



## Planning Commission Staff Report

Date: February 24, 2010

Case No.: 5.0789 PDD 252 – CUP AMENDMENT

Type: Amendment to a Conditional Use Permit

Location: 3600 Ramon Road

APN: 677-530-013 and -014 (formerly 677-530-003)

Applicant: Carlos Peraza

General Plan: NCC – Neighborhood Community Commercial

Zone: PD-252

From: Craig A. Ewing, AICP, Director of Planning Services

Project Planner: Ken Lyon, Associate Planner

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### **PROJECT DESCRIPTION:**

The applicant is requesting an amendment to an existing Conditional Use Permit (CUP) for the addition of check cashing service uses in an existing automobile service station / mini-mart facility located at 3600 East Ramon Road, Section 18 (IL).

### **RECOMMENDATION:**

That the Planning Commission approves Case 5.0789 PDD 252 – CUP AMND, subject to the attached conditions of approval.

### **PRIOR ACTIONS:**

On November 8, 1998, the Tribal Planning Commission reviewed a project for a Planned Development District 252 which included an 8-lot subdivision for commercial/retail uses on an approximately 23.15 acre site at Ramon and Avenida

Evelita that included a Phase 1 development of an automobile service station / mini-mart and recommended its approval by the City Planning Commission.<sup>1</sup>

On November 12, 1998, the Planning Commission voted 6-0-1 to approve the preliminary PDD 252 and TPM 28907 and adopt a Mitigated Negative Declaration for an 8-lot commercial/retail center on 23.15 acres on the north side of Ramon Road, west of Avenida Evelita including the Phase 1 development of an automobile service station / mini-mart, subject to conditions of approval.

On December 16, 1998, the City Council voted 4-1 to approve the preliminary PDD 252, TPM 28907 for the 8-lot commercial/retail center and the auto service station / mini mart as Phase I.

On May 19, 1999 the City Council approved a Resolution of Convenience & Necessity for a Type 20 off-site beer license (for sale of beer and wine for consumption off-premises) The mini-mart was noted as being open 24 hours a day, seven days a week.

On April 12, 2000 Case 5.0789 CUP / PDD 252 was submitted to the Planning Commission for approval of the final PDD and the development of the automobile service station and mini mart on lot 3. The application was approved 6-0-1.<sup>2</sup>

On May 24, 2000, the landscape and irrigation plans for the final PDD were approved by the Director of Planning pursuant to conditions set forth in the Planning Commission's April 12, 2000 approval.

## **BACKGROUND:**

The subject site is one of eight lots that comprise PDD 252. PDD 252 was established to create a unique set of development standards for the parcels. It was not done as a PDD in lieu of a Change of Zone, thus the permitted uses for the PDD are the same as those for the underlying zone, which is M-1.

Construction of the existing automobile service station/mini-mart was approved in 2000. The later phases of construction in this PDD have never been developed and the remaining lots are vacant.<sup>3</sup> The building that was constructed is comprised of approximately 3,100 gross square feet of mini-mart retail uses on the first floor and 600 gross square feet on the second floor comprised of office uses.

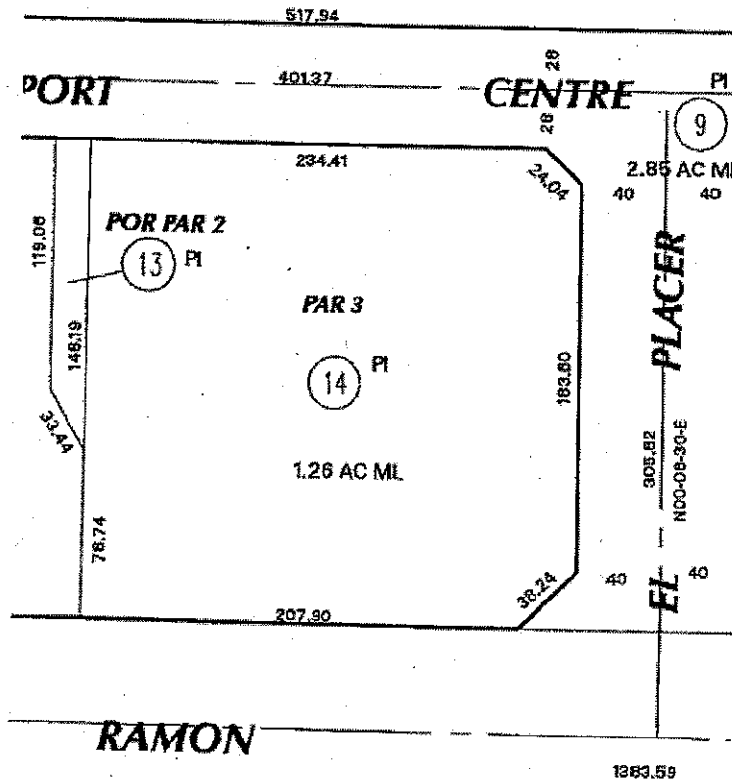
**Table 1:** The surrounding General Plan, Zone, Land Uses are below:

<sup>1</sup> This land, while on the Agua Caliente Reservation is fee simple land.

