



PLANNING COMMISSION STAFF REPORT

DATE: May 28, 2014

SUBJECT: KALANI FOODS, LLC FOR A LAND USE PERMIT TO OPERATE A VENDING CART IN RIGHT-OF-WAY (SIDEWALK) AS AN ACCESSORY USE TO A PERMITTED YOGURT PARLOR LOCATED AT 190 E. TAHQUITZ CANYON WAY (CASE 14-019 LUP).

CASE: 14-019 LUP

FROM: Department of Planning Services

SUMMARY

Tube Durrani, owner of the Kalani Dog, LLC has requested the Planning Commission consider a Land Use Permit application to operate a vending cart dispensing food and beverages on the Indian Canyon Drive sidewalk (right-of-way) adjacent to Yogurt on Tap. The proposed vending cart will be in conflict with the Downtown Urban Design Guidelines.

RECOMMENDATION:

Deny Land Use Permit, Case 14-019.

ISSUES:

- City of Palm Springs General Plan - Downtown Urban Design Guidelines shows sidewalk widths of downtown to "provide ample room for concurrent uses allowing for pedestrian areas of at least ten (10) feet for window shopping / pedestrian through-traffic; ten (10) feet for outdoor dining; and three (3) feet for landscape shade trees".
- Vending cart business is a separate and independent entity from Yogurt on Tap.

BACKGROUND:

Planning Areas		
Specific Plan	No	
Design Plan	Yes	Downtown Urban Design Plan
Overlay	Yes	Downtown Parking Combining Zone Resort Combining Zone
Indian Land	No	

Most Recent Ownership	
01/2010	Palm Corner Assoc.

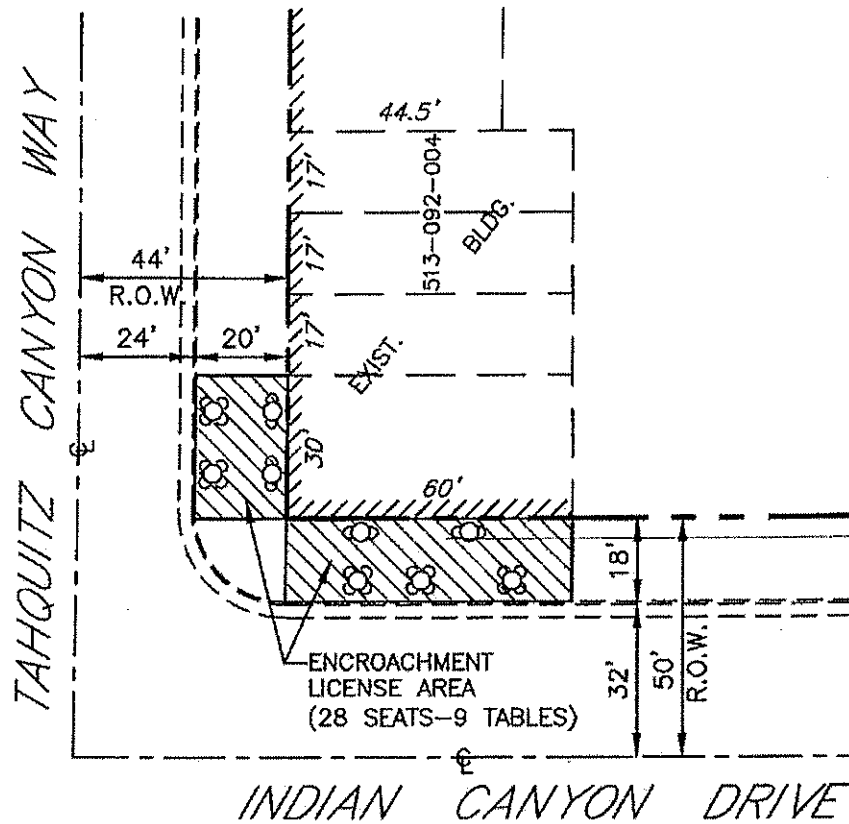
Related Relevant City Actions by Planning, Fire, Building, etc...	
09/17/2008	Land Use Permit (08-038) issued for operation of Yogurt on Tap
01/30/2013	Land Use Permit (13-005) issued for new owner of Yogurt on Tap
02/14/2013	Encroachment Agreement was entered into by the business owner (Bulldawg Enterprises, LLC) and the City to allow 28 chairs and 9 tables on sidewalk adjacent to business.
04/10/2014	Kalani Foods, LLC submitted Land Use Permit 14-049 to operate food / beverage vending cart adjacent to Yogurt on Tap on Indian Canyon Drive sidewalk.

