and such other elements as the council may require. In order to ensure that development within a planning area will not have an adverse or negative impact on the city, a specific plan can require a development agreement to ensure the provision of services and improvements or the payment of fees, charges, or assessments to offset any negative or adverse financial or fiscal effects on the city or its ability to provide services to the future residents of the planning area and city as a whole.

C. Each Specific Plan shall identify those areas within the Planning Area that are to remain as undeveloped open spaces, such as undevelopable slopes and natural landmarks, etc., and which are to be used for game preserve, wildlife corridor, passive recreational, or open space purposes, may be offered, through dedication, to a governmental jurisdiction, or to a not-for-profit land trust, conservancy, or similar organization whose charter allows for the ownership of development rights which will preserve the natural open space in perpetuity. In the event the public agency, or city, or land trust, conservancy, or similar organization does not accept such an offer (of if such an offer is not made), the specific plan shall provide regulations for the ownership and care of the open space in such a manner that there can be necessary protection and maintenance thereof. Such area shall be provided with appropriate access and shall be designated as separate parcels which may be maintained through special fees charged to the residents of the subject development or through an appropriate homeowner's association or maintenance district. Where appropriate, maintenance in perpetuity shall be guaranteed through the bond of the developer or continuing funding by the developer's successors.

D. A specific plan for a planning area within the ESA-SP zone may only be approved if, the following findings are made:

1. The development provided in the specific plan is harmonious with, adapted to, and respectful of, the natural features with minimal disturbance of terrain and vegetation.
2. The development within the specific plan is properly located to protect sensitive wildlife habitat and plant species, and avoids interference with watercourses, arroyos, steep slopes, ridgelines, rock outcroppings and significant natural features.
3. The development provided in the specific plan will be constructed with respect to buildings, accessory structures, fences, walls, driveways, parking areas, roadways, utilities and all other features, with natural materials, or be screened with landscaping, or be otherwise treated so as to blend in with the natural environment.
4. The development provided in the specific plan utilizes landscaping materials, including berms, boulders and plant materials which, insofar as possible, are indigenous and drought-tolerant native species.
5. The grading of land within the specific plan will be terrain sensitive and excessive building padding and terracing is avoided to minimize the scarring effects of grading on the natural environment.
6. The specific plan preserves open space areas to the maximum extent permitted by this section and in accordance with the conservation plan, and adequate assurances are provided for the permanent preservation of such areas.
7. The specific plan provides the maximum retention of vistas and natural topographic features including mountainsides, ridgelines, hilltops, slopes, rock outcroppings, arroyos, ravines and canyons.
8. The development provided in the specific plan has been adequately designed to protect adjacent property with appropriate buffers to maximize the enjoyment of property within the specific plan and surrounding properties.
9. The development provided in the specific plan will not have a negative fiscal impact on the city or its citizens.

(Ord. 1700 § 9, 2006)

92.21.1.07 Transfer of density.

The purpose of this transfer of density section is to maximize the preservation of open space, significant views, and other valuable characteristics of property within the ESA-SP zone by allowing the re-distribution of development rights among properties and between planning areas.

A. Transfer Between Properties.

Within any planning area, allowed residential development density may be transferred from any one property to another on a one-to-one basis, subject to approval of a specific plan. Density transfers shall be reviewed for the effect of such transfers on increasing open space, preserving views, minimizing grading or other land disturbance and reducing the expenditures for public services to the development.

B. Transfer Between Planning Areas.

Between any planning areas, allowed residential development density may be transferred with a bonus of 1.2 units at the receiving site for every unit from the sending site, subject to approval of a single specific plan for all planning areas subject to the transfer. Density transfers shall be reviewed for the effect of such transfers on increasing open space, preserving views, minimizing grading or other land disturbance and reducing the expenditures for public services to the development.

C. Transfer Outside Planning Areas.

From any planning area, allowed residential density may be transferred to any lot within the city with a bonus of 1.2 units at the receiving site for every unit from the sending site, subject to approval of a specific plan for the sending planning area and an appropriate entitlement for the receiving site, including but not limited to a specific plan, conditional use permit, or a planned development permit. Density transfers shall be reviewed for the effect of such transfers on increasing open space, preserving views, minimizing grading or other land disturbance and reducing the expenditures for public services to the planning area and to the impacts on the receiving site or vicinity.

D. Density Transfer Performance Standards.

1. Density transfers shall not be allowed to Planning Areas, 2, 3, 6, or 7, or 10
2. Density transfers to Planning Areas 5, 8, or 9 shall only be allowed from Planning Areas 1 through 9 10 inclusive.
3. For any receiver site, the applicable specific plan shall be prepared to include an amendment to the applicable permitted land use densities of the Palm Springs general plan.

(Ord. 1707 § 2, 2006; Ord. 1700 § 10, 2006)

Section IV: SPECIFIC CHANGES TO CANYON SOUTH SPECIFIC PLAN

The Canyon South Specific Plan is amended as follows. All changes to existing text shown as underlined, deletions are shown as ~~strikeouts~~.

I. INTRODUCTION

(Reference Maps included as Exhibit I-1 through I-6)

D. Project Description

There are ~~four~~ five distinct components to the project area: the golf course redesign and clubhouse remodeling; the hotel and spa construction; existing and proposed residential development; ~~and conservation / open space,~~ and Environmentally Sensitive Area. The entire planning area encompasses 721± acres of land, including the 145± acres of land for the golf course currently under construction.

Finally, the project boundary will be reduced by approximately 20 acres at the northeast corner, eliminating an area which has been determined to be undevelopable under Stipulated Judgment.

Each component of the plan is described in further detail below. Table I-1 illustrates the acreages and units in each land use designation within the plan.

Table I-1

Land Use Designations within the Plan

Land Use	Acres	No. of Units	No. of Units Previously Approved
Conservation	255 <u>89</u>	0	16*
Open Space (Golf Course)	145	-	-
Residential	308 <u>218</u>	840 <u>566</u>	834
Hotel	13	450	450
<u>Environmentally Sensitive Area (ESA-SP)</u>	<u>256</u>	<u>6</u>	-
Totals	721	1,260 <u>1,022</u>	1,300
* Subject to provisions of Stipulated Judgment			

Residential Development

The existing and proposed residential developments within the project site will be developed independently from the resort components of the Specific Plan, whereas the previous plan envisioned a master developer for all the lands within the Specific Plan Boundary. The residential developments will range from standard, large-lot single-family subdivisions to cluster designs emphasizing common open space and recreation

facilities, and could total up to 840 566 residential units. Some of the residential sited within the plan area have been constructed since the original Specific Plan approval, primarily consisting of individual single family homes. A single family residential tract was also recently approved at the northeast corner of Acanto and South Palm Canyon. The portion of the property described as the area westerly of South Palm Canyon Drive within the designated critical habitat (Study Area) shall remain undeveloped until additional environmental analysis can be performed as to potential impacts to Peninsular Bighorn Sheep (PBS and Casey's June Beetle (CJB)) Although extensive environmental review has been performed for the project, the Study Area is especially sensitive and additional review is warranted. This additional environmental review, which shall be performed before any development is approved within the Study Area, shall address, at a minimum, the proposed development's potential impact on the PBS and CJB. Recovery Plans and potential impacts on designated critical habitat for PBS and CJB.

Environmentally Sensitive Area (entire section added)

The ESA-SP zone is intended to provide for the development of environmentally sensitive areas of the city in a manner that will preserve the open, rural character of these areas while allowing development of ranchettes and clustered single- and multiple family or resort projects. The purpose of the zone is to facilitate the preservation of open space through the creation and implementation of development review considerations that will ensure the evaluation of the suitability of the land for development in a manner which would preserve the character of the land consistent with the policies in Section 92.21.1.05 of this code. The initial Canyon Specific Plan relied on an Environmental Impact Report dated 1991, an Addendum in 2003, and an Addendum in 2006, none of which adequately surveyed Changes of Significance occurring subsequent to 2006.

Residential development in the Environmentally Sensitive Area (ESA-SP) shall be in accordance with the 1DU/40AC density limitation established for other ESA-SP Zones on the Palm Springs General Plan.

The new ESA-SP zone has, and is expected to continue as one of Palm Springs primary eco-tourist destinations, drawing thousands of visitors from around the world who experience, paint, photograph and hike through its scenic beauty,

Within the boundaries of this new ESA-SP Zone / PA-10, the US Fish and Wildlife Service lists 6 endangered species, 2 threatened species, and 32 protected migratory birds. The Casey's June Beetle (CJB) was added to the Federal endangered species list in 2011.

In addition, a 2014 study on climate change in the San Jacinto National Monument by the US Bureau of Land Management and Coachella Valley Mountain Conservancy found ancient pre-Cahuilla Indian petroglyphs on the underside of boulders in the area.

The discovery of ancient artifacts, the possible occurrence of endangered flora and fauna species, in Study Areas within this boundary, and the significant change in

migration of Peninsular Bighorn Sheep into the San Jacinto range as a result of climate change and drought are all Findings of Significance that have occurred subsequent to the most recent EIR Amendment.

These Findings of Significance, pursuant to the CEQA Guidelines (CEQA §15065) require that a new or Subsequent EIR be performed prior to any development within the designated ESA-SP Zone.

II. GENERAL PLAN

A. General Plan Consistency

The project site is located in the southern portion of the incorporated City of Palm Springs. As shown in Exhibit II-1, Existing Land Use Designations, the General Plan lists land uses for this area as Parks and Recreation, Golf Course, attached and detached (low, medium and high) Residential, Conservation, and Special Policy Area.

General Plan Land Use:

- H30: High Density Residential
- M15: Medium Density Residential
- L4: Low Density Residential
- L2: Low Density Residential
- C: Conservation
- PR: Parks and Recreation
- Golf Course Symbol
- W: Watercourse
- Special Policy Area (ESA-SP)

B. General Plan Amendment

The current General Plan designation for the southeast corner of Murray Canyon and South Palm Canyon, the proposed hotel site, is M15, Medium Density Residential (see Exhibit II-1). To accommodate the hotel and spa, a General Plan amendment to increase the density will be submitted concurrently with the Specific Plan (see Exhibit II-2). The new designation will be H30 Medium-high Density Residential. This designation provides for the development of a threshold of twenty-one (21) dwelling units per acre and a maximum of thirty (30) units per acre. Appropriate residential development under this designation includes multiple-family apartments, resort hotels and similar permanent and resort housing.

