

RESOLUTION NO. _____.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AN APPEAL BY TRAVIS COMPANIES, INC. AND OVERTURNING THE DECISION OF THE PLANNING COMMISSION TO DENY A CONDITIONAL USE PERMIT AND VARIANCE APPLICATION FOR THE CONSTRUCTION AND OPERATION OF A GASOLINE SERVICE STATION LOCATED AT 4701 EAST PALM CANYON DRIVE, CASE NO. 5.1241 CUP & 6.521 VAR.

WHEREAS, the Travis Companies, Inc. ("Applicant") on behalf of Vons – A Safeway Company, filed an application with the City pursuant to Section 94.02.00, 94.04.00 and 94.06.00 of the Palm Springs Zoning Code (PSZC) for a gasoline service station with a reduced setback to residentially zoned properties for the property located at 4701 East Palm Canyon Drive (APN: 681-170-021), Zone W-C-D-N, Section 30; and

WHEREAS, on June 23, 2010, a noticed public hearing was conducted by the Planning Commission in accordance with applicable law; and

WHEREAS at said public hearing, the Planning Commission carefully reviewed and considered all the evidence presented in connection with the hearing on the project, including but not limited to the staff report, all written and oral testimony presented and a motion to approve the project failed on a vote of 2-5; thus the Planning Commission action was to deny Case 5.1241 CUP and 6.521 VAR; and

WHEREAS, on June 28, 2010, the Travis Companies, Inc. ("Appellant") on behalf of Vons – A Safeway Company, filed an appeal with the City Clerk, pursuant to Chapter 2.05 of the Municipal Code, of the Planning Commission's decision to deny the proposed gasoline service station on the vacant parcel located at 4701 East Palm Canyon Drive; and

WHEREAS, on July 21, 2010, a public hearing on the appeal was held by the City Council in accordance with applicable law; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the appeal hearing on the project, including, but not limited to the staff report and all written and oral testimony presented.

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

SECTION 1. Pursuant to the California Environmental Quality Act (CEQA Guidelines), the City Council finds that Case No. 5.1241-CUP and Case No. 6.521 Variance are Categorical Exceptions under Section 15332 – in-fill developments. The

City Council further finds that there are no reasonably foreseeable potentially significant environmental impacts resulting from this project.

SECTION 2. Pursuant to PSZC Section 94.06.00 (Variance), the City Council finds as follows:

1) Because of the special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Code would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

The proposed use is within an existing neighborhood shopping center that is located at the southeast corner of Matthew Drive and Highway 111. The shopping center is comprised of nine individual lots, eight of which are developed. The remaining vacant lot is seventy feet from a residential zone. Strict application of the Zoning Code would prohibit the development of a gasoline service station on this lot and therefore anywhere in the center.

2) Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.

A setback reduction of 105 feet to a residential zone will not constitute a grant of special privilege. In order provide an adequate buffer, there is approximately 150 feet from the nearest residential property line to the fuelling area. This buffer includes Matthew Drive, a twenty-five foot landscape area (with berming, plants, and trees) and the kiosk building. The setback has maintained the integrity of the Zoning Code and would not constitute a grant of special privilege that is inconsistent with the limitations placed upon other properties in the vicinity and zoning designation.

3) The granting of the variance will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity and zone in which subject property is situated.

The automobile service station use will be required to follow all local, state and federal laws, including permitting, certification and on-going maintenance. The variance to allow a reduction of setback will not be materially detrimental to the public health, safety, convenience, or welfare or injurious to property and improvements in the same vicinity.

4) *The granting of such variance will not adversely affect the general plan of the city.*

The proposed project has been analyzed against the policies of the General Plan and no inconsistencies have been found.

SECTION 3. Pursuant to PSZC Section 94.02.00 (Conditional Use Permit), the City Council finds as follows:

1) *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

The site is located within the W-C-D-N (Designed Neighborhood Shopping Center) zone. Pursuant to Section 92.10.01(D)(1) of the PSZC, a gasoline service station is permitted with the approval of Conditional Use Permit.