<sup>2</sup> Pursuant to Condition of Approval #49 of the preliminary PDD, "Each individual phase of development will be required to be processed as an architectural review application or Conditional Use Permit, as deemed appropriate by the Director of Planning & Building". Thus the final PDD submittal was submitted as a PDD and a CUP.

<sup>3</sup> The anticipated other uses were restaurant uses along the Ramon Road frontage, a motel to the west, and industrial/commercial uses related to the airport to the north.

	General Plan	Zone	Land Use
North	NCC (Neighborhood Community Commercial)	PD-252 and A (Airport)	Vacant and Airport
South	P (Professional)	P (Professional)	Commercial/Residential
East	NCC	PD-189	Vacant
West	NCC	PD-252	Vacant



Tax Assessors Map

**ANALYSIS:**

Pursuant to the Palm Springs Zoning Code (PSZC) Section 92.17.01(D)(8) Check cashing uses are permitted in the M-1 zone subject to a conditional use permit provided such uses are not closer than 300 feet to a residential zone, church or mortuary at the time of their establishment. Since the PDD was not issued as a PDD in lieu of a change of zone, the underlying uses permitted in the underlying M-1 zone would also be permitted in PDD 252. The site is more than 300 feet from the sensitive uses noted above. Thus check-cashing may be permitted at this site subject to approval of a CUP.

**Parking**

The existing auto service station/mini-mart on the site has 13 off street parking spaces which were approved as part of the preliminary and final PDD. For this 3,700 gsf facility

(3,100gsf first floor and 600gsf second floor), 19 spaces would normally be required.<sup>4</sup> The code does not specify the quantity of parking spaces required for the check-cashing use. Section 93.06.00(B)(9) "Similar Uses" states,

*"Where the parking requirement for a use is not specifically defined herein, the parking requirement for such use shall be determined by the planning commission in the manner set forth in Section 94.01.00 (Similar Uses); and such determination shall be based upon the requirement for the most comparable use specified herein."*

Although a similar use to check cashing might be banks or financial institutions, they are calculated at the same rate (1 space per 200 gsf) as mini-marts. There is no additional square footage proposed to be added as part of the added check-cashing use, however staff believes additional vehicular traffic and off-street parking demand will occur with the proposed added use. A condition of approval of the preliminary and final PDD (COA #51) was a reciprocal parking and access agreement in which all lots in the PDD would be required to share off-street parking spaces amongst the uses. Since no later phases of development have occurred, the site remains slightly underparked with only the original 13 parking spaces available.

It is assumed by staff, that vehicular traffic related to the check cashing service would be heaviest on Fridays and at the end of each calendar month, with individuals seeking to cash their paychecks. Staff believes during these peak periods, parking may occur off-site along the adjacent side or local streets of El Placer and Airport Center Drive. For the purpose of determining whether additional off-street parking may be warranted, staff has attempted to identify other check-cashing locations in the valley with a similar combination of automobile service station and mini-mart uses but has been unable to find such a combination.

The applicant states that typical patrons of the check-cashing service are likely to be the same patrons using the gasoline filling station or mini-mart. Consequently, while additional customers may arrive, the applicant asserts that the check-cashing patrons will only park for a very brief period of time. On that basis, the applicant believes that overall parking demand will not significantly increase.

Presently all surrounding parcels in this PDD are vacant. Once the other parcels and their associated parking lots are developed, required reciprocal parking agreements should more than satisfy the parking needs of this use. Until that time, the thirteen on-site parking spaces and surrounding on-street parking will be utilized. Staff believes that the absence of surrounding development will result in no adverse traffic or circulation impacts from adjacent on-street parking on Airport Center Drive. Taken together, the on-site parking, with available off-street parking, should be adequate for the added use.

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<sup>4</sup> It appears that the staff analysis on the original PDD only took into account the first floor and calculated 16 required spaces. A reduced number of spaces (13 instead of 16) were approved.