Also as part of this amendment, the designations of H30, M15, and PR west of South Palm Canyon will be removed, leaving only the Low Density Residential (L2) and Conservation (C) Environmentally Sensitive Area – Specific Plan (ESA-SP) designations in this area.

Section V: SPECIFIC CHANGES TO THE GENERAL PLAN

The General Plan of the City of Palm Springs is amended as follows. All changes to existing text shown as *italics*, deletions are shown as ~~strikeouts~~.

Section 2.

LAND USE ELEMENT

SPECIAL POLICY AREAS

Special Policy Area designations have been applied in ~~two~~ three areas of the City: the Chino Cone, ~~and Palm Hills, and Oswit Cone (Canyon and Alluvial Fan)~~. Due to the environmental and visual importance of these ~~two~~ three areas, projects proposed within either any of these Special Policy Areas must be of superior design, demonstrate integration with existing natural features and land forms, be sensitive to biological resources of the site, and create a more desirable living environment than could be achieved through conventional subdivision design and requirements.

Development densities in the Chino Cone and Oswit Cone are one dwelling unit per forty acres (1 du/40 ac). Development applications in excess of this density may be considered with the submittal of a Specific Plan and its associated environmental documentation, which would by action, establish a general plan amendment. In all cases, development within the Chino Cone and Oswit Cone Special Policy Area must be consistent with the Environmentally Sensitive Development Areas Specific Plan Ordinance (ESA-SP) in the Palm Springs Zoning Code. The Palm Hills Special Policy Area allows residential and resort development at a maximum of 1 dwelling unit/hotel unit per acre, not to exceed a total of 1,200 units. Any development proposed in the Palm Hills area will require the preparation of a Specific Plan and a related environmental impact report.

Changes to Residential Buildout Estimates, Table 2-1 of the General Plan follow.

Changes to be made to Table 2-1 shown as follows:

**Table 2-1
Residential Buildout Estimates
Proposed General Plan**

Land Use Designation	Estimated Density (units/acre)	Acres ¹	Dwelling Units	Persons per ² Household	Population ³	Hotel Rooms
Residential						
Estate Residential (0-2 du/ac)	1.5	1,731	2,571	2.08	4,892	
Very Low (2.1-4.0 du/ac)	3.5	2,654	9,411	2.08	18,608	
Low (4.1-6.0 du/ac)	5.25	4,034 941	5,444 5,170	2.08	10,696	
Medium (6.1-15 du/ac)	10.0	1,437	14,652	2.08/1.78 ⁴	26,739	
High (15.1-30 du/ac)	20.0	582	12,192	1.78	20,742	3,047 ⁵
<i>Subtotal</i>		7,438 7,345	44,240 43,996		81,677	3,047
Mixed Use						
Mixed/Multi-Use	12.0	330	1,648	2.08/1.78	2,987	
Central Business District (CBD) ⁷	varies	126	1,396	1.78	2,361	
<i>Subtotal</i>		456	3,044		5,348	
Open Space						
Mountain (1 du/40.0 ac)	0.025	52,113	742 ⁶	2.08	1,466	
Conservation (1 du/20.0 ac)	0.05	1,284 1,118	64	2.08	127	
Desert (1 du/10.0 ac)	0.10	4,305	402	2.08	588	
<i>Subtotal</i>		57,702 57,536	1,208		2,181	
Other						
Special Policy Areas ⁸	varies	4,234 4,487	2,577 2,583	2.08	5,093	923
Small Hotel	10.0	67	337	1.78	650	501
Right-of-Way Acreage		2,839				
Railroad		311				
<i>Subtotal</i>		7,448	2,914		5,743	1,424
TOTAL		73,041	51,406		94,940	4,471⁹

Notes:

1 The acreages include properties located within the Sphere of Influence and do not include streets.

2 Single-family persons per household (2.08) taken from the California Department of Finance (2004) estimates. Multifamily persons per household (1.78) based upon 1993 General Plan estimates.

3 A 5 percent vacancy rate is assumed for population.

4 It is assumed that half of the units in the Medium Density Land Use designation will be single-family and half of the units will be multifamily.

5 The High Density Land Use designation allows hotels up to 43 rooms per acre; 30 rooms per acre were assumed for areas outside of Section 14.

6 This number accounts for areas that are not developable due to the presence of slopes steeper than 30 percent.

7 Portions of the CBD fall within the Section 14 Specific Plan and were calculated to correspond with the number of units permitted by the Specific Plan. Additionally, the number of units projected in the CBD considered the varying heights and intensities permitted at the gateways into Downtown and within the Downtown core.

8 Special Policy Areas are applied to the Chino Cone, Oswit Cone (alluvial fan and canyon), and Palm Hills areas. The density, number of units, and types of uses vary in each area.

9 Overall, the General Plan land uses will accommodate 12,976 total hotel rooms (total of hotel rooms allowed in residential and nonresidential land uses).

Section VI: COMPLETE LISTING OF PROPERTIES, MAPS AND LEGAL DESCRIPTIONS

The following is a full list of the properties affected by this Ordinance.

PARCEL 1: (APN 513-460-029)

SOUTHEAST CORRIDOR OF THE NORTHWEST CORRIDOR OF SECTION 34 TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS. ALSO REFERRED TO AS BIA 74E. *(Approximately 39.73 acres)*

PARCEL 2: (APN 513-460-033)

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE DISTRICT LAND OFFICE.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN TRACT NO. 10527, AS SHOWN BY MAP ON FILE IN BOOK 102 PAGE(S) 43 TO 45 INCLUSIVE, OR MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. (PORTION APN 513-460-033)

AND

THE SOUTH HALF OF GOVERNMENT LOT 7 AND ALL OF GOVERNMENT LOT 12 OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE DISTRICT LAND OFFICE.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN TRACT NO. 10527, AS SHOWN BY MAP ON FILE IN BOOK 102 PAGE(S) 43 TO 45 INCLUSIVE, OR MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. (PORTION APN 513-460-033) *(Approximately 54.37 acres)*

PARCEL 3: (APN 513-460-013)

THE SOUTH HALF OF THE SOUTHWEST QUARTER, AND THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST SAN BERNARDINO BASE AND MERIDIAN, AS SHOWN ON THE PLAT MAP. *(Approximately 100 acres)*

PARCEL 4: (APN 513-460-010)

THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS, ACCORDING TO THE OFFICIAL PLAT THEREOF. *(Approximately 20 Acres)*

PARCEL 5: (APN 513-460-001)

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS, ACCORDING TO THE OFFICIAL PLAT THEREOF. *(Approximately 20 Acres)*

PARCEL 6: (APN 513-460-003)

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS, ACCORDING TO THE OFFICIAL PLAT THEREOF. *(Approximately 20 Acres)*

Section VII: IMPLEMENTATION

A. The date the notice of intention to circulate this initiative measure was submitted to the City's elections official is referenced herein as the "submittal date." The City General Plan, its Specific Plans, and Zoning Ordinance in effect on the submittal date and the General Plan and Zoning Ordinance as amended by this Initiative comprise an integrated, internally consistent, and compatible statement of policies for the City. In order to ensure that nothing in this initiative measure would prevent the General Plan and its Specific Plans from being integrated, internally consistent, and compatible statements of the policies of the City, as required by state law, and to ensure that the actions of the voters in enacting this initiative are given effect, any amendment to the General Plan, or new Specific Plan, that is adopted between the submittal date and the date that the General Plan is amended by this Initiative shall, to the extent that such interim-enacted amendment or Specific Plan is inconsistent with the General Plan provisions of this initiative, be amended as soon as possible and in the manner and time required by state law to ensure consistency between the provisions adopted by this initiative and other elements of the General Plan.

B. The City Council is hereby authorized and directed to amend the General Plan, the Land Use and Circulation Element, all specific plans, and the Zoning Ordinance, and any other ordinance and policies, in order to implement this Initiative and to the extent any of the foregoing are affected by this Initiative as soon as possible and in the manner and time required by any applicable state law, to ensure consistency between the policies adopted in this Initiative and other elements of the foregoing laws and policies.

Section VIII: EFFECTIVE DATE

The provisions of this Initiative shall be considered to be adopted on the date that the vote is declared by the legislative body.

Section IX: AMENDMENT OR REPEAL

Once this Initiative becomes effective, no provision of this initiative may be amended or repealed except by a majority of the voters of the City of Palm Springs voting on the amendment or repeal in a special or general election.

pSection X: JUDICIAL ENFORCEMENT OR LEGAL DEFENSE

The proponents of this Initiative shall have the right to maintain an action for equitable relief to restrain any violation of this Initiative, to enforce the duties imposed on the City by this Initiative, or to defend the Initiative in the event of a legal challenge to the Initiative after it is approved by the voters.

Section XI: PRIORITY

Once this Initiative becomes effective, no provision of this initiative may be amended or repealed except by a majority of the voters of the City of Palm Springs voting on the amendment or repeal in a special or General election.

Section XII: SEVERABILITY

If any provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction within the State of California, such decision shall not affect the validity of the remaining provisions. The People declare that they would have adopted the remaining provisions irrespective of the provisions, sections, sentences, clauses, or words declared invalid or unconstitutional.

ATTACHMENT 2A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 6, 2017

WHEREAS, the City of Palm Springs, California, Special Municipal Election will be held on June 6, 2017; and

WHEREAS, in the course of conducting the election it is necessary for the City to request services of the County of Riverside; and

WHEREAS, all necessary expenses in performing these services shall be paid by the City of Palm Springs.

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

SECTION 1. Pursuant to the provisions of Section 10002 of the California Elections Code, the Palm Springs City Council requests that the Riverside County Board of Supervisors permit the County Registrar of Voters to prepare and furnish any and all supplies and services in order to properly and lawfully conduct the election.

SECTION 2. The City of Palm Springs shall reimburse the County of Riverside for all services performed when the work is completed and upon presentation to the City a properly approved bill.

SECTION 3. The City Clerk is directed to forward a certified copy of this resolution to the Registrar of Voters for the County of Riverside.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 1st DAY OF MARCH, 2017.