Neighborhood Meeting	
None	

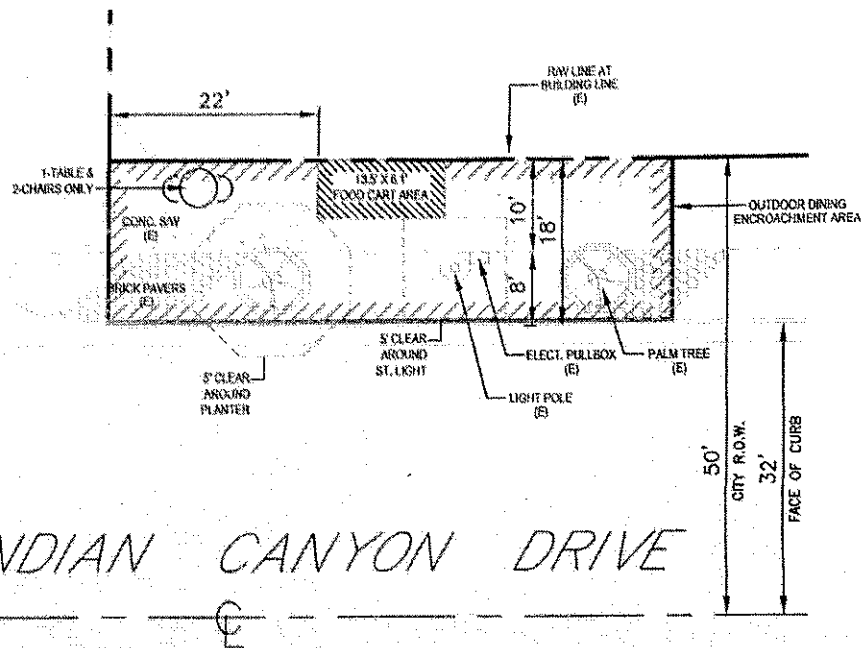
General Plan, Zoning and Land Uses of Site & Surrounding Areas			
	Existing General Plan Designations	Existing Zoning Designation	Existing Land Use
Subject Property	CBD (Central Business District)	CBD (Central Business District)	Multi-tenant Commercial
North	CBD	CBD	Parking
South	CBD	CBD	Multi-tenant Commercial
East	CBD	RA (Resort Attraction) – Section 14 Master Plan	Spa Resort
West	CBD	CBD	Multi-tenant Commercial

SETTING

Kalani Dog, LLC is seeking approval to operate a food and beverage cart on right-of-way as an accessory to a yogurt shop located at 190 E. Tahquitz Canyon Way. Yogurt on Tap is approved to locate four tables and twelve chairs on the Tahquitz Canyon Way sidewalk and five tables and sixteen chairs on the Indian Canyon Drive sidewalk. An exhibit depicting the approved layout is shown below.



The applicant has secured authorization from the owner of Yogurt on Tap to operate the vending cart on the sidewalk of Indian Canyon Drive adjacent to the building. The proposal includes eliminating four tables and fourteen chairs on the Indian Canyon Drive sidewalk to accommodate the cart. An exhibit depicting the proposed layout is shown below.



The vending cart would operate at the requested location from 10:00 a.m. to 9:00 p.m. daily. It occupies an area of about 13.5 feet by 6.1 feet. No additional seating is proposed. Photographs of the cart at the proposed location have been submitted by the applicant (see attached).

NORTH INDIAN CANYON DRIVE SIDEWALK

The following table lists all existing sidewalk features located in front of 190 E. Tahquitz Canyon Way on the Indian Canyon Drive frontage.

Sidewalk Feature	Feet	Comment
Sidewalk width	18	Face of curb to metal fence
Hollywood Stars	0	Closest star is located at corner
Planter Beds	5	Mature street tree (Palm), cannot be removed
Concrete Bike Racks	5	Three adjacent to southerly tree well
Street Furniture	Varies	Business tables and chairs
Trash Receptacle	2	Trash and recycling
Street Light	1	Light pole existing
Utilities	2	Irrigation meter and electrical pull box located in sidewalk
Sidewalk Material		Concrete and terra cotta colored sidewalk pavers

The City of Palm Springs Engineering Division has established a policy requiring a minimum five (5) foot clearance around any permanent sidewalk feature such as a street tree planter bed, light pole or other street furniture. This clearance is to allow for the safe passage of pedestrians around physical barriers located on or in the sidewalk. (see attached Engineering Division drawing)

