



# City Council Staff Report

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DATE: July 26, 2017

CONSENT CALENDAR

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 1931, APPROVING A DEVELOPMENT AGREEMENT WITH PS COUNTRY CLUB, LLC, RELATED TO CONVERSION OF THE PALM SPRINGS COUNTRY CLUB GOLF COURSE INTO A RESIDENTIAL SUBDIVISION OF UP TO 386 RESIDENTIAL UNITS IDENTIFIED AS THE SERENA PARK PROJECT, LOCATED NORTH OF VERONA ROAD, EAST OF SUNRISE WAY AND SOUTHWEST OF THE WHITEWATER RIVER WASH (CASE NOS. 5.1327, PD-366, ZC, GPA, DA, MAJ AND TTM 36691).

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

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## SUMMARY:

The City Council will consider adoption of Ordinance No. 1931.

## RECOMMENDATION:

Waive the second reading of the ordinance text in its entirety, read by title only, and adopt Ordinance No. 1931, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT WITH PS COUNTRY CLUB, LLC, RELATED TO CONVERSION OF THE PALM SPRINGS COUNTRY CLUB GOLF COURSE INTO A RESIDENTIAL SUBDIVISION OF UP TO 386 RESIDENTIAL UNITS IDENTIFIED AS THE SERENA PARK PROJECT, LOCATED NORTH OF VERONA ROAD, EAST OF SUNRISE WAY AND SOUTHWEST OF THE WHITEWATER RIVER WASH (CASE NOS. 5.1327, PD-366, ZC, GPA, DA, MAJ AND TTM 36691)."

## STAFF ANALYSIS:

On July 19, 2017, Ordinance No. 1931 was introduced for first reading, as noted below:

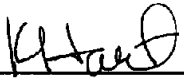
**ACTION:** 1) Waive the reading of text in its entirety, read by title only, and introduce for first reading Ordinance No. 1931, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT WITH PS COUNTRY CLUB, LLC, RELATED TO CONVERSION OF THE PALM SPRINGS COUNTRY CLUB GOLF COURSE INTO A RESIDENTIAL SUBDIVISION OF UP TO 386 RESIDENTIAL UNITS IDENTIFIED AS THE SERENA PARK PROJECT, LOCATED NORTH OF VERONA ROAD, EAST OF SUNRISE WAY AND SOUTHWEST OF THE WHITEWATER RIVER WASH (CASE NOS. 5.1327, PD-366, ZC, GPA, DA, MAJ AND TTM 36691)."

ITEM NO. 1.E.

**Motion by Councilmember Roberts, seconded by Councilmember Mills, and carried (4-0-1) by a majority vote.**

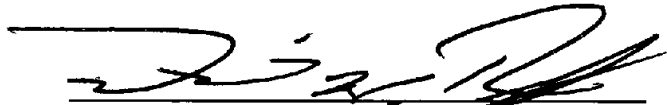
**AYES:** Councilmembers Kors, Mills, Roberts, and Mayor Moon  
**NOES:** None  
**ABSENT:** Mayor Pro Tem Foat

This report provides for the City Council to waive further reading and adopt the ordinance. The ordinance shall be effective 30-days from adoption.



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Kathleen D. Hart, MMC  
Interim City Clerk



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David H. Ready, Esq., Ph.D.  
City Manager

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Attachment:  
Ordinance No. 1931

ORDINANCE NO. 1931

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT WITH PS COUNTRY CLUB LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, RELATED TO CONVERSION OF THE PALM SPRINGS COUNTRY CLUB GOLF COURSE INTO A RESIDENTIAL SUBDIVISION OF UP TO 386 RESIDENTIAL UNITS IDENTIFIED AS THE SERENA PARK PROJECT, LOCATED NORTH OF VERONA ROAD, EAST OF SUNRISE WAY AND SOUTHWEST OF THE WHITEWATER RIVER WASH (CASE NOS. 5.1327, PD-366, ZC, GPA, DA, MAJ AND TTM 36691).

*City Attorney's Summary*

*This Ordinance approves a Development Agreement for a term of 20 years vesting the discretionary entitlements associated with the Serena Park Project, identified by Case No.'s 5.1327, PD-366, ZC, DA, MAJ, and TTM 36691. Pursuant to the terms of the Development Agreement, payment to the City of an in-lieu fee for acquisition of open space is required to ensure compliance with General Plan Land Use Policy 2.2 in exchange for transfer of density onto the underlying property.*

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

A. Palm Springs Country Club, LLC, a California limited liability company, ("Applicant" or "Developer") filed an application pursuant to Palm Springs Zoning Code Section 94.07.00 (*Zone Map Change / Change of Zone*) and Section 94.03.00 (*Planned Development District*) seeking approval of a Planned Development District in lieu of a Change of Zone (Case 5.1327 PD-366) to construct 386 residential dwellings, private streets and open space, including a public park, on 126-acres of previously disturbed land (defunct golf course) generally located north of Verona Road, east of Sunrise Way, and southwest of the Whitewater River channel (APN 501-190-002, 501-190-011, 669-480-027) ("Project").