2) *That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*

The General Plan designation of the subject site is NCC (Neighborhood / Community Commercial). The General Plan states,

Areas designated as Neighborhood / Community Commercial provide an opportunity for convenience commercial uses that serve adjacent residential neighborhoods. The commercial opportunities created under this designation are intended to be an integrated element of the neighborhood, providing to nearby residents services such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores, and smaller-scale restaurants. Harmonious relationships between these commercial uses and adjacent residential uses shall be achieved through compatibility of site design, building scale, pathways and circulation design, and architectural treatment of structures.

The proposed gasoline service station will be located within an existing neighborhood shopping center, which serves the surrounding neighborhoods and motorists traveling on Highway 111. The design of the proposed gasoline station includes elements of the existing shopping center architecture and enhanced landscaping, including berming. This

will create harmonious relationship with adjacent residential through integrating the designs and reducing the overall scale by landscape berming.

3) *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*

The proposed gasoline service station will have four double-sided bays – a total of eight gasoline service pumps. Based on the size of the lot, the zoning code permits a total of seventeen gasoline service pumps. The site also includes a 750 square foot kiosk building, paving, parking and landscaping. Approximately forty-six percent of the site is landscaping, which includes berming. Therefore, the subject site is adequate in size and shape to accommodate such use to those existing or permitted future uses of land in the neighborhood.

4) *That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*

The only access to the site is from within the existing shopping center. The site plan shows fifty feet of driveway for vehicle queuing, which will allow for safe circulation within the center and surrounding streets.

5) *That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards.*

Specific conditions of approval include operational limitations. All proposed conditions of approval are necessary to ensure compliance with the Zoning Ordinance requirements and to ensure the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the City Council hereby approves Case 5.1241-CUP / 6.521-VAR, for the construction of an automobile gasoline station at 4701 East Palm Canyon Drive, subject to the attached conditions set forth in Exhibit A.

ADOPTED this 22nd day of September, 2010.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

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

I, JAMES THOMPSON, 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 _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

EXHIBIT A

Case 5.1241 CUP & 6.521 VAR
Automobile Gasoline Station

4701 East Palm Canyon Drive

September 22, 2010

CONDITIONS OF APPROVAL

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

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

PROJECT SPECIFIC CONDITIONS

- PSP 1. The applicant shall revise the project and resubmit to the Planning Department for review by the Architectural Advisory Committee and final approval by staff. The revisions shall focus on the following:
- Use the basic architectural elements of the newly remodeled shopping center in design of structure(s);
 - Canopy and Kiosk structure should be lowered;
 - Canopy and Kiosk structure should have integral design;
 - Landscaping needs to be enhanced;
 - Increase landscape area on east planter;
 - Kiosk building should not have 'back of house' design on three sides.
- PSP 2. The applicant shall investigate and install, if feasible, an electrical vehicle plug-in station. Plans for the plug-in station's location shall be submitted to the Director of Planning Services for approval prior to issuance of any building permits.

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case 5.1241 CUP & 6.521 VAR, except as modified by the conditions below.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans including site plans, architectural

elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division, except as modified by the conditions below.

- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 5.1241 CUP & 6.521 VAR. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.
- ADM 6. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 7. Time Limit on Approval. Approval of this Conditional Use Permit shall be valid for a period of two (2) years from the effective date of the approval. Once constructed, the Conditional Use Permit, provided the project has

remained in compliance with all conditions of approval, does not have a time limit.