DOWNTOWN URBAN DESIGN GUIDELINES

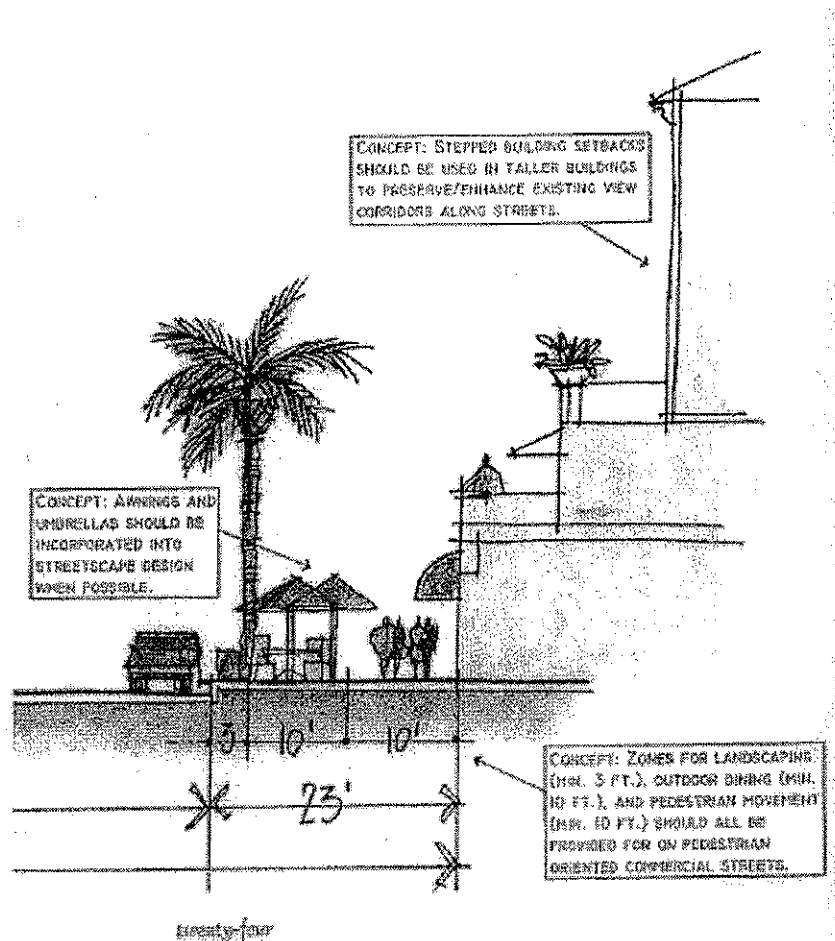
The Downtown Urban Design Guidelines (DUDG) document was adopted as part of the 2007 General Plan update to provide design guidelines for future downtown development. The plan generated a set of ideas and strategies for street circulation, parking, public spaces, land use, building height and orientation, landscaping and signage.

Sidewalk guidelines:

- Sidewalk width is dependent on surrounding uses and scale of street. Core commercial areas need to include zones for window shopping, through pedestrian traffic, outdoor café seating, trees, and landscaping.
- When appropriate, sidewalks should reflect historic scoring patterns or distinctive paving or surface treatment to create patterns and consistency.

- In commercial areas where pedestrian uses are encouraged, wider sidewalks and sidewalk shade trees are preferred over landscaped medians to maximize the usable space for pedestrian activities and movement.
- Sidewalks should be designed to be handicapped accessible as set forth in the Americans with Disabilities Act (ADA).

The DUDG provides specific guidelines for sidewalk design providing ample room for concurrent uses. The plan recommends that sidewalks in pedestrian areas have at least (10) feet for window shopping / pedestrian through traffic; ten (10) feet for outdoor dining; three (3) feet for landscaping and shade trees. The sidewalk in front of the Yougurt on tap is eighteen feet wide and does not meet these standards.



Sidewalk Section

ANALYSIS

The Palm Springs Zoning Code (PSZC) Section 92.09.01(C)(3)(f) allows vending carts dispensing food and beverages on sidewalks (right-of-way) when accessory to a permitted primary use. This is permitted with the approval of a Land Use Permit. The

PSZC Section 94.02.01(D)(3) grants the Planning Director authority to conduct an investigation on the LUP and refer the matter to the Planning Commission for review and action.

Staff believes maintaining the ten foot pedestrian passageway is a high priority. A vending cart and its patrons would further impede pedestrian movement, more so than the previously approved tables and chairs in the sidewalk area. For these reasons and the above-mentioned Downtown Urban Design Guidelines, staff recommends the Planning Commission deny Land Use Permit, Case 14-019. Should the Commission determine otherwise, staff would recommend continuing the item to the next regular meeting of June 11, 2014 in order to prepare conditions for Commission consideration.