MARCUS L. FULLER, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer

ATTEST:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true, and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the ____ day of March, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK

ATTACHMENT 2B

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AT THE TUESDAY, JUNE 6, 2017, SPECIAL MUNICIPAL ELECTION, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, a General Municipal Election is to be held in the City of Palm Springs, California on Tuesday, June 6, 2017, at which there will be submitted to the voters the following question and measure:

SHOULD THE PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN BE AMENDED TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS OF THE CITY?	YES _____	NO _____
--	-----------	----------

WHEREAS Article 4, Chapter 3, Division 9 of the California Elections Code provides for the filing of written arguments and rebuttal arguments for City measures submitted at municipal elections.

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

SECTION 1. The City Council authorizes any and all members of the City Council to file a written argument in Favor OR Against the City Measure, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, and to change the argument until and including the date fixed by the City Clerk, after which no arguments for or against the City measure may be submitted to the City Clerk. No argument shall exceed 300 words in length.

SECTION 2. Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to

the authors in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than 10-days after the final date for filing direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 3. Any written argument or rebuttal argument filed with the City Clerk shall be accompanied by the Statement of the Author Form required by California Elections Code Section 9600. The City Clerk shall provide such form upon request.

SECTION 4. The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 5. The City Clerk shall print, or cause to be printed, in the Official Sample Ballot, the entire text of the arguments for or against the measure, and the rebuttal arguments, in uniform type, style and spacing.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 1st DAY OF MARCH, 2017.

Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer

ATTEST:

Kathleen D. Hart, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true, and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the ____ day of March, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK

ATTACHMENT 2C

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR A CITY MEASURE SUBMITTED AT THE TUESDAY, JUNE 6, 2017, SPECIAL MUNICIPAL ELECTION

WHEREAS, the City Council of the City of Palm Springs, California called a Special Municipal Election to be held on Tuesday, June 6, 2017; and

WHEREAS, California Elections Code Sections 9220 and Section 9285, authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for City measures submitted at municipal elections.

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

SECTION 1. Pursuant to Sections 9220 and 9285 of the Elections Code of the State of California, when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than 10-days after the final date for filing direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 2. Any written rebuttal argument filed with the City Clerk shall be accompanied by the Statement of the Author Form required by Section 9600 of the California Election Code. The City Clerk shall provide such form upon request.

SECTION 3. All previous resolutions providing for the filing of rebuttal arguments for City measures are repealed.

SECTION 4. The provisions of Section 1 of this Resolution apply only to the Special Municipal Election to be held on April 22, 2014, and shall then be repealed.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 1st DAY OF MARCH, 2017.

ATTEST:

Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer

Kathleen D. Hart, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true, and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the ____ day of March, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK

ATTACHMENT 2D

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDERING THE CANVASS OF THE SPECIAL MUNICIPAL ELECTION TO BE HELD TUESDAY, JUNE 6, 2017, BE MADE BY THE CITY CLERK

WHEREAS, the City Council of the City of Palm Springs, called a Special Municipal Election to be held on Tuesday, June 6, 2017; and

WHEREAS, in the course of conducting the election it is the desire of the City Council that the canvass of the election be made by the City Clerk.

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

SECTION 1. Pursuant to California Elections Code § 10263, the canvass of the Special Municipal Election is ordered to be made by the City Clerk. The City Clerk may designate that the Registrar of Voters of the County of Riverside conduct and complete the canvass.

SECTION 2. The City Clerk or designee shall cause the canvass to be completed for the Special Municipal Election and shall certify the results to the City Council no later than Wednesday, July 19, 2017.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 1st DAY OF MARCH, 2017.

Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer

ATTEST:

Kathleen D. Hart, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true, and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the ____ day of March, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK

ATTACHMENT 2E

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING THE BUDGET FOR FISCAL YEAR 2016-17 FOR THE PURPOSE OF A SPECIAL ELECTION

WHEREAS, Resolution No. 24034 approving the Budget for the Fiscal Year 2016-2017 was adopted on June 1, 2016; and

WHEREAS, the Assistance City Manager has recommended, and the City Council desires to approve, certain amendments to said budget.

NOW, THEREFORE, THE CITY COUNCIL DETERMINE, RESOLVES AND APPROVES AS FOLLOWS:

The Director of Finance is authorized to record inter-fund cash transfers as required in accordance with this Resolution, and Resolution No. 24034, adopting the Budget for Fiscal Year 2016-17 is hereby amended as follows:

SECTION 1. ADDITIONS.

Fund	Activity	Account	Amount
001 General Fund	1150 City Clerk	43860 Elections	\$85,000

Purpose: Conduct a Special Municipal Election on Tuesday, June 6, 2017.

SECTION 2. SOURCE.

Fund	Activity	Account	Amount
General Fund		Fund Balance	\$85,000

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 1st DAY OF MARCH, 2017.

Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer

ATTEST:

Kathleen D. Hart, MMC
Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true, and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the ____ day of March, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK

ATTACHMENT 3

ORDINANCE NO. _____

AN INITIATIVE MEASURE AMENDING THE CITY OF PALM SPRINGS ZONING CODE, CANYON SOUTH SPECIFIC PLAN, AND GENERAL PLAN TO DESIGNATE OSWIT CONE AS AN AREA SUBJECT TO THE ENVIRONMENTALLY SENSITIVE AREA REGULATIONS OF THE CITY

SUMMARY

This initiative measure designates Oswit Cone, as defined, as a Special Policy Area of the City. The initiative measure amends selected provisions of the General Plan and the Canyon South Specific Plan, and readopts with amendments provisions of the Zoning Code relating to the "ESA-SP" (environmentally sensitive area specific plan) Zone of the City in their entirety, for the purpose of implementing special policy treatment to Oswit Canyon property.

The measure establishes Oswit Canyon as Planning Area 10 within the ESA-SP land use designation in the Zoning Code. The measure, by readopting the ESA-SP Zone, incorporates various regulations pertaining to uses, property development standards, design standards, and specific requirements for the preparation of specific plans. In addition to uses allowed in Planning Areas 1 through 9, the measure permits tourist serving commercial uses, including services primarily oriented to eco-tourism in Oswit Cone.

The measure limits development in Oswit Cone to one (1) dwelling unit for forty (40) acres. Density in excess of this limit can be considered with the submittal of a Specific Plan and associated environmental documentation. The initiative measure identifies specific changes of significance that have occurred since the preparation of an Addendum approved in 2006 to a 1991 Environmental Impact Report (and 2003 Addendum) and expressly mandates the preparation of a new or Subsequent Environmental Impact Report prior to consideration of any development within the ESA-SP Zone, including Planning Areas 1 through 9 as well as Oswit Cone.

In the event the initiative measure is adopted by the voters, the provisions of the measure, including all provisions of the existing ESA-SP Zone, can only be amended or repealed by a vote of the voters of the City at a special or general election.

RECITALS

WHEREAS, pursuant to Article 1, of Chapter 3, of Division 9, of the California Elections Code, on January 26, 2017, an initiative petition was received proposing amendments to the Palm Springs General Plan, Zoning Code and the Canyon South Specific Plan;

WHEREAS, the Charter of the City of Palms Springs, Section 501(g), designates the City Clerk as the election official for the City of Palm Springs;

WHEREAS, the City Clerk examined and/or caused the counting and examination by means of a 100% verification process of the signatures on said petition;

WHEREAS, the number of valid signatures required to qualify said petition to call a special election is 3,810, and the number of valid signatures on said petition was 4,057;

WHEREAS, California Election Code Section 9214 requires that when a petition has been filed with the City, signed by more than 15 percent (15%) of the number of registered voters of the City, it must be enacted by the legislative body of the City or submitted to a vote of the people;

WHEREAS, pursuant Election Code § 9214 (a) the City Council of the City of Palm Springs has determined to enact said initiative petition;

WHEREAS, Election Code § 9214 (a) states "Adopt the ordinance, ***without alteration***, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented;" therefore, this ordinance language has been adopted without alteration and exactly as shown in the initiative petition;

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

Section I: TITLE

This initiative and measure may be known and referred to as "Zoning Change To Preserve Native Desert Lands In The Oswit Cone / Canyon Alluvial Fan For Future Generations Of Palm Springs Residents."

Section II: FINDINGS AND PURPOSE

The People of the City of Palm Springs find as follows:

WHEREAS the City of Palm Springs Sustainability Plan 2016 calls to establish Palm Springs as a premiere ecotourism destination in the U.S. by improving nature-based tourism.

WHEREAS during the past 25 years, significant environmental changes have occurred rendering the Canyon South Specific Plan inconsistent with the General Plan, failing to adequately consider current economic, environmental and social

considerations including Palm Springs' tourism objectives changing from golf to the new eco-tourism, consistent with the General Plan Land Use Element.

WHEREAS the approximately 256 acres of vacant land described below is located substantially at the southwestern border of Palm Springs at the foot of the San Jacinto National Monument substantially adjacent the San Jacinto National Monument.

WHEREAS the approximately 256 acres of vacant land described below are located within Section 34 township 4 south, range 4 east San Bernardino Base and Meridian, as shown on the plat map.

WHEREAS Section 34 is classified under the General Plan as a "Biological Sensitivity and Conservation Area", a "Cultural Resources: Prehistoric area likely to have prehistoric village sites including deep hidden deposits" and "Cultural Resources: Historic Archaeology area of known Historic Archaeological Sites".

WHEREAS Section 34, and more specifically the Oswit Cone (Oswit alluvial fan and Oswit Canyon) includes at least the equivalent irreplaceable geological, environmental, archeological, cultural, endangered species habitats (study areas) and nature elements of the Chino Cone and Palm Hills which were rezoned to Environmentally Sensitive Area – Specific Plan (ESA-SP).

WHEREAS one or more of the six (6) lots to be zoned ESA-SP overlap the eastern edge of the Cahuilla Indian Tribal Habitat Conservation Plan (THCP) intended to preserve archeologically important cultural artifacts, endangered species and the natural wilderness, and further lies adjacent to the San Jacinto National Monument.

WHEREAS the southern border of the proposed ESA-SP zone adjoins Cahuilla Indian tribal lands owned by individual tribal allottees, and which is governed by the Bureau of Indian Affairs.

WHEREAS the slope of the lands comprising substantially the western edge of Section 34 exceeds 30 degrees, and are not developable.