B. The Applicant submitted related Project applications, including a General Plan Amendment (Case 5.1327 PD-366/GPA) to change the land use designation from "Open Space – Parks/Recreation" to "Very Low Density Residential;" a Tentative Tract Map application (Case TTM 36691) to subdivide the subject property into 386 residential lots and common area parcels for public and private streets and open space pursuant to Title 9 of the Palm Springs Municipal Code; a Major Architectural application to review proposed architecture pursuant to Section 94.04.00 of the Zoning Code; and a

Development Agreement (Case 5.1327 DA) to establish conditions, terms and obligations for the development of the Project.

C. In accordance with Section 15063 of the California Environmental Quality Act (CEQA) Guidelines, the City of Palm Springs as the Lead Agency conducted an Initial Study and determined that the Project raised potentially significant concerns. An Environmental Impact Report (EIR) was prepared to assure adequate review and analysis of potentially significant impacts associated with the Project.

D. A notice of a public hearing of the Planning Commission of the City of Palm Springs, California to consider the above-mentioned applications was given in accordance with applicable law, and on April 13, 2016, the Planning Commission carefully reviewed and considered all of the evidence presented in connection with the hearing on the Project, including but not limited to the staff report, and all written and oral testimony presented, and voted 5-1 to recommend approval to the City Council of the Project.

E. On April 27, 2016, the Planning Commission carefully reviewed and considered all of the evidence presented in connection with the proposed Development Agreement, and voted 6-0 to recommend approval to the City Council.

F. A notice of public hearing of the City Council of the City of Palm Springs, California to consider the above-mentioned applications was given in accordance with applicable law and on September 7, 2016, the City Council held a public hearing in accordance with applicable law, and carefully reviewed and considered all of the evidence presented in connection with the hearing on the Project, including but not limited to the staff report, and all written and oral testimony presented. The City Council reviewed and certified the Final EIR for the Project by adopting its Resolution No. 24082, identified as (Case No. 5.1327, PD-366, and TTM 36691), and voted 5-0 to conditionally approve the Project.

G. As part of the conditional approval of the Project, the City Council included Administrative Condition (ADM 13) which states: *“Approval of these land use entitlement applications is contingent upon the approval of a development agreement. The development agreement shall address the conversion of open space for development purposes, through in-kind replacement of open space, payment of in-lieu fees for the acquisition of open space, or replacement of open space through a density transfer, pursuant to Policy LU2.2 of the City of Palm Springs General Plan.”*

H. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California has enacted California Government Code § 65864 et seq. (the “Development Agreement Statute”), which authorizes City to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property. This Development Agreement has been processed,

considered, and approved in accordance with the procedures and requirements as set forth in the Development Agreement Statute., and

I. Pursuant to Government Code section 65865(c), the City of Palm Springs previously adopted Ord. 1829 § 3, 2013; Ord. 1294, 1988 [PSMC § 94.08.00], that set forth rules and regulations establishing procedures and requirements for consideration of development agreements. This Development Agreement has been processed, considered, and approved in accordance with the procedures and requirements as set forth in the City's Ordinances and Municipal Codes.

J. Notice of a public hearing of the City Council of the City of Palm Springs, California, to consider the Development Agreement was given in accordance with applicable law for the meeting of July 19, 2017. The City Council held a public hearing in accordance with applicable law, considered the Staff Report and all evidence and testimony presented.

K. The City Council finds that no further environmental documentation beyond the documentation prepared in conjunction with the EIR for the Project is required because: (i) there are no substantial changes in the project that will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (ii) there are no substantial changes with respect to the circumstances under which the project is being undertaken which will require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (iii) there is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified showing that: (a) the project will have one or more significant effects not discussed in the EIR; (b) significant effects previously examined will be substantially more severe than shown in the EIR; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but those mitigation measures or alternatives have not been adopted; or (d) mitigation measures or alternatives considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the mitigation measures or alternatives have not been adopted. (Public Resources Code section 21166; CEQA Guidelines section 15162.)

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

Section 1. The foregoing findings are all true and correct.

Section 2. The Final EIR for the Project is the controlling environmental document for the Council's consideration of the Development Agreement.

Section 3. The Development Agreement complies with the provisions of the Palm Springs Municipal Code PSMC § 94.08.00, as follows:

- a. The Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan.

The Development Agreement is consistent with the City of Palm Springs General Plan in that the Development Agreement directly reflects the land uses approved through General Plan Amendment Case No. 5.1327, Planned Development District-366, and Tentative Tract Map 36691 by the City Council, and these land uses are either permitted or conditionally permitted in the General Plan Land Use Element.

- b. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.

Tentative Tract Map 36691 is consistent with the General Plan Land Use Element, because the General Plan designation for the site is Very Low Density Residential (up to 4 du/ac). Tentative Tract Map 36691 was approved with a maximum of 386 residential units with a maximum density of 3.1 dwelling units per acre (du/ac) and is thus consistent with the General Plan in terms of density.

- c. The Development Agreement is in conformity with public convenience, general welfare and good land use practice.

The Development Agreement is in conformance with established City goals, objectives, and regulations outlined in the City's General Plan and the City's Zoning Ordinance.