- ADM 8. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 9. Public Art Fees. This project shall be subject to Chapters 2.24 and 3.37 of the Municipal Code regarding public art. The project shall either provide public art or payment of an in lieu fee. In the case of the in-lieu fee, the fee shall be based upon the total building permit valuation as calculated pursuant to the valuation table in the Uniform Building Code, the fee being 1/2% for commercial projects or 1/4% for residential projects with first \$100,000 of total building permit valuation for individual single-family units exempt. Should the public art be located on the project site, said location shall be reviewed and approved by the Director of Planning and Zoning and the Public Arts Commission, and the property owner shall enter into a recorded agreement to maintain the art work and protect the public rights of access and viewing.
- ADM 10. Cause No Disturbance. The owner shall monitor outdoor parking areas, walkways, and adjoining properties and shall take all necessary measures to ensure that customers do not loiter, create noise, litter, or cause any disturbances while on-site. The owner and operator shall ensure that at closing time, all customers leave the property promptly and that the property is clean and secure before the owner / operator leaves the premises. The Police Chief, based upon complaints and/or other cause, may require on-site security officers to ensure compliance with all City, State, and Federal laws and conditions of approval. Failure to comply with these conditions may result in revocation of this permit, temporary business closure or criminal prosecution.
- ADM 11. Comply with City Noise Ordinance. This use shall comply with the provisions of Section 11.74 Noise Ordinance of the Palm Springs Municipal Code. Violations may result in revocation of this Conditional Use Permit.
- ADM 12. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers.

ENVIRONMENTAL ASSESSMENT CONDITIONS

- ENV 1. Tribal Habitat Conservation Plan (THCP). Prior to issuance of grading permit, the applicant shall provide verification to the City that the has been paid to the Agua Caliente Band of Cahuilla Indians in accordance with the Tribal Habitat Conservation Plan.

- ENV 2. Notice of Exemption. The project is exempt from the California Environmental Quality Act (CEQA); therefore, an administrative fee of \$64 shall be submitted by the applicant in the form of a money order or a cashier's check payable to the Riverside County Clerk within two business days of the Commission's final action on the project. This fee shall be submitted by the City to the County Clerk with the Notice of Exemption. Action on this application shall not be considered final until such fee is paid (projects that are Categorically Exempt from CEQA).

PLANNING DEPARTMENT CONDITIONS

- PLN 1. Outdoor Lighting Conformance. Exterior lighting plans, including a photometric site plan showing the project's conformance with Section 93.21.00 Outdoor Lighting Standards of the Palm Springs Zoning ordinance, shall be submitted for approval by the Department of Planning prior to issuance of a building permit. Manufacturer's cut sheets of all exterior lighting on the building and in the landscaping shall be included. If lights are proposed to be mounted on buildings, down-lights shall be utilized. There shall be no footcandle spill onto adjacent streets or properties from the subject use. No lighting of hillsides is permitted.
- PLN 2. Water Efficient Landscaping Conformance. The project is subject to the Water Efficient Landscape Ordinance (Chapter 8.60.00) of the Palm Springs Municipal Code and any state water efficiency ordinances. The applicant shall submit a landscape and irrigation plan to the Director of Planning for review and approval prior to the issuance of a building permit. Landscape plans shall be wet stamped and approved by the Riverside County Agricultural Commissioner's Office prior to submittal. Prior to submittal to the City, landscape plans shall also be certified by the Desert Water Agency that they are in conformance with the State Water Efficient Landscape Ordinance. Refer to Chapter 8.60 of the Municipal Code for specific requirements.
- PLN 3. Sign Applications Required. No signs are approved by this action. Separate approval and permits shall be required for all signs in accordance with Zoning Ordinance Section 93.20.00.
- PLN 4. Flat Roof Requirements. Roof materials on flat roofs must conform to California Title 24 thermal standards for "Cool Roofs". Such roofs must have a minimum initial thermal emittance of 0.75 and minimum initial solar reflectance of 0.70. Only matte (non-specular) roofing is allowed in colors such as off-white, beige or tan. Bright white should be avoided where possible."
- PLN 5. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned.