## REQUIRED FINDINGS:

The Conditional Use Permit process outlined in Section 94.02.00 of the Zoning Code requires the Planning Commission to make a number of findings for approval of the permit. Those findings are analyzed by staff below:

- a *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.*

Check cashing services are identified as a use permitted with a Conditional Use Permit in the M-1 zone pursuant to PSZC Section 92.17.01(D) "Permitted Uses in the M-1 Zone". The PDD does not identify, limit or restrict permissible uses other than those in the underlying zone. Therefore, staff has concluded that the project conforms to this finding.

- b *That the use is necessary or desirable for the development of the community, is in harmony with the various elements of 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.*

Check-cashing is a useful service for those in the community who receive payments in the form of a check and need to convert it to cash. It is a convenience for those in the community who may not have their own bank accounts established at a local bank. It is a service complementary to other short-stop convenience goods and services available at a mini-mart. Staff has concluded that such a use is consistent with this finding.

- c *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 proposal does not add any additional square footage to the existing building on the site, however it is possible that a slight increase in parking demand may occur. This increase in parking demand may not be met with the 13 existing on-site parking spaces. It may be necessary for parking to be accommodated via curbside parking on the adjacent local streets. The local street (Airport Center Drive) has been constructed to a width sufficient to accommodate curbside parking. Once the remaining sites in the PDD are developed, a reciprocal parking agreement will enable sharing of off-street parking spaces and the need for curbside parking will likely become unnecessary. Staff believes therefore that the project conforms to this finding.

- d *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 existing site was conditioned with the original entitlement to provide turn lanes,

traffic signal lights and other street and traffic related improvements. The site has been operating successfully without traffic conflicts since its construction in 2000. The roadway improvements and number of lanes have been constructed based on the projected buildout of the PDD with commercial and light industrial airport related uses. The surrounding arterial roadways are predicted in the General Plan to operate at acceptable levels at full buildout. Staff has therefore concluded that the site will adequately relate to the adjacent roadway network successfully.

- e *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.*

At present, there are no changes to the site plan. Staff recommends a condition of approval that will allow the City to reconsider the CUP if there is a significant increase in calls for service by the Palm Springs Police Department, traffic conflicts or other public services needed at the site following initiation of the check cashing use.

#### **CONCLUSION:**

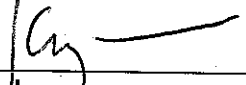
The proposed project is consistent with the General Plan and Zoning Ordinance regulations relating to this site and the PDD. Staff believes that the required findings necessary for the approval of a Conditional Use Permit have been made and therefore recommends approval of the proposed uses subject to the Conditions of Approval noted in Exhibit A.

#### **ENVIRONMENTAL DETERMINATION:**

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is Categorically Exempt as a Class I exemption per Section 15301(Existing Facilities).

#### **NOTIFICATION:**

A notice of this hearing was mailed to all property owners within a four hundred foot radius in accordance with state law. As of the date of writing this report, staff has not received any comments.

  
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Ken Lyon  
Associate Planner