David A. Newell
Associate Planner



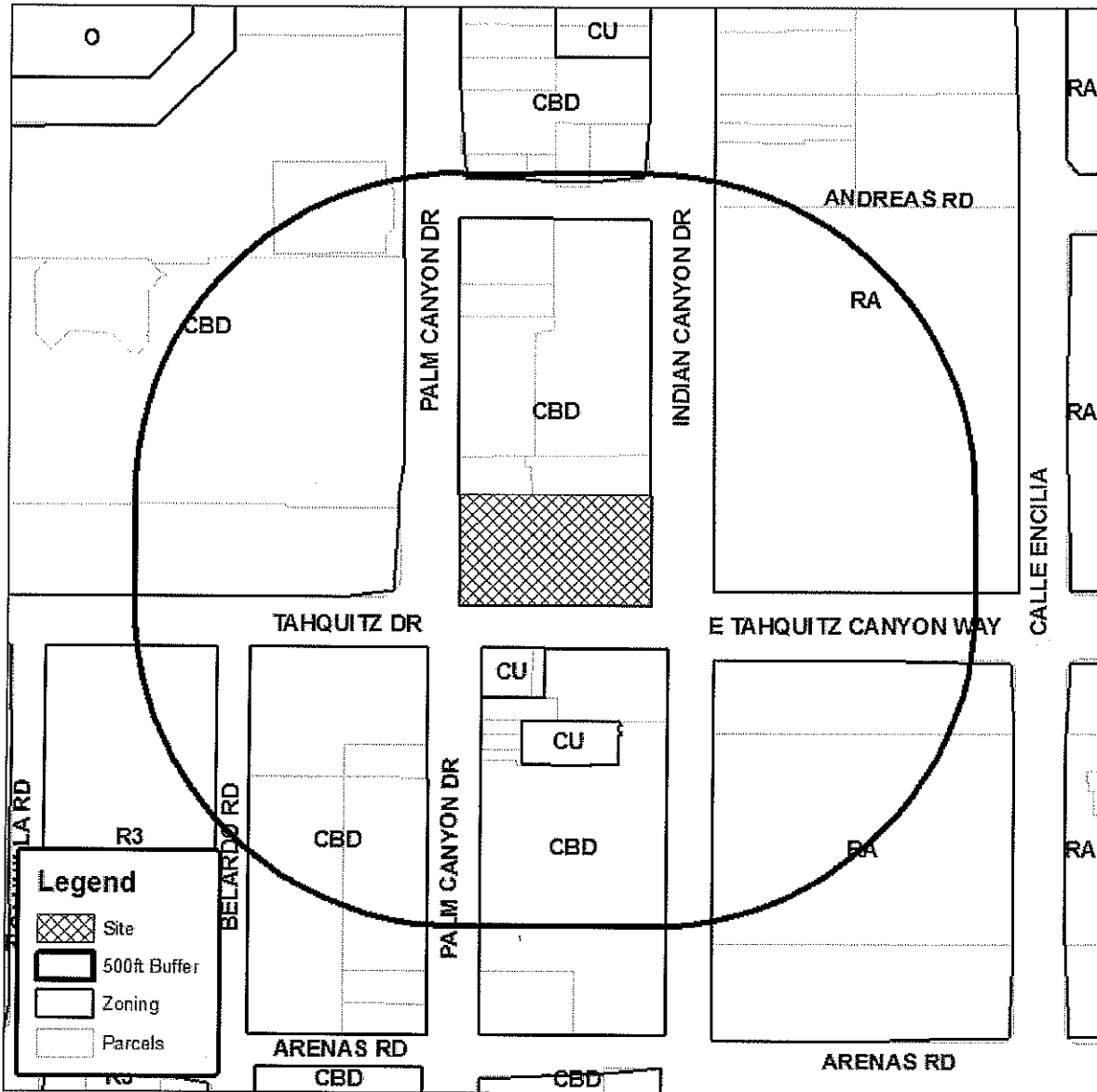
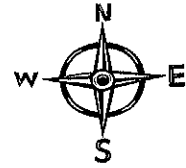
M. Margo Wheeler, AICP
Director of Planning Services

Attachments:

1. 500' Vicinity Map
2. Downtown Urban Design Guidelines - Sidewalks
3. Letter from applicant dated April 28, 2014
4. Exhibit C – Outdoor Dining Exhibit (with current table layout plan)
5. Exhibit C-1 – Outdoor Dining Exhibit (with reduced table layout plan)
6. Exhibit C-2 – Outdoor Dining Exhibit (with food cart area shown)
7. Pictures of Vending Cart at Site