- PLN 6. Screen Roof-mounted Equipment. All roof mounted mechanical equipment shall be screened per the requirements of Section 93.03.00 of the Zoning Ordinance.
- PLN 7. Surface Mounted Downspouts Prohibited. No exterior downspouts shall be permitted on any facade on the proposed building(s) that are visible from adjacent streets or residential and commercial areas.
- PLN 8. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 9. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 10. No off-site Parking. Vehicles associated with the operation of the proposed development including company vehicles or employees vehicles shall not be permitted to park off the proposed building site unless a parking management plan has been approved.
- PLN 11. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness, and the decibel level measured at property lines shall not exceed street background noise normally occurring at the site location.

POLICE DEPARTMENT CONDITIONS

- POL 1. Developer shall comply with Section II of Chapter 8.04 "Building Security Codes" of the Palm Springs Municipal Code.

BUILDING DEPARTMENT CONDITIONS

- BLD 1. Prior to any construction on-site, all appropriate permits must be secured.

ENGINEERING DEPARTMENT CONDITIONS

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the City Engineer.

STREETS

- ENG 1. Any improvements within the public right-of-way require a City of Palm Springs Encroachment Permit and/or a copy of an approved Caltrans encroachment permit (for work on Highway 111).

E. PALM CANYON DRIVE (STATE HIGHWAY 111)

ENG 2. All broken or off grade street improvements shall be repaired or replaced.

MATTHEW DRIVE

ENG 3. All broken or off grade street improvements shall be repaired or replaced.

ON-SITE

ENG 4. Nothing shall be constructed or planted in the corner cut-off area of any on-site intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance in accordance with City of Palm Springs Zoning Code Section 93.02.00, D.

ENG 5. The minimum pavement section for all on-site drive aisles and parking spaces shall be 2½ inches asphalt concrete pavement over 4 inches crushed miscellaneous base with a minimum subgrade of 24 inches at 95% relative compaction, or equal. If an alternative pavement section is proposed, the proposed pavement section shall be designed by a California registered Geotechnical Engineer using "R" values from the project site and submitted to the City Engineer for approval.

SANITARY SEWER

ENG 6. All sanitary facilities shall be connected to the public sewer system. The existing sewer service to the property shall be used for new sanitary facilities. New laterals shall not be connected at manholes.

GRADING

ENG 7. Submit a Precise Grading and Paving Plan prepared by a California registered Civil engineer to the Engineering Division for review and approval. The Precise Grading and Paving Plan shall be approved by the City Engineer prior to issuance of grading permit.

- a. A Fugitive Dust Control Plan shall be prepared by the applicant and/or its grading contractor and submitted to the Engineering Division for review and approval. The applicant and/or its grading contractor shall be required to comply with Chapter 8.50 of the City of Palm Springs Municipal Code, and shall be required to utilize one or more "Coachella Valley Best Available Control Measures" as identified in the Coachella Valley Fugitive Dust Control Handbook for each fugitive dust source such that the applicable performance standards are met. The applicant's or its contractor's Fugitive Dust Control Plan shall be prepared by staff that has completed the South Coast Air Quality Management District (AQMD)

Coachella Valley Fugitive Dust Control Class. The applicant and/or its grading contractor shall provide the Engineering Division with current and valid Certificate(s) of Completion from AQMD for staff that have completed the required training. For information on attending a Fugitive Dust Control Class and information on the Coachella Valley Fugitive Dust Control Handbook and related "PM10" Dust Control issues, please contact AQMD at (909) 396-3752, or at <http://www.AQMD.gov>. A Fugitive Dust Control Plan, in conformance with the Coachella Valley Fugitive Dust Control Handbook, shall be submitted to and approved by the Engineering Division prior to approval of the Precise Grading and Paving Plan.