WHEREAS the City has established precedent in protecting its irreplaceable natural assets by rezoning areas as ESA-SP, and that Oswit Cone (Oswit alluvial fan and Oswit Canyon) meets the conditions for rezoning as ESA-SP as established by precedent.

WHEREAS, Palm Springs General Plan Land Use Element LU1.9 mandates that "all development shall be sensitive to natural features, including washes, hillsides, and views of the mountains and surrounding desert areas."

WHEREAS, Palm Springs General Plan Land Use Element LU1.12 mandates that "land uses maintain and expand parks, recreational trails, bikeways, and pedestrian corridors and linkages throughout the City and between Palm Springs and adjacent municipalities."

WHEREAS, Palm Springs General Plan Land Use Element LU2.1 mandates that the City "Evaluate the effectiveness of using overlay zones as a technique of preserving the character of selected areas of the City."

WHEREAS, Palm Springs General Plan Land Use Element LU7.8 mandates that the City shall "Provide and maintain a variety of outdoor recreational opportunities and venues and encourage the development of eco- tourism."

WHEREAS the trailhead of the historic Lykken Trail that leads to Oswit Canyon, and the Oswit alluvial fan, and to trails that are connected to the historic trails of the Environmentally Sensitive Area known as the Chino Cone alluvial fan are located within Section 34.

WHEREAS the US Fish and Wildlife Service (USFWS) listed within Section 34 endangered species including Peninsular Bighorn Sheep, the Casey's June Beetle and other species in the immediate and adjacent vacant land, the environmental impact on the listed endangered species having not been adequately considered by Environmental Impact Reports completed before the species listings.

WHEREAS a 2014 study of climate change related changes in water resources of the San Jacinto National Monument found significant archeological features including ancient petroglyphs attributed to pre-Cahuilla Indian societies in the greater Oswit Canyon area.

WHEREAS a 2014 study of climate change related changes in water resources of the San Jacinto National Monument found more significant declines in surface water resources for Peninsular Bighorn Sheep in the Santa Rosa Mountains compared to the San Jacinto Mountains, and predicted increased sheep herd migration into the San Jacinto Mountains and the Oswit Cone area (Oswit alluvial fan and Oswit Canyon).

WHEREAS the approximately 256 acres of vacant land described below are zoned R1A, PPD established under the 1991 Canyon South Specific Plan as amended in 2003 for the purpose of developing a golf-based tourist destination.

WHEREAS the approximately 256 acres of vacant land described below host thousands of ecotourists from around the world, and is Palm Springs' most important ecotourism asset.

WHEREAS the best land use of the approximately 256 acres of vacant land described below is for preservation of Palm Springs cultural, geological and environmental assets consistent with the City of Palm Springs Sustainability Plan 2016 as an environmentally sensitive area.

WHEREAS Palm Springs City Ordinance No. 1700 created a new zone district, the Environmentally Sensitive Area Specific Plan Zone (ESA-SP), for the preservation of open space so as to preserve the character of the land consistent with the City's General Plan.

WHEREAS the ESA-SP zone is divided into planning areas (PA) consisting of PA-1 through PA-9.

WHEREAS Palm Springs City Ordinance No. 1700 authorizes the City Council to change zoning for additional areas to ESA-SP from time to time.

WHEREAS Palm Springs City Council may change zoning on the vacant land described below to ESA-SP.

WHEREAS Palm Springs Municipal Code 92.21.1.06, et. seq., establishes that before any land within a planning area may be subdivided pursuant to the Subdivision Map Act (Government Code Sections 66410, et. seq.), a specific plan shall be prepared and adopted for the entire planning area, and that an environmental impact report ("EIR") is required for each specific plan.

WHEREAS all rules and regulations for ESA-SP are codified as Palm Springs Municipal Codes 92.21.1.00, 92.21.1.01, 92.21.1.02, 92.21.1.03, 92.21.1.04, 92.21.1.05, 92.21.1.06, 92.21.1.07, and 92.21.1.10 as amended.

WHEREAS the General Plan shall be amended and submitted concurrently with the Specific Plan Amendment. As part of this Amendment, the Low Density Residential (L2), Conservation (C), and Fire Station (F) designations west of South Palm Canyon will be removed, leaving only the Environmentally Sensitive Area – Specific Plan (ESA-SP) designation for this area.

WHEREAS ESA-SP west of South Palm Canyon shall be referred to as planning area number ten (PA-10).

WHEREAS a Zoning Map amendment is not included in this Specific Plan Amendment since the entire project area is to be implemented through the City of Palm Springs protocols, consistent with the new Canyon Specific Plan amendment as described herein.

WHEREAS the city of Palm Springs is directed to change Canyon Specific Plan and General Plan zoning maps to reflect the newly zoned ESA-SP, Planning Area 10.

WHEREAS any amendment or change to ESA-SP zoning for the approximately 256 acres of vacant land shall be made only by voter approved initiative.

Section III: SPECIFIC CHANGES TO THE MUNICIPAL CODE

Chapter 92.00, Sections 92.21.1.00 through 92.21.1.07 are amended as follows. All changes to existing text shown as underlined, deletions are shown as ~~strikeouts~~.

92.21.1.00 "ESA-SP" environmentally sensitive area specific plan zone.

A. The ESA-SP zone is intended to provide for the development of environmentally sensitive areas of the city in a manner that will preserve the open, rural character of these areas while allowing development of ranchettes and clustered single- and multiple family or resort projects.

B. The purpose of the zone is to facilitate the preservation of open space through the creation and implementation of development review considerations that will ensure the evaluation of the suitability of the land for development in a

manner which would preserve the character of the land consistent with the policies in Section 92.21.1.05 of this code.

C. The ESA-SP zone is divided into planning areas, as indicated on the zoning map. The ESA-SP zone includes the Chino Cone, North Palm Canyon Drive north entry corridor, and other areas which the city council may designate from time to time by ordinance. A specific plan, allowing only sensitive and appropriate uses, densities, distributions, and design standards, is required for each Planning Area. All development will be required to be consistent with the adopted specific plan.

D. The provisions of the ESA-SP zone shall supersede any conflicting provisions of the Palm Springs Zoning Code. The regulations in this Section and 92.21.1.01 through 92.21.1.07 inclusive shall apply to those areas designated "ESA-SP" on the zoning map and shall be liberally construed to effectuate their purposes. Specifically, the provisions of Section 94.03.00 (Planned Development District – PD) shall not be used to increase the density or intensity of development or modify design standards beyond that expressly permitted under the ESA-SP zone or an applicable specific plan. (Ord. 1700 § 3, 2006)

92.21.1.01 Uses permitted.

A. Uses Permitted in All Planning Areas, subject to special planning area exceptions herein.

1. Single-family dwellings, not to exceed one (1) unit per forty (40) net acres, excluding for density calculation purposes all lands with slopes in excess of thirty (30) percent or within established flood zones.

2. Accessory buildings and uses customarily incidental to the permitted use when located on the same lot therewith. It is unlawful to construct, erect or locate any accessory building without a permitted main building. Servants quarters, guest houses and accessory living quarters may be erected in detached structures but shall not be provided with kitchen arrangements or other provisions for meal preparation.

3. Home occupations subject to the provisions of Chapter 5.21 of the Palm Springs Municipal Code.

B. Uses Permitted by Specific Plan in all Planning Areas.

The following uses may be permitted in all planning areas, subject to enactment of a specific plan by California Government Code Section 65450 et seq., as amended:

1. Single-family dwellings.

2. Multiple-family residential.

3. Public parks, recreational areas, and open space, but not to include places of assembly, except as otherwise permitted in this chapter.

4. Resort hotels, hotels, condominiums, time-shares, including incidental or accessory commercial uses operated primarily for the convenience of residents and guests.
5. Nature centers, museums and other facilities that interpret and support the natural environment.
6. Accessory structures and uses customarily incidental to the above uses, located on the same lot therewith, and designed as an integral part of any residential or hotel facility, including:
 - a. Athletic, sport and recreation clubs.
 - b. Country clubs, golf courses driving ranges, tennis and swimming facilities.
 - c. Restaurants, not including drive-in, drive-through or fast-food establishments.
 - d. Spas, subject to compliance with Chapter 5.34 of the Municipal Code.

C. Uses Permitted by Specific Plan in Planning Area 5A.

In addition to the uses specified in subsection B of this section, the following uses may be permitted in Planning Area 5A, subject to enactment of a specific plan by California Government Code Section 65450 et seq., as amended:

1. Tourist-serving commercial activities, including retail goods and services primarily oriented to the traveler, including restaurants and entertainment. Community-oriented retail, such as a shopping center anchored by a grocery store, is not permitted for this site.

D. Uses Permitted by Specific Plan in Planning Area 10.

In addition to the uses specified in subsection A of this section, the following uses may be permitted in Planning Area 10, subject to enactment of a specific plan by California Government Code Section 65450 et seq., as amended:

1. Tourist-serving commercial activities, including services primarily oriented to the eco-tourist, including nature tourism and guided touring such as bird watching, geological or environmental tourism, culture and history educational activities, artistic activities such as photography and painting, nature hiking, and equestrian activities as approved. Community-oriented retail primarily selling merchandise is not permitted for this site.

(Ord. 1700 § 4, 2006)

92.21.1.02 Uses prohibited.

All uses and structures not permitted in Section 92.21.1.01 are deemed to be specifically prohibited. The following classifications of uses shall not be permitted in the zone by commission determination:

- A. Commercial uses, excepting those otherwise provided for herein.
- B. Industrial uses.
- C. Institutional uses.
- D. Mobile home parks.
- E. Equestrian facilities.
- F. Recreational vehicle parks.

(Ord. 1700 § 5, 2006)

92.21.1.03 Property development standards—Permitted uses.

The following property development standards shall apply to all land and buildings in the ESA-SP zone for uses permitted under Section 92.21.1.01(A), except that any lot created in compliance with applicable laws and ordinances in effect at the time of its creation may be used as a building site.

- A. Density. The allowable density shall be one (1) dwelling unit per forty (40) acres.
- B. Lot Area. Each lot shall have a minimum net lot area of twenty (20) acres.
- C. Lot Dimensions.

All lots hereafter created shall comply with the following minimum standards and lots now held under separate ownership or of record shall not be reduced below these standards.