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

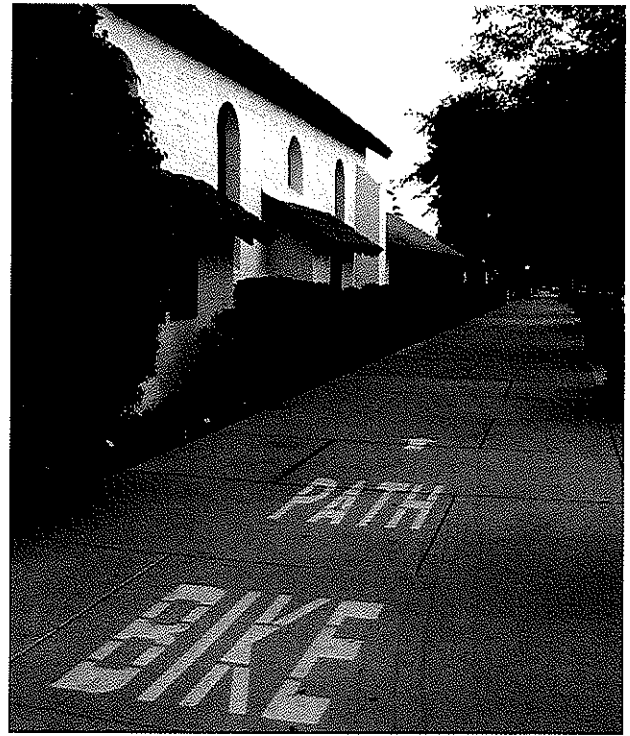
CASE NO.: 14-019 LUP

APPLICANT: Kalani Foods, LLC

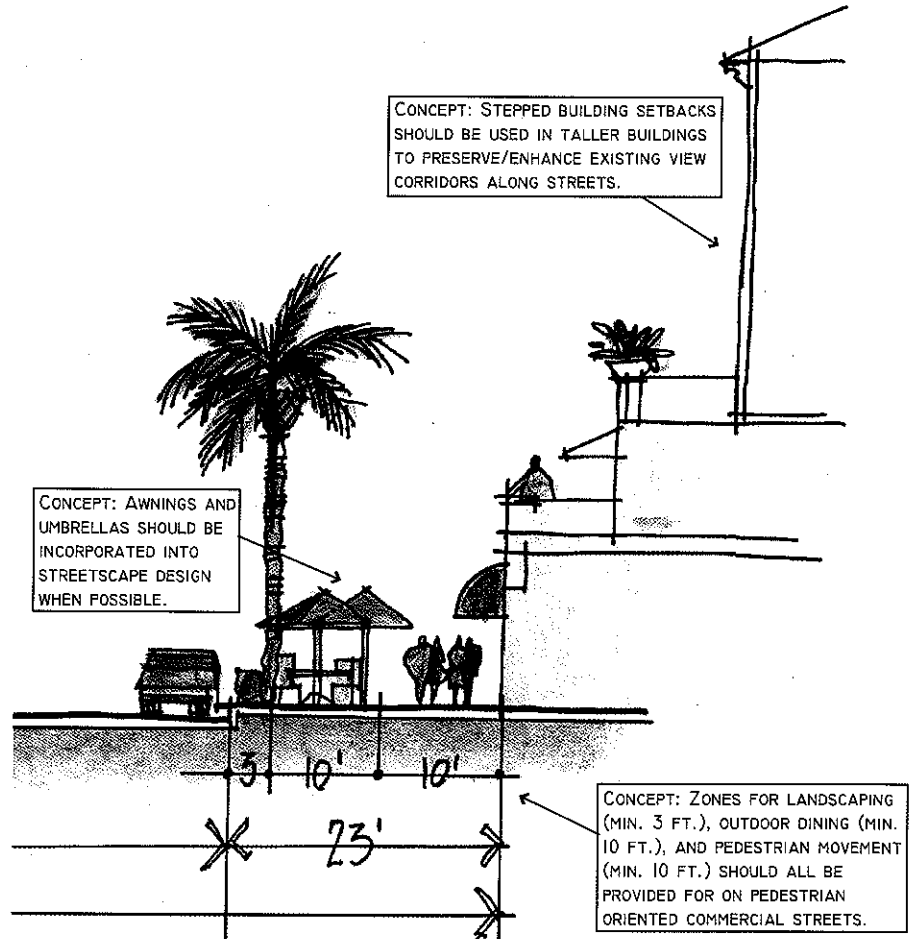
DESCRIPTION: A request to operate a food and beverage vending cart on the sidewalk as an accessory to a yogurt store located at 190 East Tahquitz Canyon Way, Zone CBD, Section 15.

Sidewalks

- Sidewalk width is dependent on surrounding uses and scale of street. Core commercial areas need to include zones for window shopping, through pedestrian traffic, outdoor eating, trees, and landscaping.
- Where appropriate, sidewalks should reflect historic scoring patterns or distinctive paving or surface treatment to create patterns and consistency.
- Along pedestrian-oriented streets, large windows of ground-level retail should provide visual interest and information for shoppers and strollers.
- In commercial areas where pedestrian uses are encouraged, wider sidewalks and sidewalk shade trees are preferred over landscaped medians to maximize the usable space for pedestrian activities and movement.
- Sidewalks should be designed to be handicapped accessible as set forth in the Americans with Disabilities Act (ADA).



Above: The section of the Heritage Trail along Belardo Road is a wonderful asset. It is a good example of how a wide sidewalk can serve both pedestrian and bicycle traffic. The Heritage Trail should be extended to connect with other parts of the city and the mountains.



Right: Sidewalks should provide ample room for concurrent uses. It is recommended that sidewalks in pedestrian areas have at least ten feet for window shopping / pedestrian through-traffic, ten feet for outdoor dining, and three feet for landscaping and shade trees.

KALANI DOG, LLC

Tube Durrani
507 Jade Lane
Palm Springs, CA 92264

Phone 310-254-3387
mcimarble@yahoo.com

RECEIVED

APR 28 2014

PLANNING SERVICES
DEPARTMENT

28 April 2014

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Planning Commission
City Hall
3200 East Tahquitz Canyon Way
Palm Springs, California 92262

Re: Appeal / Land Use Permit
Amendment to an Encroachment Permit
For An Already Existent Permit

This letter is written to appeal the Planning Department's decision to disallow a business cart to be placed [on the Indian side] at Yogurt-on-Tap, on the corner of Tahquitz Way and Indian Canyon.

Kalani needs a special accommodation because the downtown design guidelines require a minimum clearance of ten feet from any street, tree, light pole or street furniture. Even though the Planning Department "has been consistent regarding requests for encroachments of sidewalks for outdoor dining and other displays," all neighboring food establishments have outdoor areas for food just as I am requesting. [examples: Oscar's (opened in 2013), Sherman's, Pinocchio's, Jasmine Café, Starbucks, Legends, Thai Smile, and Coffee and Tea Leaf.]