- b. The first submittal of the Precise Grading and Paving Plan shall include the following information: a copy of final approved conformed copy of Conditions of Approval; a copy of a final approved conformed copy of the Site Plan; a copy of current Title Report; a copy of Soils Report; and a copy of the project-specific Water Quality Management Plan/Report.
- ENG 8. Prior to approval of the Precise Grading and Paving Plan, the applicant shall obtain written approval to proceed with construction from the Agua Caliente Band of Cahuilla Indians, Tribal Historic Preservation Officer or Tribal Archaeologist. The applicant shall contact the Tribal Historic Preservation Officer or the Tribal Archaeologist at (760) 699-6800, to determine their requirements, if any, associated with grading or other construction. The applicant is advised to contact the Tribal Historic Preservation Officer or Tribal Archaeologist as early as possible. If required, it is the responsibility of the applicant to coordinate scheduling of Tribal monitors during grading or other construction, and to arrange payment of any required fees associated with Tribal monitoring.
- ENG 9. In accordance with an approved PM-10 Dust Control Plan, perimeter fencing shall be installed. Fencing shall have screening that is tan in color; green screening will not be allowed. Perimeter fencing shall be installed after issuance of Grading Permit, and immediately prior to commencement of grading operations.
- ENG 10. Perimeter fence screening shall be appropriately maintained, as required by the City Engineer. Cuts (vents) made into the perimeter fence screening shall not be allowed. Perimeter fencing shall be adequately anchored into the ground to resist wind loading.
- ENG 11. Within 10 days of ceasing all construction activity and when construction activities are not scheduled to occur for at least 30 days, the disturbed areas on-site shall be permanently stabilized, in accordance with Palm Springs Municipal Code Section 8.50.022. Following stabilization of all disturbed areas, perimeter fencing shall be removed, as required by the City Engineer.

- ENG 12. Prior to issuance of grading permit, the applicant shall provide verification to the City that the fee has been paid to the Agua Caliente Band of Cahuilla Indians in accordance with the Tribal Habitat Conservation Plan (THCP).
- ENG 13. A Geotechnical/Soils Report prepared by a California registered Geotechnical Engineer shall be required for and incorporated as an integral part of the grading plan for the proposed development. A copy of the Geotechnical/Soils Report shall be submitted to the Engineering Division with the first submittal of a grading plan.
- ENG 14. The applicant shall provide all necessary geotechnical/soils inspections and testing in accordance with the Geotechnical/Soils Report prepared for the project. All backfill, compaction, and other earthwork shown on the approved grading plan shall be certified by a California registered geotechnical or civil engineer, certifying that all grading was performed in accordance with the Geotechnical/Soils Report prepared for the project. Documentation of all compaction and other soils testing are to be provided. No certificate of occupancy will be issued until the required certification is provided to the City Engineer.
- ENG 15. The applicant shall provide pad elevation certifications for all building pads in conformance with the approved grading plan, to the Engineering Division prior to construction of any building foundation.
- ENG 16. In cooperation with the Riverside County Agricultural Commissioner and the California Department of Food and Agriculture Red Imported Fire Ant Project, applicants for grading permits involving a grading plan and involving the export of soil will be required to present a clearance document from a Department of Food and Agriculture representative in the form of an approved "Notification of Intent To Move Soil From or Within Quarantined Areas of Orange, Riverside, and Los Angeles Counties" (RIFA Form CA-1) prior to approval of the Grading Plan. The California Department of Food and Agriculture office is located at 73-710 Fred Waring Drive, Palm Desert (Phone: 760-776-8208).

WATER QUALITY MANAGEMENT PLAN

- ENG 17. A Final Project-Specific Water Quality Management Plan (WQMP) shall be submitted to and approved by the City Engineer prior to issuance of a grading or building permit. The WQMP shall address the implementation of operational Best Management Practices (BMP's) necessary to accommodate nuisance water and storm water runoff from the site. Direct release of nuisance water to the adjacent property or public streets is prohibited. Construction of operational BMP's shall be incorporated into the Precise Grading and Paving Plan.