- 1. Each lot shall have a minimum width of five hundred (500) feet.
- 2. Each lot shall have a minimum depth of five hundred (500) feet.

D. Building Height.

1. Buildings and structures erected for single family residential use shall have a height not greater than fifteen (15) feet above approved finished grade. The total height of the building or structure, measured from the approved finished grade immediately adjacent to the lowest point of the structure to the highest point of the structure, shall not exceed twenty-five (25) feet.

E. Yards.

- 1. General provisions. The provisions of Section 92.01.00 shall apply.

- 2. Front yard. There shall be a front yard of not less than fifty (50) feet.
- 3. Side yard. Each lot shall have a side yard on each side of not less than fifty (50) feet.
- 4. Rear yard. Each lot shall have a rear yard of not less than fifty (50) feet.

F. Distance Between Buildings. The minimum distance between buildings shall be fifteen (15) feet except as otherwise provided in this section.

G. Walls, Fences and Landscaping. The provisions of Sections 93.02.00 and 94.21.1.06(F)(3) shall apply, except that no more than one (1) acre of land per lot shall be enclosed by any wall or fence.

H. Access. The provisions of Section 93.05.00 shall apply.

I. Off-street Parking. The provisions of Section 93.06.00 shall apply.

J. Design Standards. All development shall be designed to comply with the design standards for the environmentally sensitive areas, Section 94.21.1.05 of this code.

(Ord. 1700 § 6, 2006)

92.21.1.04 Property development standards—Uses subject to a specific plan.

The following property development standards shall apply to all land and buildings in the ESA-SP zone for uses permitted under Section 92.21.1.01(B).

A. Requirement for Area-wide Specific Plan.

A specific plan submitted under this ordinance shall include not less than an entire planning area, except Planning Area 3. A specific plan submitted for Planning Area 3 shall include not less than ten (10) acres. Minor adjustments to planning area boundaries may be allowed.

B. Density and Open Space.

- 1. The following dwelling unit densities and requirements for open space are established for the planning areas within the ESA-SP. For purposes of calculating densities of hotels and other tourist accommodations, a hotel room or similar unit shall count as 0.70 of a residential dwelling unit:

Planning Area	Maximum Allowed Density	Minimum Required Open Space: All Forms	Minimum Required Open Space: Undeveloped	Maximum Floor Area
1	Go to Base Zone (One DU / 40 Acres)			

2	2 DU / Acre	72% of Project Area	35% of Project Area	6,000 SF / DU
3	Tribe Specific Plan			
4	2 DU / Acre	72% of Project Area	35% of Project Area	6,000 SF / DU
5	6 DU / Acre	72% of Project Area	35% of Project Area	2,000 SF / DU
5A	0.25 Floor Area Ratio	Not Applicable	Not Applicable	Not Applicable
6	1.5 DU / Acre	79% of Project Area	40% of Project Area	6,000 SF / DU
7	Go to Base Zone (One DU / 40 Acres)			
8	2 DU / Acre	72% of Project Area	35% of Project Area	6,000 SF / DU
9	1 DU / Acre	81% of Project Area	40% of Project Area	8,000 SF / DU
10	Go to Base Zone (One DU / 40 Acres)			

2. Undeveloped open space shall exclude all lands with slopes in excess of thirty (30) percent above the toe of slope, and shall be limited to natural and renaturalized land, and hiking trails. Dedication for public access shall be provided to undeveloped open space.

3. Floor area shall include all enclosed and covered structures, including all habitable space, garages and carports, solid roofed patios, porte cocheres and other solid roofed accessory buildings and structures. Open, uncovered patios, driveways, walkways, water and landscaping features shall not be included.

4. Remaining open space may include roads and other paved accessways, recreational facilities, golf courses, landscaping, water features and other uncovered features.

5. In all Planning Areas other than Planning Area 5A, commercial uses shall not exceed fifteen (15) percent of the total floor area of the development (including all residential and hotel units). For purposes of calculating commercial density, all leasable commercial space shall be counted, including retail, restaurants, pro shops and convention space. Common facilities, such as lobbies, rest rooms, general service areas and management offices shall not be included.

6. In Planning Area 5A, total enclosed building area shall not exceed a floor area ratio of 0.25.

7. In Planning Area 9, lands within the floodplain and lands exceeding thirty (30) percent slope shall be excluded from the density calculation. It is expected that remaining land available for calculation of density is approximately two hundred forty-four (244) acres.

C. Building Height.

Buildings and structures erected for single family residential use shall have a height not greater than fifteen (15) feet above approved finished grade. The maximum height of the building or structure, measured from the approved finished grade immediately adjacent to the lowest point of the structure to the highest point of the structure shall not exceed twenty-five (25) feet.

For all buildings, the maximum allowed height shall be as established by the applicable adopted Specific Plan.

D. Lot Area, Lot Dimensions, Yards, and Distance Between Buildings.

Development standards shall be as established by the applicable adopted specific plan.

E. Walls, Fences, and Landscaping.

The provisions of Sections 93.02.00 and 94.21.1.05(H)(3) shall apply. Development standards for walls, fences, and landscaping shall be as established by the applicable adopted specific plan.

F. Access.

The provisions of Section 93.05.00 shall apply, except as may be modified by the applicable adopted specific plan.

G. Off-street Parking.

The provisions of Section 93.06.00 shall apply, except as may be modified by the applicable adopted specific plan.

H. Design Standards.

All development shall be designed to comply with the design standards for environmentally sensitive areas, Section 94.21.1.05 of this code.

(Ord. 1700 § 7, 2006)

92.21.1.05 Design standards.

The purpose of the ESA-SP zone is to protect environmentally sensitive lands by establishing standards for the design, construction, operation, and maintenance of development projects. The design and preparation of the site shall have as their first objective the minimal disturbance of the underlying landforms, site topography, and surface environment of the affected planning area. Any proposed project shall introduce development which appears and functions as an integral part of the site's natural environment. To protect environmentally sensitive land, all development projects within any planning area shall be subject to a design review process with the following components:

A. Environmental Analysis.

Concurrent with the submission of any proposed project application for a specific plan, tentative map or building permit application, an environmental analysis shall be prepared and submitted to the city. The analysis shall include a map and text which identify all major and minor environmental conditions on the subject site and major environmental conditions in the surrounding area, including lands within five hundred (500) feet of the site, with the surrounding area subject to final determination by the director of planning services. At a minimum, the analysis shall identify and describe the following subjects:

1. Geologic conditions.
2. Cultural resources.
3. Topographic conditions.
4. Unique rock formations and mineral deposits.
5. Drainage patterns and local watershed boundaries.
6. Minor and major water channels.
7. Significant landscape features, oases, etc.
8. Flora and fauna.
9. Non-native plant species.
10. Significant animal species.
11. Prior development history.
12. Existing development.

A plan for the removal or other treatment of boulders shall be prepared as part of the specific plan and evaluated in the associated environmental impact report.

The analysis provides the basis for project site planning, and the applicant shall design and locate proposed development to minimize impacts on environmental conditions.

B. View Analysis.

Concurrent with the submission of any proposed project application for a specific plan, tentative map or building permit application, a view analysis shall be prepared and submitted to the City. The analysis shall include a map, photos and text which identify views of the project site from the North Palm Canyon Drive, Tram Way and other viewpoints, with the actual viewpoints subject to final determination by the Director of Planning Services. At a minimum, the analysis shall address the following related to the selected viewpoints:

1. Areas of the subject site which are visible.
2. Areas of the site which may be screened or otherwise oriented so as not to be visible.

3. Potential building envelopes (volumes) that would not be visible.
4. Strategies for maintaining existing screening features.
5. Strategies for implementing and maintaining proposed screening features.

A three (3) dimensional graphic representation of final build-out shall be required as part of any specific plan application, including scale model, computer simulation or similar presentation. All proposed grading, including roads and parking lots; and all structures, including habitable and non-habitable buildings, storage tanks, and all walls shall be shown.

The analysis provides the basis for establishing the locations and heights of structures and other support features, and the applicant shall locate proposed development to minimize off-site views of the project.

C. Trails Analysis.

Concurrent with the submission of any proposed project application for a specific plan, tentative map or building permit, a trails analysis shall be prepared and submitted to the city. The analysis shall include a map and text which identify all existing trails and all proposed trails within the project area. Existing trails shall include public trails established by dedication of easement or similar conveyance and trails established by use.

D. Mandatory Standards.

The following standards shall apply to all development in environmentally sensitive areas and shall not be modified by any specific plan.

1. Mass grading to create large, single-level flat pads is prohibited.
2. Pad heights are not significantly raised beyond the natural topography. Any pad height more than two (2) feet above natural topography may be deemed significant.
3. The master plan of drainage shall be implemented.
4. Retention basins are prohibited where a sufficient master plan of drainage has been implemented. Street and site plan layout shall follow natural terrain.
5. Streets and paving areas are paved with decorative or colored concrete or pavers to match color of existing terrain. Asphaltic concrete shall not be allowed.
6. No street lighting is allowed.
7. Vegetation removed for utility construction or maintenance is replaced with appropriate landscaped areas.
8. All utility lines are located underground, except screening from public view in a manner that represents natural desert landscaping may be allowed when undergrounding is not feasible.

9. All water lines located in public or private street rights-of-way are located within the pavement sections.
10. Water lines located outside of rights-of-way require waterline easements.
11. Any visible portion of a water storage facility has an exterior color to match surrounding native stone, soil color or backdrop.
12. Location and design of water storage facilities are coordinated in advance with the Desert Water Agency.
13. Water tanks are not located on slopes greater than 3:1.
14. All wastewater lines, including force mains, located in public or private street rights-of-way are located within the pavement sections.
15. Wastewater lines located outside of rights-of-way require sewer line easements that include full vehicular and equipment access.
16. All exterior colors, materials and finishes blend with the color and texture of surrounding stone or soil.
17. Reflective building materials are not used. Solar panels shall be non-reflective.
18. The forms of buildings, structures and other improvements are not repetitive, but respect and interpret the forms of the surrounding landscape and present a custom design appearance.
19. Stepped elevations and floor levels are used to avoid massive building forms and wall surfaces.
20. All exterior mechanical equipment is screened with material that complements the surrounding structures and environment.
21. Project gates, if proposed, shall be limited to vehicular access control only.
22. Project signage shall be designed to blend with the natural environment.
23. No curbs shall be allowed.
24. At least one nature interpretive center in each planning area shall be provided as part of the development of the public trails system, if applicable.