I request reconsideration because:

- There is an already existent "encroachment agreement" that allows Yogurt-on-Tap to have tables and chairs on the sidewalk outside. This request is just for an amendment, because the tables and chairs would be removed in order to accommodate the cart, taking up no additional space than previously used;
- The Kalani Dog cart would not require more space than tables and chairs on that spot;
- The corner of Indian Canyon/Tahquitz is not a congested area;
- The cart would be there only between the hours of 10:00 am to approximately 9:00 pm.

I am attaching five photographs of the cart in place at that site, and diagrams entitled Exhibits C, C-1, and C-2, to show the space between where the cart would be located, a tree and a lamp post. Nearly 10' from these objects but closer to 8' of distance is available there. I understand that "exceptions" to Planning Department rules are rare; however, I sincerely hope that you have flexibility to allow reasonable and valuable exceptions such as Kalani Gourmet Hot Dogs.

14-019


Kalani Dog, LLC
Page Two of Two

The Kalani cart is not a simple hot dog cart, but rather, it is brightly colored, tasteful and with art work surrounding the cart that is quite attractive. The food Kalani Dog offers would be an exceptional contribution to the downtown area, offering gourmet sauces and tropical fruit relishes that are rarely found outside of the Hawaiian Islands.

Kalani Foods LLC was registered as a local Palm Springs business in September, 2012, with the Office of the Secretary, State of California. Our cart and the specialty hot dogs were enthusiastically accepted by the Thursday night Village Fest Board, and has begun operations in the Village Fest Food Court. We buy our products in Palm Springs and employ local residents. Kalani is glad to offer these specialty Gourmet Hawaiian hot dogs as a Palm Springs tourist attraction, as well as another nutritious food for our community, but we need your special approval to place this business in the area outside of the Yogurt-on-Tap corner store.

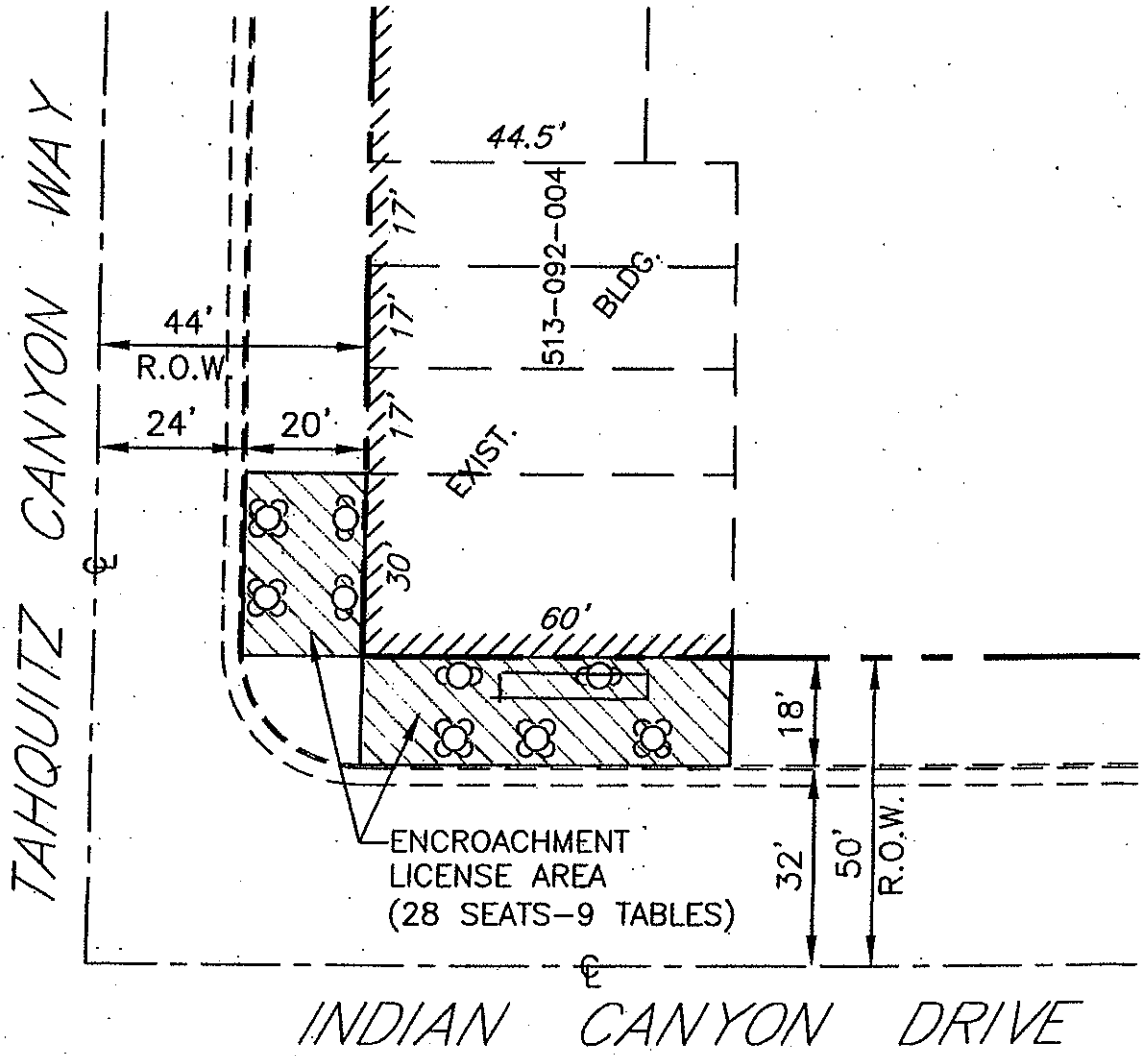
I appreciate your attention to my request, and the possibility of your reconsideration.