- ENG 18. Prior to issuance of any grading or building permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument on a standardized form to inform future property owners of the requirement to implement the approved Final Project-Specific WQMP. Other alternative instruments for requiring implementation of the approved Final Project-Specific WQMP include: requiring the implementation of the Final Project-Specific WQMP in Commercial Shopping Center Covenants, Conditions, and Restrictions (CC&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the Final Project-Specific WQMP; or equivalent. Alternative instruments must be approved by the City Engineer prior to the issuance of any grading or building permits.
- ENG 19. Prior to issuance of certificate of occupancy or final City approvals, the applicant shall: (a) demonstrate that all structural BMP's have been constructed and installed in conformance with approved plans and specifications; (b) demonstrate that applicant is prepared to implement all non-structural BMP's included in the approved Final Project-Specific WQMP, conditions of approval, or grading/building permit conditions; and (c) demonstrate that an adequate number of copies of the approved Final Project-Specific WQMP are available for the future owners (where applicable).

DRAINAGE

- ENG 20. The applicant shall provide a summary of existing and proposed drainage to Caltrans District 8, as requested by letter from Caltrans dated September 1, 2009.
- ENG 21. All stormwater runoff across the property shall be accepted and conveyed in a manner acceptable to the City Engineer and released to an approved drainage system. Stormwater runoff may not be released directly to the adjacent streets without first intercepting and treating with approved Best Management Practices (BMP's).
- ENG 22. A portion of the property is located within a special flood hazard area (SFHA), identified by Zone A0 (Depth = 2 feet) as shown on the current Federal Insurance Rate Map (FIRM) for the City of Palm Springs, California, Riverside County, Community Panel Number 06065C1586G, dated August 28, 2008, and is subject to the provisions of Chapter 8.68 *et. seq.* ("Flood Damage Prevention") of the Palm Springs Municipal Code, and applicable state and federal laws and regulations. The applicant shall comply with all applicable local, state and federal laws and regulations associated with development occurring within a SFHA. Note: Chapter 8.68 *et. seq.* ("Flood Damage Prevention") of the Palm Springs Municipal Code only applies if a "structure" (as defined in the Code) is proposed to be constructed within the SFHA. The

applicant shall provide an exhibit of the site plan showing the limits of the SFHA extending across the property.

ENG 23. This project will be required to install measures in accordance with applicable National Pollution Discharge Elimination System (NPDES) Best Management Practices (BMP's) included as part of the NPDES Permit issued for the Whitewater River Region from the Colorado River Basin Regional Water Quality Control Board (RWQCB). The applicant is advised that installation of BMP's, including mechanical or other means for pre-treating stormwater runoff, will be required by regulations imposed by the RWQCB. It shall be the applicant's responsibility to design and install appropriate BMP's, in accordance with the NPDES Permit, that effectively intercept and pre-treat stormwater runoff from the project site, prior to release to the City's municipal separate storm sewer system ("MS4"), to the satisfaction of the City Engineer and the RWQCB. Such measures shall be designed and installed on-site; and provisions for perpetual maintenance of the measures shall be provided to the satisfaction of the City Engineer, including provisions in Covenants, Conditions, and Restrictions (CC&R's) required for the development (if any).

ENG 24. The project is subject to flood control and drainage implementation fees. The acreage drainage fee at the present time is \$7,522.00 per acre per Resolution No. 15189. Fees shall be paid prior to issuance of a building permit.

