



## CITY COUNCIL STAFF REPORT

DATE: DECEMBER 17, 2014

CONSENT CALENDAR

SUBJECT: REQUEST BY VIVA LAS PALOMAS, LLC ON BEHALF OF 450 PALM CANYON DRIVE LLC FOR A RESOLUTION OF PUBLIC CONVIENENCE OR NECESSITY (PCN) TO SELL BEER, WINE AND DISTILLED SPIRITS (TYPE 48 ALCOHOLIC BEVERAGE CONTROL LICENSE) AT A PROPOSED COCKTAIL LOUNGE AT 450 SOUTH PALM CANYON DRIVE.

CASE: 5.1357 – PCN

FROM: David H. Ready, City Manager

BY: Department of Planning Services

---

### SUMMARY

The City Council will consider a request to adopt a Resolution of Public Convenience or Necessity (PCN) for the sale of beer, wine and distilled spirits (Alcoholic Beverage Control Type 48 license) at a proposed cocktail lounge located at 450 South Palm Canyon Drive.

### RECOMMENDATION:

Adopt Resolution No. \_\_\_\_\_, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER, WINE AND DISTILLED SPIRITS (TYPE 48 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) FOR THE PROPERTY LOCATED AT 540 SOUTH PALM CANYON DRIVE, WITHIN CENSUS TRACT #0446.06."

### ISSUES:

- Proposed location is currently vacant.
- No net increase in parking required.

**BACKGROUND:**

<i>Related Relevant City Actions by Planning, Fire, Building, etc...</i>	
1989	The subject building was constructed
12/10/2014	Planning Commission approves Conditional Use Permit for new nightclub.

<i>Most Recent Ownership/Business</i>	
2013	450 Palm Canyon Drive LLC

<i>Field Check</i>	
December 2014	Staff has visited the site to observe existing conditions

<i>Details of Application Request</i>	
<i>Site Area</i>	
Complex Building Area	48,598-square feet
Site Building Area	10,308-square feet
Tenant Area	5,069-square feet

<i>Surrounding Property</i>	<i>Existing General Plan Designations</i>	<i>Existing Land Use</i>	<i>Existing Zoning Designations</i>
Subject Property	Central Business District	Multi-tenant Commercial	CBD
North	Central Business District	Multi-tenant Commercial	CBD
South	Central Business District	Multi-tenant Commercial	CBD
East	Local Serving Commercial (Section 14)	Multi-tenant Retail	LSC
West	Central Business District	Commercial	CBD

**BACKGROUND AND SETTING:**

The applicant is requesting approval of a Conditional Use Permit (CUP) to operate a new cocktail lounge and nightclub called "The Palm House" in a vacant 5,069-square foot space located at 450 South Palm Canyon Drive. Hours of operation to be from 5:00 PM to 2:00 AM, Wednesday to Sunday. Entertainment will include DJs. The applicant is seeking a Type 48 liquor license serving beer, wine, and distilled spirits.



**TENENT SPACE**

*General Plan:* The General Plan designation of the subject site is CBD (Central Business District). This designation allows for “theatres, museums, retail and other entertainment venues”. The subject property is an existing mixed-use complex containing restaurant and retail businesses. The addition of a cocktail lounge with a Type 48 liquor license will advance the goals of the General Plan and provide a service to the visitors of Downtown Palm Springs. Therefore, the proposed use is consistent with the General Plan.

*Zoning:* The subject property is zoned Central Business District (CBD). Pursuant to Section 92.09.01(D)(5) of the Palm Springs Zoning Code (PSZC), “cocktail lounges and nightclubs with or without dancing” are permitted with the approval of a Conditional Use Permit.

*Parking:* The existing parking lot at the rear of the building serves the parking demand for the multi-tenant complex. There are a total of 125 off-street parking spaces and 21 on-street parking spaces. Pursuant to Section 92.26.00(C)(4) of the PSZC, mixed use shopping centers exceeding 20,000-square feet in size are required to accommodate one parking space per 375-square feet of gross floor area. With a total area of 48,569-square feet for the complex, a total of 130 parking spaces are required. No additional parking is required due to parking standards set forth in the Downtown Parking Combining zone and allowance of on-street parking credit.

*Safety and Security:* Staff requested comments and recommendations on the proposal from the Fire and Police Departments. The Fire Department indicated that there were no issues with the use and provided recommended conditions of approval. The Palm Springs Police Department (PSPD) requested that a security plan be a condition of approval for the CUP. A security plan will be reviewed with the applicant in the near future.