Yours truly,



Tubeh Durrani

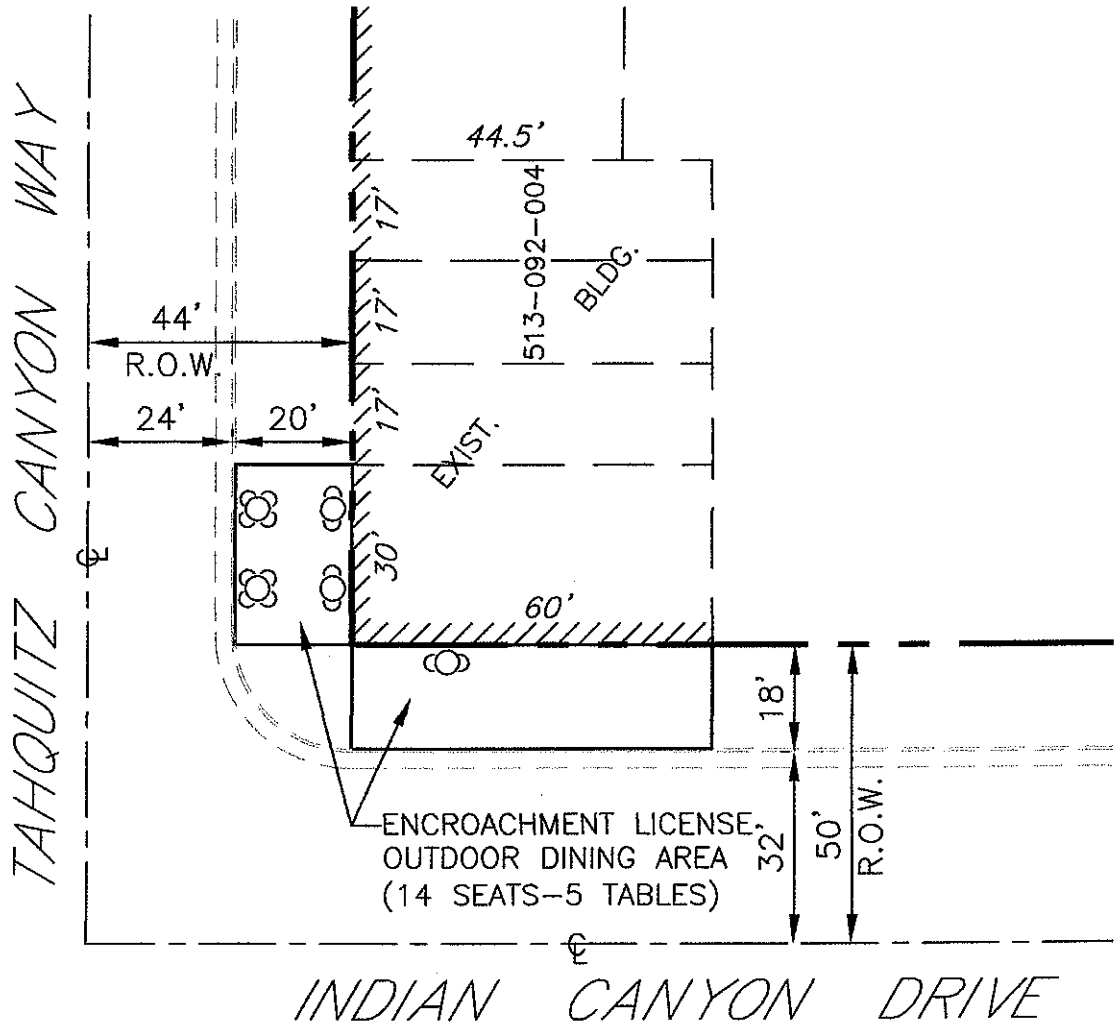
EXHIBIT "C"



POR Block 26, MB 009, Page 432 Map of Palm Springs. SD County

OUTDOOR DINING ENCROACHMENT LICENSE EXHIBIT 190 E. TAHQUITZ CANYON WAY	DESIGN BY:	SCALE:	FILE NO.:
	FUP	NTS	EL 08-04
	CHECKED BY:	DATE	SHEET NO.:
		11/20/06	1 OF 1