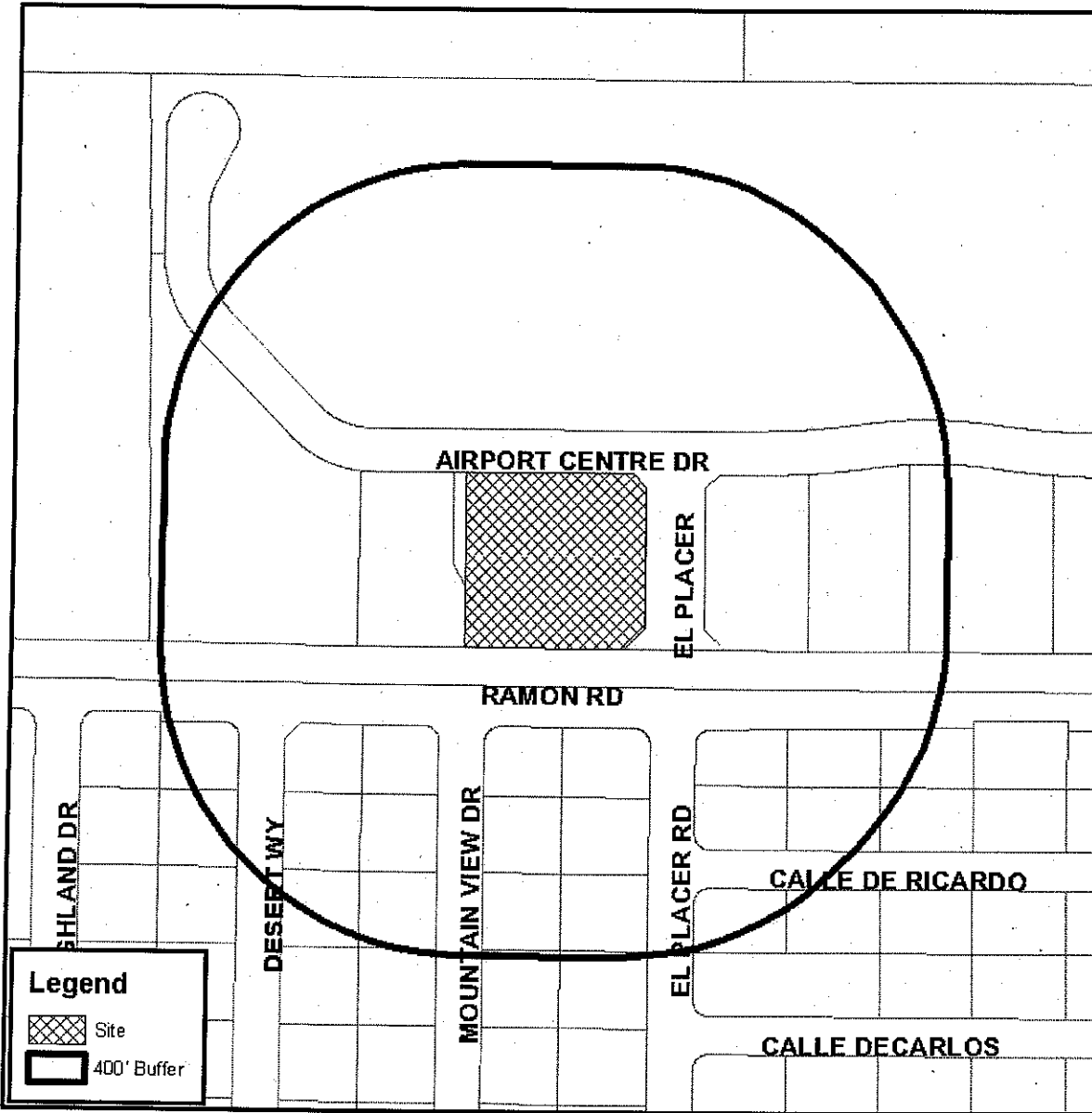
  
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Craig Ewing, AICP  
Director of Planning Services

#### **Attachments:**

- 400' Radius Vicinity Map
- Draft Resolution with Conditions of Approval
- Site Plan



# Department of Planning Services Vicinity Map



**Legend**

- Site
- 400' Buffer

## CITY OF PALM SPRINGS

**CASE NO:** 5.0789 AMND PD 252

**APPLICANT:** Carlos Peraza

**DESCRIPTION:** To consider an application by Carlos Peraza for an amendment to a previously approved Conditional Use Permit to add check-cashing uses at an existing mini-mart automobile service station located at 3600 East Ramon Road, Section 18.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING CASE 5.0789 PDD 252; AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT TO ALLOW THE ADDITION OF CHECK-CASHING USES AT AN EXISTING AUTOMOBILE SERVICE STATION / MINI-MART LOCATED AT 3600 RAMON ROAD; SECTION 18 (IL).

WHEREAS, Carlos Peraza ("Applicant") filed an application with the City for an amendment to an existing Conditional Use Permit to allow the addition of check-cashing uses at an existing automobile service station/mini-mart facility at 3600 Ramon Road, APN 677-530-013 and -014 (formerly 677-530-003), Section 18 Planned Development District 252; and

WHEREAS, notice of a public hearing of the Planning Commission of the City of Palm Springs to consider an application for amending the Conditional Use Permit related to Case 5.0789 PDD 252 was issued in accordance with applicable law; and

WHEREAS, on February 24, 2010, the public hearing on the application for amending Conditional Use Permit Case 5.0789 AMND PDD 252 was held by the Planning Commission in accordance with applicable law; and

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

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project is Categorically Exempt as a Class I exemption per Section 15301(Existing Facilities).

Section 2: The Conditional Use Permit process outlined in Section 94.02.00 of the Zoning Code requires the Planning Commission to make a number of findings for approval of the permit. Therefore, the Planning Commission finds:

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.*

Check cashing services are identified as a use permitted with a Conditional Use Permit in the M-1 zone pursuant to PSZO Section 92.17.01(D) "Permitted Uses in the M-1 Zone". The PDD does not identify, limit or restrict permissible uses other than those in



the underlying zone. Therefore the project conforms to this finding.