#### ANALYSIS:

The applicant has applied for a “Type 48” license through the State of California Department of Alcoholic Beverage Control (ABC) for the proposed alcohol sales. The ABC summarizes the “Type 48” license as follows:

*(Bar, Night Club) Authorizes the sale of beer and wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer, wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.*

The proposed liquor license is located within a Census tract that exceeds the amount of on-sale licenses normally permitted; this is known as an “undue concentration” and is specifically defined by Section 23958.4 of the Business and Professions Code:

*As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.*

The subject property is located within Census Tract #0446.06, which is bounded by Indian Canyon Drive to the east, Ramon Road to the south, San Jacinto Mountains and North Snow Creek areas (see attached census map). This tract currently has four (4) active on-sale liquor licenses. Two licenses are authorized for the tract based on its population. The ABC can only issue the proposed liquor license if the Council determines that the public convenience or necessity would be served.

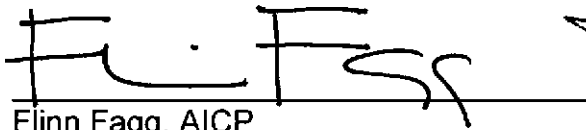


The property is located within the Central Business District in a location most recently occupied by a Mexican restaurant. The new nightclub will provide an entertainment outlet for nearby tourist and residents within the immediate area. A list of all liquor licenses within this tract is attached to this report.

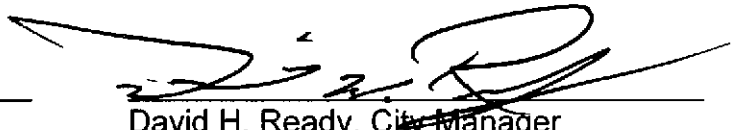
Since the property is located in the Central Business District in an area that is considered to be the City's entertainment area, staff believes that the proposed use will not be inconsistent with the desired mix of commercial uses in this Census tract and will serve the public convenience. Furthermore, the Planning Commission approved the proposed Conditional Use Permit for a cocktail lounge at their December 10, 2014 meeting.

FISCAL IMPACT:

No fiscal impact.



Flinn Fagg, AICP  
Director of Planning Services



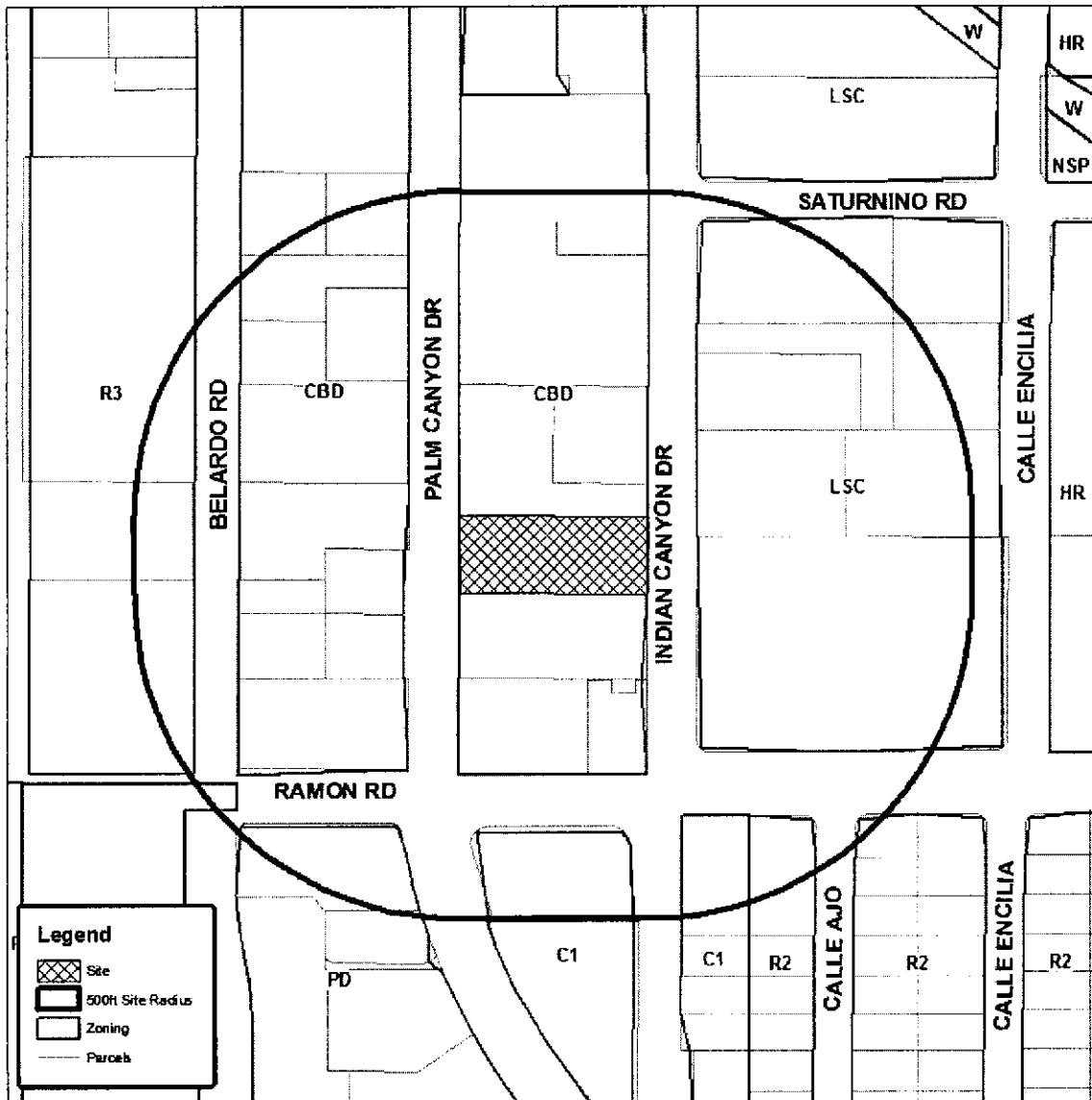
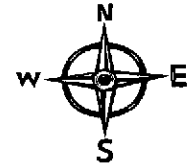
David H. Ready, City Manager