E. Site Preparation.

The design and preparation of the site shall have as their objective: The minimal disturbance of the underlying landforms, site topography and surface environment of the Chino Cone and adjacent areas, and the introduction of development which appears and functions as an integral part of the site's natural environment. The following principles describe how the objectives for site preparation would be fulfilled.

1. Guiding Principles. Grading:
 - a. New development is designed to follow existing slopes and contours.
 - b. Cut-and-fill techniques to create flat development pads is avoided.
 - c. Slopes do not exceed 1-1/2 to 1.
 - d. Retaining walls are limited to:
 1. Retaining walls that are part of a building foundation.
2. Transition retaining walls taper from a maximum height of five (5) feet with a maximum overall length of twenty-five (25) feet.
3. Walls are screened with boulders or other materials, as approved by the specific plan.
 - e. Retaining elements composed of boulders, berms or other non-manufactured materials provide variation in form and a natural appearance.
2. Guiding Principles. Drainage:
 - a. Project drainage follows best practices, while maintaining the natural run-off and channel characteristics.
 - b. Development preserves existing drainage patterns, natural streams and local watershed boundaries.
 - c. Drainage volumes in existing channels are not increased over natural levels.
 - d. Sedimentation characteristics of existing drainage channels are maintained.
 - e. Natural, non-manufactured materials are used to assure the stability of drainage channels.
 - f. The natural vegetation density and diversity of existing channels are maintained.
 - g. No ponding of water occurs above cut or fill slopes.
 - h. Surface drainage interceptors are provided at the top of cut or fill slopes to prevent erosion of slopes and graded areas.
 - i. All erosion control, and surface and sub-surface drainage facilities are designed to provide stable and long-term erosion protection.
 - j. Manufactured drainage facilities are covered or screened with boulders and other materials to produce a natural appearance.

F. Street Design.

The design and placement of street and roads shall have as their objective: The appearance of streets and roads as long strips of pavement crossing natural slopes and contours shall be minimized, and their design and construction shall minimize intrusions into local natural conditions.

The following principles describe how the objectives for street design would be fulfilled:

1. Guiding Principles. Location of streets and roads.
 - a. Streets do not divert or block primary historical drainage patterns.
 - b. The vertical profile of streets are aligned to closely match the existing natural terrain.
 - c. Habitat connections and view corridors are not interrupted by streets.
 - d. Curvilinear alignments and gently rolling profiles are consistent with site topography. Excavations and embankments are limited to the greatest extent possible.
 - e. Street alignments are located to avoid stands of vegetation, rock outcroppings and other significant natural features.
2. Street and Parking Design.
 - a. Minimum public street widths are twenty-two (22) feet with no on-street parking. Off-street guest parking is located and provided in sufficient numbers to support the project.
 - b. Road shoulders widths are composed of crushed native rock. Additional width may be required to accommodate drainage swales or, where necessary, concrete gutters. Drainage swales shall be composed of large stones and native soil.
 - c. Street intersections are not located within the alignment and floodplain of major or minor water channels nor within boulder clusters or other sensitive environmental features.
 - d. Shoulder slopes match pavement cross slope where roadway cross-slopes are used to control drainage.
 - e. Maximum slope gradients within ten (10) feet of the roadway edge do not exceed 4:1 for fill slopes and 3:1 for cut slopes.
 - f. Maximum height of cut and fill slopes, including any retaining walls, is eight (8) feet. Retaining walls are the minimum height necessary to meet this standard.

g. Roadway slopes do not create a continuous wall or cut/fill condition, but vary in height and present an undulating appearance consistent with the natural slope.

h. Slopes are rounded to blend into the existing terrain to produce a contoured transition.

i. Street design accommodates stormwater runoff, as required by a hydrology study approved by the city engineer. When used, concrete closely matches adjacent paving materials. Standard grey concrete material shall not be allowed.

j. Street design not meeting public street standards for sections, widths, materials or other factors may be required to be constructed and maintained as private streets. All streets on the Chino Cone are recommended to be private, except collector streets, as indicated in the specific plan.

3. Sidewalks.

a. No sidewalks are allowed, except only as may be required to conform to state and federal accessibility requirements. Accessible pathways shall be paved with decorative or colored concrete, pavers, or other approved materials.

G. Utilities.

The location and installation of utilities shall have as their objective: The minimal disturbance of the underlying landforms, site topography and surface environment of the Chino Cone, and the introduction of services and utilities which appear as an integral part of the site's natural environment.

The following principles describe how the objectives for site preparation would be fulfilled:

1. Guiding Principles. General criteria for utilities:

a. Utilities are located to minimize any degradation to the key natural features identified on the environmental analysis.

b. Utility crossings do not obstruct or constrict drainage courses.

c. Utility corridors requiring frequent maintenance are not located within significant riparian, vista or habitat corridors.

2. Guiding Principles. Water distribution lines:

a. Water meters are located adjacent to driveways and shall minimize impacts on environmental conditions.

b. Water lines only cross water channels within street rights-of-way.

3. Guiding Principles. Water storage facilities:
 - a. Water storage facilities minimize impacts on the surrounding environment.
4. Guiding Principles. Wastewater collection lines:
 - a. Wastewater lines avoid side or rear yard areas and cut or fill slopes.
 - b. Wastewater lines are not located within areas subject to inundation by a one hundred (100)-year storm flow, unless approved by the director of public works.
 - c. Wastewater lines only cross water channels within street rights-of-way, and only when no other viable solution is available.
5. Guiding Principles. Other utilities:
 - a. All utility lines are located within public or private street rights-of-way, but may be located outside of pavement areas.

H. Site Planning and Design.

The site planning and design of development shall have as their objective: The minimal disturbance of the underlying landforms, site topography and surface environment of each planning area and any adjacent planning area, and the introduction of buildings, structures, and landscaping which appear and function as integral parts of the site's natural environment.

The following principles describe how the objectives for site planning and design would be fulfilled.

1. Guiding Principles. General criteria:

The following elements are preserved in the site plan:

- a. Natural features, environmental functions and cultural features, as determined by the Environmental Analysis.
 - b. View corridors, as determined by View Analysis.
 - c. The existing and proposed trail system.
 - d. Natural topography.
 - e. Natural vegetation.
 - f. Natural water channels and drainage ways.
 - g. Significant visual features, such as peaks, ridgelines, rock outcrops, boulder fields, and significant stands of vegetation.
2. Guiding Principles. Design:

- a. Development of Planning Area 5A harmonizes with and does not overshadow Visitors Center.
 - b. Buffers in setbacks fluctuating between seventy-five (75) to one hundred twenty-five (125) feet (average one hundred (100) feet) are developed on properties fronting North Palm Canyon Drive to screen development from motorists' views.
 - c. Buffers in setbacks fluctuating between fifty (50) to seventy-five (75) feet (average sixty-two and one-half (62.5) feet) are developed on properties fronting Tramway to screen development from motorists' views.
 - d. All rooftops in Planning Areas 5 through 8 are screened from highway view using berms, landscape materials and setbacks.
 - e. Passive solar control is incorporated into the architecture. Recessed window and entry openings and deep roof overhangs are examples.
3. Guiding Principles. Walls and fences:
- a. Perimeter or property boundary walls and fences are avoided.
 - b. Site walls and fences enclose the minimum area necessary to provide privacy or code compliance (swimming pools, etc.).
 - c. Walls and fences do not cross significant desert vegetation, water channels or significant topographic features.
 - d. Walls are designed to avoid unbroken lines, using undulations, offsets, notches and similar features.
 - e. Walls and fences are screened with landscaping and boulders to minimize visual appearance.
4. Guiding Principles. Lighting:
- a. Exterior lighting fixtures are shielded to eliminate off-site views of any direct light source. All lighting is directed downward with no up-lighting of landscaping.
 - b. Maximum height for commercial, free-standing lighting fixtures is eighteen (18) feet.
5. Guiding Principles. Landscaping:
- a. The plant palette for any project is limited to drought-tolerant plants, except as may be approved within a specific plan. Invasive plants are not used.
 - b. Landscape lighting is not allowed, except as may be approved within a specific plan.

- c. Irrigation is of a non-spray design.
- d. Turf areas are not visible from street views, except as may be approved within a specific plan.

6. Guiding Principles. Energy conservation:

- a. Comprehensive energy conservation and green building principles are incorporated into project design, construction and operation.

I. Findings Required for Approval.

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

1. The project demonstrates a complete and integrated vision for design, operation and use through the use of exemplary site planning, architecture, landscape architecture, materials and color principles and techniques.
2. The project is harmonious with, adapted to, and respectful of, the natural features with minimal disturbance of terrain and vegetation.
3. The project is properly located to protect sensitive wildlife habitat and plant species, and avoids interference with watercourses, arroyos, steep slopes, ridgelines, rock outcroppings and significant natural features.
4. The project will be constructed with respect to buildings, accessory structures, fences, walls, driveways, parking areas, roadways, utilities and all other features, with natural materials, or be screened with landscaping, or be otherwise treated so as to blend in with the natural environment.
5. The project utilizes landscaping materials, including berms, boulders and plant materials which, insofar as possible, are indigenous and drought-tolerant native species.
6. The project grading will be terrain sensitive and excessive building padding and terracing is avoided to minimize the scarring effects of grading on the natural environment.
7. The project meets or exceeds open space area requirements of this Section and in accordance with the conservation plan, and adequate assurances are provided for the permanent preservation of such areas.
8. The project provides the maximum retention of vistas and natural topographic features including mountainsides, ridgelines, hilltops, slopes, rock outcroppings, arroyos, ravines and canyons.
9. The project has been adequately designed to protect adjacent property, with appropriate buffers to maximize the enjoyment of the subject property and surrounding properties.

10. The project will not have a negative fiscal impact on the city or its citizens.

J. Performance Agreement.

Prior to the issuance of any permit for grading or construction of any improvement on any property within an ESA-SP zone, the developer shall enter into an agreement with the city, in a form approved by the city attorney, ensuring, should the improvement not be completed as permitted, that the land will be renaturalized in compliance with the provisions of this section. The obligations of the developer pursuant to such agreement shall be secured in amounts required by the city engineer necessary to complete such renaturalization consistent with the provisions of Chapter 9.65 of the municipal code: however, such security shall be in the form of cash, irrevocable letter of credit, assignment of a certificate of deposit, or similar form of security approved by the city manager and the city attorney.