2. *That the use is necessary or desirable for the development of the community, is in harmony with the various elements of 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.*

Check-cashing is a useful service for those in the community who receive payments in the form of a check and need to convert it to cash. It is a convenience for those in the community who may not have their own bank accounts established at a local bank. It is a service complementary to other short-stop convenience goods and services available at a mini-mart. Therefore, the proposed use is consistent with this finding.

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 proposal does not add any additional square footage to the existing building on the site, however it is possible that a slight increase in parking demand may occur. This increase in parking demand may not be met with the 13 existing on-site parking spaces. It may be necessary for parking to be accommodated via curbside parking on the adjacent local streets. The local street (Airport Center Drive) has been constructed to a width sufficient to accommodate curbside parking. Once the remaining sites in the PDD are developed, a reciprocal parking agreement will enable sharing of off-street parking spaces and the need for curbside parking will likely become unnecessary. Therefore the project conforms to this finding.

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 existing site was conditioned with the original entitlement to provide turn lanes, traffic signal lights and other street and traffic related improvements. The site has been operating successfully without traffic conflicts since its construction in 2000. The roadway improvements and number of lanes have been constructed based on the projected buildout of the PDD with commercial and light industrial airport related uses. The surrounding arterial roadways are predicted in the General Plan to operate at acceptable levels at full buildout. Therefore, the site will adequately relate to the adjacent roadway network successfully.

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.*

At present, there are no changes to the site plan. A condition of approval is included that will allow the City to reconsider the addition of Check-cashing uses to this CUP if

February 24, 2010

there is a significant increase in police, traffic conflicts or other public services needed at the site following initiation of the check cashing use.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves this amendment to Conditional Use Permit 5.0789 PDD 252, subject to the conditions set forth in the attached Exhibit A.

ADOPTED this 24<sup>th</sup> day of February, 2010.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

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Craig A. Ewing, AICP  
Director of Planning Services

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

**EXHIBIT A**

Case 5.0789 CUP AMND PDD 252  
3600 East Ramon Road  
February 24, 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.

**ADMINISTRATIVE CONDITIONS**

- ADM 1. Project Description. This approval is for the project described per Case 5.0789 CUP AMND PDD 252; except as modified with the approved Mitigation Monitoring Program and the conditions below;
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans, date stamped (date), including site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division except as modified by the approved Mitigation Measures and 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. The uses and development of the site shall conform to all conditions of approval approved as part of the original CUP / PDD entitlement for this site.
- 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 5.0789 CUP AMND PDD 252. 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 amendment shall be valid for a period of two (2) years from the effective date of the approval. Provided the project remains in compliance with all conditions of approval, the CUP 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. Tribal Fees Required. As the property is Indian reservation land, fees as required by the Agua Caliente Band of Cahuilla Indians Tribal Council shall be paid prior to consideration of this project by the Planning Commission. (for project on Indian land).
- 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. Grounds for Revocation. Non-compliance with any of the conditions of this approval or with City codes and ordinances, State laws; any valid citizen complaints or policing and safety problems (not limited to excessive alcohol consumption, noise, disturbances, signs, etc) regarding the operation of the establishment; as determined by the Chief of Policy or the Director of Building and Safety, may result in proceedings to revoke the Conditional Use Permit. IN addition, violations of the City Codes and Ordinances will result in enforcement actions which may include citations, arrest, temporary business closure, or revocation of this permit in accordance with law.
- ADM 12. 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 22. Notice to Tenants. The applicant shall provide all tenants with a copy of the Conditions of Approval for this project.
- ADM 23. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers (conditional use permits only)
- ADM 24. Avigation Agreement Requirement The applicant must provide a standard avigation easement and non-suit covenant in a form prescribed and approved by the City Attorney, with reference to present and future owners of the parcel (N zone only)

## ENVIRONMENTAL ASSESSMENT CONDITIONS

- ENV 1. Coachella Valley Multiple-Species Habitat Conservation Plan (CVMSHCP) Local Development Mitigation Fee (LDMF) required. This project is exempt from payment of the CVMSHCP LDMF (existing facilities).
- 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. 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 2. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned
- PLN 3. 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 4. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 5. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 6. 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 7. Bicycle Parking. The project shall be required to provide secure bicycle parking facilities on site for use by residents and commercial/retail patrons and owners. Location and design shall be approved by the Director of Planning.
- PLN 8. (add any additional conditions imposed by the Planning Commission or City Council here)

## **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**

All conditions of approval from the original CUP entitlement shall apply

**FIRE DEPARTMENT CONDITIONS**

All conditions of approval from the original CUP entitlement shall apply

**END OF CONDITIONS**