- d. The Development Agreement will not be detrimental to the health, safety and general welfare.

The Development Agreement is not detrimental to the health, safety, and welfare of the community in that all established zoning and development standards continue to be applicable.

- e. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values.

The Development Agreement reflects the approved conditions of approval of the Project which serve to insure the preservation of property values in the vicinity.

Section 4. The Development Agreement is hereby approved in exchange for the following mutual benefits:

- a. The Development Agreement will assure adequate public facilities at the time of development.

- b. The Development Agreement will assure development in accordance with City's land use policies and goals
- c. The Development Agreement will provide for orderly growth consistent with the City's General Plan, and other public policies.
- d. The Development Agreement is intended to provide certainty in the development approval process by vesting the permitted uses, densities and intensity of use with respect to the subject property.
- e. The execution of this Agreement furthers the public health, safety and general welfare of the community.
- f. The Development Agreement will remove a nuisance situation and potential liability due to the blight at no cost to City.
- g. The Development Agreement will protect residents and the City from the issues that typically accompany blighted areas.
- h. The Development Agreement will allow development of a blighted area with appropriate housing and open space that is compatible with the surrounding neighborhoods.
- i. The Development Agreement will reduce potential trespasses and nuisances affecting adjacent neighborhoods.
- j. The Development Agreement will reduce air pollution by reason of a significant reduction in wind borne dust and sand to adjacent neighborhoods.
- k. The Development Agreement will increase parkland in an underserved area of the City.
- l. The Development Agreement will allow legal commitments by Developer over and above those allowed by state law and the Palm Springs Municipal Code requirements.

Section 5. Approval of the Serena Park Project Development Agreement. The City Council hereby approves the Serena Park Project Development Agreement, the text of which is set forth in the document entitled "Development Agreement by and between City of Palm Springs and PS Country Club, LLC, a California limited liability company, for Serena Park Project, Case No. 5.1327, PDD-366, TTM36691," and authorizes execution thereof by the City Manager. The provisions of this section shall apply to all property described on Exhibit "A".

Section 6. The Palm Springs Zoning Code § 94.08 is hereby amended by adding Section 94.08.09 to read as follows:

"Section 94.08.09 Serena Park Project Development Agreement

A. Serena Park Project Development Agreement

1. Purpose. The purpose of this section is to establish a development agreement to guide the orderly development and improvement of that portion of the city previously

developed as the Palm Springs Country Club golf course, which is located north of Verona Road, east of Sunrise Way, and southwest of the Whitewater River Wash, in Section 36, Township 3 South, Range 4 East, and in Section 1, Township 4 South, Range 4 East, San Bernardino Base and Meridian, in the City of Palm Springs as legally described on Exhibit "A" of the Development Agreement, attached to the Ordinance codified in this section and incorporated herein by reference. The property is designated Very Low Density Residential (VLDR) land use designation in the general plan, as applicable. Hereafter, the property shall also be designated "Development Agreement No. 5" or "DA5" which shall be an overlay designation incorporating the restrictions of the "Serena Park Project Development Agreement". The Serena Park Project Development Agreement replaces within said property the usual development standards otherwise applicable to the property. The Serena Park Project Development Agreement provides for ultimate development of a residential project consisting of 92 attached single-family units on minimum 5,000 square foot lots, 214 detached single-family units on minimum 5,000 square foot lots, and 60 detached single family units on minimum 8,000 square foot lots, and is consistent with the general plan objectives, policies, and programs of the City.

2. Adoption of Serena Park Project Development Agreement. There is adopted the Serena Park Project Development Agreement, the text of which is set forth in the document entitled "Development Agreement by and between City of Palm Springs and PS Country Club, LLC, a California limited liability company, for Serena Park Project, Case No. 5.1327, PDD-366, TTM36691," included with the ordinance which codified this section, which agreement is incorporated in this section by reference. The provisions of this section shall apply to all property described on Exhibit "A" attached to the Development Agreement and incorporated herein by reference.

3. Property Development and Other Standards. All property which is subject to the Serena Park Project Development Agreement shall be maintained in accordance with all policies, requirements, regulations, and provisions set forth in the Serena Park Project Development Agreement. The developer's performance of its obligations under the Serena Park Project Development Agreement shall be subject to annual review as provided therein.

Section 7. The Official Zoning Map of the City of Palm Springs is hereby amended by reclassifying from PD-366 to being subject to the Serena Park Project Development Agreement "Development Agreement No. 5" or "DA5," all of that real property described in Exhibit "A".

Section 8. EFFECTIVE DATE. This Ordinance shall be in full force and effect thirty (30) days after passage.

Section 9. PUBLICATION. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance, and to cause the same or a summary thereof or a display advertisement, duly prepared according to law, to be published in accordance with law.



PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 26<sup>TH</sup> DAY OF JULY, 2017.

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ROBERT MOON, MAYOR

ATTEST:

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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, do hereby certify that Ordinance No. 1931 is a full, true, and correct copy, and was introduced at a regular meeting of the Palm Springs City Council held on July 19, 2017, and adopted at an adjourned regular and special meeting held on July 26, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
KATHLEEN D. HART, MMC  
INTERIM CITY CLERK