K. Enforcement.

In addition to any remedy otherwise available to the city pursuant to this code or the municipal code, the failure to protect the natural terrain or the defacement, grading, grubbing, scaring or any other act disturbing the natural terrain of any property within the ESA-SP zone without prior city approval of plans for such work, or in a manner inconsistent with or in violation of plans as approved by the city pursuant to this section or as otherwise provided in any agreement as provided in subsection J of this section, shall be deemed a public nuisance which may be abated pursuant to the city's nuisance abatement procedures provided in Chapter 11.72 of the municipal code.

(Ord. 1707 § 1, 2006; Ord. 1700 § 8, 2006)

92.21.1.06. Specific plan requirements for development in ESA-SP Zone

A. Before any land within a planning area may be subdivided pursuant to the Subdivision Map Act (Government Code Sections 66410, et. seq.), a specific plan shall be prepared and adopted for the entire planning area to provide a comprehensive land use plan complying with the goals and policies of the general plan and the requirements of the ESA-SP zone. Each specific plan shall include a detailed land use evaluation as provided in this section. An environmental impact report ("EIR") is required for each specific plan. Each EIR shall include a full discussion of land use alternatives and shall address planning considerations and relationships with surrounding properties.

B. Each specific plan shall contain a land use element, a circulation and traffic element (including roadway and trail design and planning), water conservation element, recreation and open space element (including habitat mitigation), public service and infrastructure element (including a fiscal impact analysis of the effects of development on the city), and such other elements as the council may

require. In order to ensure that development within a planning area will not have an adverse or negative impact on the city, a specific plan can require a development agreement to ensure the provision of services and improvements or the payment of fees, charges, or assessments to offset any negative or adverse financial or fiscal effects on the city or its ability to provide services to the future residents of the planning area and city as a whole.

C. Each Specific Plan shall identify those areas within the Planning Area that are to remain as undeveloped open spaces, such as undevelopable slopes and natural landmarks, etc., and which are to be used for game preserve, wildlife corridor, passive recreational, or open space purposes, may be offered, through dedication, to a governmental jurisdiction, or to a not-for-profit land trust, conservancy, or similar organization whose charter allows for the ownership of development rights which will preserve the natural open space in perpetuity. In the event the public agency, or city, or land trust, conservancy, or similar organization does not accept such an offer (or if such an offer is not made), the specific plan shall provide regulations for the ownership and care of the open space in such a manner that there can be necessary protection and maintenance thereof. Such area shall be provided with appropriate access and shall be designated as separate parcels which may be maintained through special fees charged to the residents of the subject development or through an appropriate homeowner's association or maintenance district. Where appropriate, maintenance in perpetuity shall be guaranteed through the bond of the developer or continuing funding by the developer's successors.

D. A specific plan for a planning area within the ESA-SP zone may only be approved if, the following findings are made:

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

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

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

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

9. The development provided in the specific plan will not have a negative fiscal impact on the city or its citizens.

(Ord. 1700 § 9, 2006)

92.21.1.07 Transfer of density.

The purpose of this transfer of density section is to maximize the preservation of open space, significant views, and other valuable characteristics of property within the ESA-SP zone by allowing the re-distribution of development rights among properties and between planning areas.

A. Transfer Between Properties.

Within any planning area, allowed residential development density may be transferred from any one property to another on a one-to-one basis, subject to approval of a specific plan. Density transfers shall be reviewed for the effect of such transfers on increasing open space, preserving views, minimizing grading or other land disturbance and reducing the expenditures for public services to the development.

B. Transfer Between Planning Areas.

Between any planning areas, allowed residential development density may be transferred with a bonus of 1.2 units at the receiving site for every unit from the sending site, subject to approval of a single specific plan for all planning areas subject to the transfer. Density transfers shall be reviewed for the effect of such transfers on increasing open space, preserving views, minimizing grading or other land disturbance and reducing the expenditures for public services to the development.

C. Transfer Outside Planning Areas.

From any planning area, allowed residential density may be transferred to any lot within the city with a bonus of 1.2 units at the receiving site for every unit from the sending site, subject to approval of a specific plan for the sending

planning area and an appropriate entitlement for the receiving site, including but not limited to a specific plan, conditional use permit, or a planned development permit. Density transfers shall be reviewed for the effect of such transfers on increasing open space, preserving views, minimizing grading or other land disturbance and reducing the expenditures for public services to the planning area and to the impacts on the receiving site or vicinity.

D. Density Transfer Performance Standards.

1. Density transfers shall not be allowed to Planning Areas, 2, 3, 6, or 7, or 10
2. Density transfers to Planning Areas 5, 8, or 9 shall only be allowed from Planning Areas 1 through 9 10 inclusive.
3. For any receiver site, the applicable specific plan shall be prepared to include an amendment to the applicable permitted land use densities of the Palm Springs general plan.

(Ord. 1707 § 2, 2006; Ord. 1700 § 10, 2006)

Section IV: SPECIFIC CHANGES TO CANYON SOUTH SPECIFIC PLAN

The Canyon South Specific Plan is amended as follows. All changes to existing text shown as underlined, deletions are shown as ~~strikeouts~~.

I. INTRODUCTION

(Reference Maps included as Exhibit I-1 through I-6)

D. Project Description

There are ~~four~~ five distinct components to the project area: the golf course redesign and clubhouse remodeling; the hotel and spa construction; existing and proposed residential development; ~~and conservation / open space, and~~ Environmentally Sensitive Area. The entire planning area encompasses 721± acres of land, including the 145± acres of land for the golf course currently under construction.

Finally, the project boundary will be reduced by approximately 20 acres at the northeast corner, eliminating an area which has been determined to be undevelopable under Stipulated Judgment.

Each component of the plan is described in further detail below. Table I-1 illustrates the acreages and units in each land use designation within the plan.

Table I-1

Land Use Designations within the Plan

		No.	of	No. of Units Previously

Land Use	Acres	Units	Approved
Conservation	255 89	0	16*
Open Space (Golf Course)	145	-	-
Residential	308 218	840 566	834
Hotel	13	450	450
Environmentally Sensitive Area (ESA-SP)	256	6	-
Totals	721	1,260 1,022	1,300
* Subject to provisions of Stipulated Judgment			

Residential Development

The existing and proposed residential developments within the project site will be developed independently from the resort components of the Specific Plan, whereas the previous plan envisioned a master developer for all the lands within the Specific Plan Boundary. The residential developments will range from standard, large-lot single-family subdivisions to cluster designs emphasizing common open space and recreation facilities, and could total up to 840 566 residential units. Some of the residential sited within the plan area have been constructed since the original Specific Plan approval, primarily consisting of individual single family homes. A single family residential tract was also recently approved at the northeast corner of Acanto and South Palm Canyon. The portion of the property described as the area westerly of South Palm Canyon Drive within the designated critical habitat (Study Area) shall remain undeveloped until additional environmental analysis can be performed as to potential impacts to Peninsular Bighorn Sheep (PBS and Casey's June Beetle (CJB)) Although extensive environmental review has been performed for the project, the Study Area is especially sensitive and additional review is warranted. This additional environmental review, which shall be performed before any development is approved within the Study Area, shall address, at a minimum, the proposed development's potential impact on the PBS and CJB. Recovery Plans and potential impacts on designated critical habitat for PBS and CJB.

Environmentally Sensitive Area (entire section added)

The ESA-SP zone is intended to provide for the development of environmentally sensitive areas of the city in a manner that will preserve the open, rural character of these areas while allowing development of ranchettes and clustered single- and multiple family or resort projects. The purpose of the zone is to facilitate the preservation of open space through the creation and implementation of development review considerations that will ensure the evaluation of the suitability of the land for development in a manner which would preserve the character of the land consistent with the policies in Section 92.21.1.05 of this code. The initial Canyon Specific Plan relied on an Environmental Impact Report dated 1991, an Addendum in 2003, and an Addendum in 2006, none of which adequately surveyed Changes of Significance occurring subsequent to 2006.

Residential development in the Environmentally Sensitive Area (ESA-SP) shall be in accordance with the 1DU/40AC density limitation established for other ESA-SP Zones on the Palm Springs General Plan.

The new ESA-SP zone has, and is expected to continue as one of Palm Springs primary eco-tourist destinations, drawing thousands of visitors from around the world who experience, paint, photograph and hike through its scenic beauty.

Within the boundaries of this new ESA-SP Zone / PA-10, the US Fish and Wildlife Service lists 6 endangered species, 2 threatened species, and 32 protected migratory birds. The Casey's June Beetle (CJB) was added to the Federal endangered species list in 2011.

In addition, a 2014 study on climate change in the San Jacinto National Monument by the US Bureau of Land Management and Coachella Valley Mountain Conservancy found ancient pre-Cahuilla Indian petroglyphs on the underside of boulders in the area.

The discovery of ancient artifacts, the possible occurrence of endangered flora and fauna species, in Study Areas within this boundary, and the significant change in migration of Peninsular Bighorn Sheep into the San Jacinto range as a result of climate change and drought are all Findings of Significance that have occurred subsequent to the most recent EIR Amendment.

These Findings of Significance, pursuant to the CEQA Guidelines (CEQA §15065) require that a new or Subsequent EIR be performed prior to any development within the designated ESA-SP Zone.

II. GENERAL PLAN

A. General Plan Consistency

The project site is located in the southern portion of the incorporated City of Palm Springs. As shown in Exhibit II-1, Existing Land Use Designations, the General Plan lists land uses for this area as Parks and Recreation, Golf Course, attached and detached (low, medium and high) Residential, Conservation, and Special Policy Area.