GENERAL

ENG 25. Any utility trenches or other excavations within existing asphalt concrete pavement of off-site streets required by the proposed development shall be backfilled and repaired in accordance with City of Palm Springs Standard Drawing No. 115. The developer shall be responsible for removing, grinding, paving and/or overlaying existing asphalt concrete pavement of off-site streets as required by and at the discretion of the City Engineer, including additional pavement repairs to pavement repairs made by utility companies for utilities installed for the benefit of the proposed development (i.e. Desert Water Agency, Southern California Edison, Southern California Gas Company, Time Warner, Verizon, etc.). Multiple excavations, trenches, and other street cuts within existing asphalt concrete pavement of off-site streets required by the proposed development may require complete grinding and asphalt concrete overlay of the affected off-site streets, at the discretion of the City Engineer. The pavement condition of the existing off-site streets shall be returned to a condition equal to or better than existed prior to construction of the proposed development.

ENG 26. All proposed utility lines shall be installed underground.

- ENG 27. The record property owner(s) shall enter into a covenant agreeing to underground all of the existing overhead utilities required by the Municipal Code in the future upon request of the City of Palm Springs City Engineer at such time as deemed necessary. The covenant shall be executed and notarized by the property owner(s) and submitted to the City Engineer prior to issuance of a grading permit. A current title report or a copy of a current tax bill and a copy of a vesting grant deed shall be provided to verify current property ownership. A covenant preparation fee in effect at the time that the covenant is submitted shall be paid by the applicant prior to issuance of any grading or building permits.
- ENG 28. All existing utilities shall be shown on the improvement plans required for the project. The existing and proposed service laterals shall be shown from the main line to the property line.
- ENG 29. Upon approval of any improvement plan by the City Engineer, the improvement plan shall be provided to the City in digital format, consisting of a DWG (AutoCAD 2004 drawing file), DXF (AutoCAD ASCII drawing exchange file), and PDF (Adobe Acrobat 6.0 or greater) formats. Variation of the type and format of the digital data to be submitted to the City may be authorized, upon prior approval of the City Engineer.
- ENG 30. The original improvement plans prepared for the proposed development and approved by the City Engineer shall be documented with record drawing "as-built" information and returned to the Engineering Division prior to issuance of a final certificate of occupancy. Any modifications or changes to approved improvement plans shall be submitted to the City Engineer for approval prior to construction.
- ENG 31. Nothing shall be constructed or planted in the corner cut-off area of any intersection or driveway which does or will exceed the height required to maintain an appropriate sight distance per City of Palm Springs Zoning Code Section 93.02.00, D.
- ENG 32. All proposed trees within the public right-of-way and within 10 feet of the public sidewalk and/or curb shall have City approved deep root barriers installed in accordance with City of Palm Springs Standard Drawing No. 904.

TRAFFIC

- ENG 33. All damaged, destroyed, or modified pavement legends, traffic control devices, signing, striping, and street lights, associated with the proposed development shall be replaced as required by the City Engineer prior to issuance of a Certificate of Occupancy.

- ENG 34. Construction signing, lighting and barricading shall be provided during all phases of construction as required by City Standards or as directed by the City Engineer. As a minimum, all construction signing, lighting and barricading shall be in accordance with Part 6 "Temporary Traffic Control" of the California Manual on Uniform Traffic Control Devices for Streets and Highways, dated September 26, 2006, or subsequent editions in force at the time of construction.
- ENG 35. This property is subject to the Transportation Uniform Mitigation Fee which shall be paid prior to issuance of building permit.

FIRE DEPARTMENT CONDITIONS

- FID 1. These conditions are subject to final plan check and review. Initial fire department conditions have been determined on the site plan dated 3/1/2010. The submitted plans do not provide enough detail. Additional requirements may be required at that time based on revisions to site plans.
- FID 2. Fire Department Conditions were based on the 2007 California Fire Code. Four complete sets of plans for private fire service mains, fire alarm, or fire sprinkler systems must be submitted at time of the building plan submittal.
- FID 3. **CFC Chapter 22 Motor Fuel-Dispensing Facilities:** Applicant shall adhere to the requirements stated in Chapter 22 of the California Fire Code as they apply to Motor Fuel-Dispensing Facilities.
- FID 4. **NFPA 30A Motor Fuel Dispensing Facilities and Repair Garages, 2008 Edition:** Applicant shall adhere to the requirements stated in NFPA 30A as they apply to Motor Fuel-Dispensing Facilities.
- FID 5. **Access During Construction (CFC 503):** Access for firefighting equipment shall be provided to the immediate job site at the start of construction and maintained until all construction is complete. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13'6". Fire Department access roads shall have an all weather driving surface and support a minimum weight of 73,000 lbs.
- FID 6. **Buildings and Facilities (CFC 503.1.1):** Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.