EXHIBIT "C-1"



POR Block 26, MB 009, Page 432 Map of Palm Springs. SD County

OUTDOOR DINING
ENCROACHMENT LICENSE EXHIBIT
190 E. TAHQUITZ CANYON WAY

DESIGN BY:
FUP

SCALE:
NTS

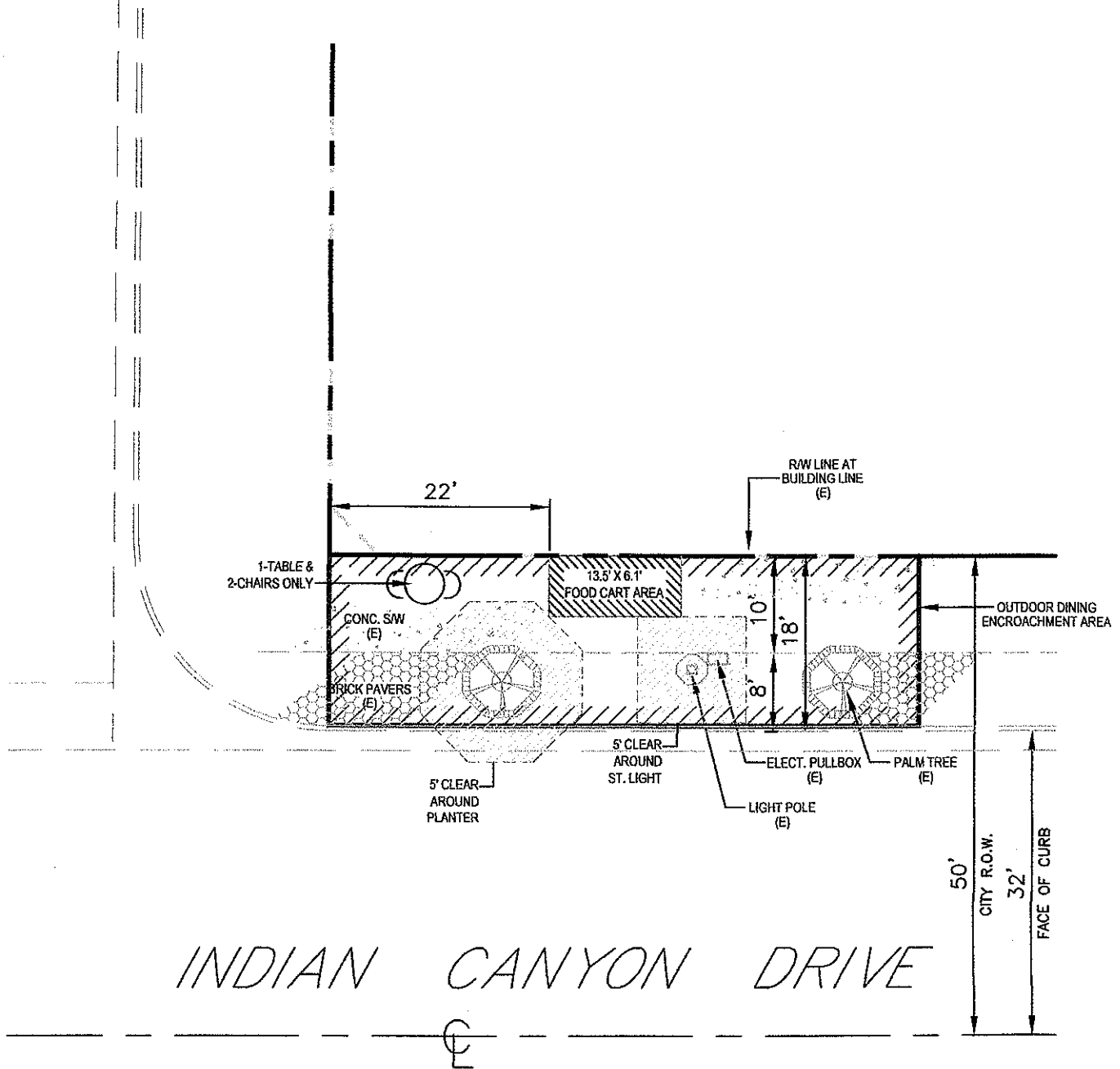
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EL 13-03

CHECKED BY:

DATE
4/14/2014

SHEET NO.:
1 OF 2

EXHIBIT "C-2"



INDIAN CANYON DRIVE

POR Block 26, MB 009, Page 432 Map of Palm Springs. SD County

OUTDOOR DINING ENCROACHMENT LICENSE EXHIBIT 190 E. TAHQUITZ CANYON WAY	DESIGN BY: FUP	SCALE: NTS	FILE NO.: EL 13-03A
	CHECKED BY:	DATE 04/14/14	SHEET NO.: 2 OF 2



"B"



"C"



u D n



"E"



This area is NOT
to be used for anything
unless enclosed with
windows on all four sides.