General Plan Land Use:

- H30: High Density Residential
- M15: Medium Density Residential
- L4: Low Density Residential
- L2: Low Density Residential
- C: Conservation
- PR: Parks and Recreation
- Golf Course Symbol
- W: Watercourse
- Special Policy Area (ESA-SP)

B. General Plan Amendment

The current General Plan designation for the southeast corner of Murray Canyon and South Palm Canyon, the proposed hotel site, is M15, Medium Density Residential (see Exhibit II-1). To accommodate the hotel and spa, a General Plan amendment to increase the density will be submitted concurrently with the Specific Plan (see Exhibit II-2). The new designation will be H30 Medium-high Density Residential. This designation provides for the development of a threshold of twenty-one (21) dwelling units per acre and a maximum of thirty (30) units per acre. Appropriate residential development under this designation includes multiple-family apartments, resort hotels and similar permanent and resort housing.

Also as part of this amendment, the designations of H30, M15, and PR west of South Palm Canyon will be removed, leaving only the Low Density Residential (L2) and ~~Conservation~~ (C) Environmentally Sensitive Area – Specific Plan (ESA-SP) designations in this area.

Section V: SPECIFIC CHANGES TO THE GENERAL PLAN

The General Plan of the City of Palm Springs is amended as follows. All changes to existing text shown as *italics*, deletions are shown as ~~strikeouts~~.

Section 2.

LAND USE ELEMENT

SPECIAL POLICY AREAS

Special Policy Area designations have been applied in ~~two~~ three areas of the City: the Chino Cone, ~~and Palm Hills,~~ and Oswit Cone (Canyon and Alluvial Fan). Due to the environmental and visual importance of these ~~two~~ three areas, projects proposed within ~~either~~ any of these Special Policy Areas must be of superior design, demonstrate integration with existing natural features and land forms, be sensitive to biological resources of the site, and create a more desirable living environment than could be achieved through conventional subdivision design and requirements.

Development densities in the Chino Cone and Oswit Cone are one dwelling unit per forty acres (1 du/40 ac). Development applications in excess of this density may be considered with the submittal of a Specific Plan and its associated environmental documentation, which would by action, establish a general plan amendment. In all cases, development within the Chino Cone and Oswit Cone Special Policy Area must be consistent with the Environmentally Sensitive Development Areas Specific Plan Ordinance (ESA-SP) in the Palm Springs Zoning Code. The Palm Hills Special Policy Area allows residential and resort development at a maximum of 1 dwelling unit/hotel unit per acre, not to exceed a total of 1,200 units. Any development proposed in the Palm Hills area will require the preparation of a Specific Plan and a related environmental impact report.

Ordinance No. _____

Changes to Residential Buildout Estimates, Table 2-1 of the General Plan follow.

Changes to be made to Table 2-1 shown as follows:

**Table 2-1
Residential Buildout Estimates
Proposed General Plan**

Land Use Designation	Estimated Density (units/acre)	Acres ¹	Dwelling Units	Persons per ² Household	Population ³	Hotel Rooms
Residential						
Estate Residential (0-2 du/ac)	1.5	1,731	2,571	2.08	4,892	
Very Low (2.1-4.0 du/ac)	3.5	2,654	9,411	2.08	18,608	
Low (4.1-6.0 du/ac)	5.25	1,024 941	5,414 5,170	2.08	10,696	
Medium (6.1-15 du/ac)	10.0	1,437	14,652	2.08/1.78 ⁴	26,739	
High (15.1-30 du/ac)	20.0	582	12,192	1.78	20,742	3,047 ⁵
<i>Subtotal</i>		7,435 7,345	47,749 43,996		81,677	3,047
Mixed Use						
Mixed/Multi-Use	12.0	330	1,648	2.08/1.78	2,987	
Central Business District (CBD) ⁷	varies	126	1,396	1.78	2,361	
<i>Subtotal</i>		456	3,044		5,348	
Open Space						
Mountain (1 du/40.0 ac)	0.025	52,113	742 ⁶	2.08	1,466	
Conservation (1 du/20.0 ac)	0.05	4,284 1,118	64	2.08	127	
Desert (1 du/10.0 ac)	0.10	4,305	402	2.08	588	
<i>Subtotal</i>		67,702 57,536	1,208		2,181	
Other						
Special Policy Areas ⁸	varies	4,234 4,487	2,577 2,583	2.08	5,093	923
Small Hotel	10.0	67	337	1.78	650	501
Right-of-Way Acreage		2,839				
Railroad		311				
<i>Subtotal</i>		7,448	2,914		5,743	1,424
TOTAL		73,041	51,406		94,949	4,471⁹

Notes:

1 The acreages include properties located within the Sphere of Influence and do not include streets.

2 Single-family persons per household (2.08) taken from the California Department of Finance (2004) estimates. Multifamily persons per household (1.78) based upon 1993 General Plan estimates.

3 A 5 percent vacancy rate is assumed for population.

4 It is assumed that half of the units in the Medium Density Land Use designation will be single-family and half of the units will be multifamily.

5 The High Density Land Use designation allows hotels up to 43 rooms per acre; 30 rooms per acre were assumed for areas outside of Section 14.

6 This number accounts for areas that are not developable due to the presence of slopes steeper than 30 percent.

7 Portions of the CBD fall within the Section 14 Specific Plan and were calculated to correspond with the number of units permitted by the Specific Plan. Additionally, the number of units projected in the CBD considered the varying heights and intensities permitted at the gateways into Downtown and within the Downtown core.

8 Special Policy Areas are applied to the Chino Cone, Oswit Cone (alluvial fan and canyon), and Palm Hills areas. The density, number of units, and types of uses vary in each area.

9 Overall, the General Plan land uses will accommodate 12,976 total hotel rooms (total of hotel rooms allowed in residential and nonresidential land uses).

Section VI: COMPLETE LISTING OF PROPERTIES, MAPS AND LEGAL DESCRIPTIONS

The following is a full list of the properties affected by this Ordinance.

PARCEL 1: (APN 513-460-029)

SOUTHEAST CORRIDOR OF THE NORTHWEST CORRIDOR OF SECTION 34 TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS. ALSO REFERRED TO AS BIA 74E. *(Approximately 39.73 acres)*

PARCEL 2: (APN 513-460-033)

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE DISTRICT LAND OFFICE.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN TRACT NO. 10527, AS SHOWN BY MAP ON FILE IN BOOK 102 PAGE(S) 43 TO 45 INCLUSIVE, OR MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. (PORTION APN 513-460-033)

AND

THE SOUTH HALF OF GOVERNMENT LOT 7 AND ALL OF GOVERNMENT LOT 12 OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE DISTRICT LAND OFFICE.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN TRACT NO. 10527, AS SHOWN BY MAP ON FILE IN BOOK 102 PAGE(S) 43 TO 45 INCLUSIVE, OR MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA. (PORTION APN 513-460-033) *(Approximately 54.37 acres)*

PARCEL 3: (APN 513-460-013)

THE SOUTH HALF OF THE SOUTHWEST QUARTER, AND THE WEST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST SAN BERNARDINO BASE AND MERIDIAN, AS SHOWN ON THE PLAT MAP. *(Approximately 100 acres)*

PARCEL 4: (APN 513-460-010)

THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS, ACCORDING TO THE OFFICIAL PLAT THEREOF. *(Approximately 20 Acres)*

PARCEL 5: (APN 513-460-001)

THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS, ACCORDING TO THE OFFICIAL PLAT THEREOF. *(Approximately 20 Acres)*

PARCEL 6: (APN 513-460-003)

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 4 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF PALM SPRINGS, ACCORDING TO THE OFFICIAL PLAT THEREOF. *(Approximately 20 Acres)*

Section VII: IMPLEMENTATION

A. The date the notice of intention to circulate this initiative measure was submitted to the City's elections official is referenced herein as the "submittal date." The City General Plan, its Specific Plans, and Zoning Ordinance in effect on the submittal date and the General Plan and Zoning Ordinance as amended by this Initiative comprise an integrated, internally consistent, and compatible statement of policies for the City. In order to ensure that nothing in this initiative measure would prevent the General Plan and its Specific Plans from being integrated, internally consistent, and compatible statements of the policies of the City, as required by state law, and to ensure that the actions of the voters in enacting this initiative are given effect, any amendment to the General Plan, or new Specific Plan, that is adopted between the submittal date and the date that the General Plan is amended by this Initiative shall, to the extent that such interim-enacted amendment or Specific Plan is inconsistent with the General Plan provisions of this initiative, be amended as soon as possible and in the manner and time required by state law to ensure consistency between the provisions adopted by this initiative and other elements of the General Plan.

B. The City Council is hereby authorized and directed to amend the General Plan, the Land Use and Circulation Element, all specific plans, and the Zoning Ordinance, and any other ordinance and policies, in order to implement this Initiative and to the extent any of the foregoing are affected by this Initiative as soon as possible and in the manner and time required by any applicable state law, to ensure consistency between the policies adopted in this Initiative and other elements of the foregoing laws and policies.

Section VIII: EFFECTIVE DATE

The provisions of this Initiative shall be considered to be adopted on the date that the vote is declared by the legislative body.

Section IX: AMENDMENT OR REPEAL

Once this Initiative becomes effective, no provision of this initiative may be amended or repealed except by a majority of the voters of the City of Palm Springs voting on the amendment or repeal in a special or general election.

Section X: JUDICIAL ENFORCEMENT OR LEGAL DEFENSE

The proponents of this Initiative shall have the right to maintain an action for equitable relief to restrain any violation of this Initiative, to enforce the duties imposed on the City by this Initiative, or to defend the Initiative in the event of a legal challenge to the Initiative after it is approved by the voters.

Section XI: PRIORITY

Once this Initiative becomes effective, no provision of this initiative may be amended or repealed except by a majority of the voters of the City of Palm Springs voting on the amendment or repeal in a special or General election.

Section XII: SEVERABILITY

If any provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction within the State of California, such decision shall not affect the validity of the remaining provisions. The People declare that they would have adopted the remaining provisions irrespective of the provisions, sections, sentences, clauses, or words declared invalid or unconstitutional.

(end of initiative language)

The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance, as a result of a qualified initiative petition, and shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM SPRINGS THIS 1ST DAY OF MARCH, 2017.

ATTEST:

ROBERT MOON, MAYOR

**KATHLEEN D. HART, MMC
INTERIM CITY CLERK**

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, KATHLEEN D. HART, Interim City Clerk of the City of Palm Springs, hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was adopted at a regular meeting of the City Council held on the 1st day of March, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

KATHLEEN D. HART, MMC
INTERIM CITY CLERK