- FID 7. **Premises Identification (CFC 505.1):** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4" high with a minimum stroke width of 0.5".
- FID 8. **Operational Fire Hydrant(s) (CFC 508.1, 508.5.1 & 1412.1):** A new commercial fire hydrant shall be installed within 250 feet of all combustible construction. It shall be installed and made serviceable prior to and during construction. No landscape planting, walls, or fencing is permitted within 3 feet of fire hydrants, except ground cover plantings.
- FID 9. **Fire Flow (CFC 508.3):** Fire flow requirements for buildings or portions of buildings and facilities are estimated to be 1,500 GPM. The fire flow is based on Appendix B of the 2007 CFC.
- FID 10. **Fire Alarm System:** Fire alarm system is required and installation shall comply with the requirements of NFPA 72, 2002 Edition.
- FID 11. **Portable Fire Extinguisher (CFC 906.1):** Portable fire extinguishers shall be installed. Provide one 2-A:20-B:C portable fire extinguisher for every 75 feet of floor or grade travel distance for normal hazards. Portable fire extinguishers shall not be obstructed or obscured from view. Portable fire extinguishers shall be installed so that the top is not more than 5 feet above the floor.
- FID 12. **Gasoline Vapor Recovery System:** Installation or modifications of Phase II EVR and In-Station Diagnostic systems must comply with all applicable laws and regulations including the Palm Springs Fire Department requirements, NFPA 30A and California Code of Regulations, Title 19, Chapter 11.5, Gasoline Vapor Control Systems.
1. The vapor unit shall be listed by the California State Fire Marshal's Office.
 2. The vapor unit and all associated pieces shall be individually, or as a whole, tested and listed by a third party testing laboratory for the intended use in a specified manner.
 3. Installation contractors must be licensed by the International Code Council and by the vapor recovery system manufactures.
 4. The vapor unit shall be located at or above grade.
 5. Sources of ignition shall be located not less than 50 feet from fuel-transfer and not less than 18 inches above tank fill openings and tops of dispenser islands. The vapor unit shall be located not less than 10 feet from the nearest building or lot line of a property that can be built upon.
Exception: Where distances in this requirement are unable to be met, the following are acceptable ways to meet a minimum level of fire protection.
 1. Install an approved, fire-resistant or non-combustible enclosure.*

Enclosure must extend 18 inches above the equipment. Adequate ventilation is required to prevent vapor pocketing.

2. Install an approved water-spray system. **
6. The vapor unit shall be located at least 20 feet from any dispensing devices.
7. The vapor unit shall be protected against physical damage (via guardposts, guardrails, or approved fire-resistant enclosure).
8. The vapor unit shall be securely mounted on concrete, masonry or structural steel supports (steel supports on noncombustible foundation).
9. Vents from the vapor unit must be 12 feet above ground level. Vent outlets shall be located such that flammable vapors will not accumulate or travel to an unsafe location or enter buildings.
10. Underground piping affected by the installation of the vapor unit shall be tested according to the California Fire Code and the piping manufacturer's instructions.
11. A "No Smoking" sign shall be posted at the unit.

* Non-combustible is defined in section 202 of the 2007 CFC. A simple benchmark –enclosure material must meet ASTM 136. The entire wall must be non-combustible, e.g. no wood framing and a non-combustible exterior. If this option is used, plan submittal to the building department is required.

END OF CONDITIONS