Attachments:

1. 400' Vicinity Map
2. Draft Resolution
3. Letter of Request from Applicant
4. Site Plan / Floor Plan
5. List of Authorized License Types in the Subject Census Tract
6. Census Tract Map
7. Planning Commission Staff Report 12/10/14



# Department of Planning Services Vicinity Map



**Legend**

- Site
- 500ft Site Radius
- Zoning
- Parcels

## CITY OF PALM SPRINGS

**CASE NO:** 5.1357 CUP  
**APPLICANT:** Viva Las Palomas, LLC  
 on behalf of 450 Palm Canyon Drive LLC

**DESCRIPTION:** A Conditional Use Permit to allow a nightclub and cocktail lounge of approximately 5,069-square feet in size within an existing multi-tenant building at 450 South Palm Canyon Drive, Zoned CBD, Section 15, GP:CBD.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, OF PUBLIC CONVENIENCE IN ORDER TO SELL BEER, WINE AND DISTILLED SPIRITS (TYPE 48 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) AT THE PALM HOUSE FOR THE PROPERTY LOCATED AT 450 SOUTH PALM CANYON DRIVE, WITHIN CENSUS TRACT #0446.06.

WHEREAS, Viva Las Palomas, LLC ("Applicant") has requested the adoption of a Resolution of Public Convenience or Necessity (Planning Case No. 5.1357 PCN) for a Type 48 alcohol license to sell beer, wine and distilled spirits at a proposed cocktail lounge at 450 South Palm Canyon Drive, Zone CBD, Section 15/T4/R4; and

WHEREAS, on December 10, 2014, the Planning Commission approved a Conditional Use Permit for Case 5.1357 CUP with associated Conditions of Approval; and

WHEREAS, the applicant has applied with the State of California Alcoholic Beverage Control for a license to sell beer, wine and distilled spirits: license type 48 (On-sale General – Public Premises); and

WHEREAS, pursuant to Section 23958.4(b)(2) of the California Business and Professions Code, the applicant has requested that the City Council determine the public convenience or necessity would be served if the requested license is issued; and

WHEREAS, the City Council carefully reviewed and considered all of the evidence presented in connection with the request for a Resolution of Public Convenience or Necessity, including but not limited to the staff report and all written and oral testimony.

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

SECTION 1. The location of the proposed business, within Census Tract #0446.06, is within the Central Business District and will provide a service to tourists and residents of the City. The proposed use will not be inconsistent with the desired mix of commercial uses in this Census tract

SECTION 2. The City Council finds that an ABC Type 48 liquor license (On-sale General – Public Premises) at 850 South Palm Canyon Drive, serves the Public Convenience.

ADOPTED THIS 17th DAY OF DECEMBER, 2014.

\_\_\_\_\_  
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



Viva Las Palomas , LLC  
1100 N Palm Canyon Drive Suite: 214  
Palm Springs, CA 92262  
Telephone: 310-600-3405 Fax: 760-459-3248  
Email: Gabadoc1@me.com

October 20, 2014

City of Palm Springs  
Department of Planning Services  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262  
Tel: 760-323-8245 Fax: 760-322-8360

CDD- 15/4/4 -  
C.B.D

To whom it may concern:

This is a request for a letter of public convenience and necessity. Viva Las Palomas, LLC, The Palm House, DBA has a pending application with the California Department of Alcohol and Beverage Control (ABC) for a Type 48 public premises liquor license. The license will be used at our bar, lounge and nightclub The Palm House will be located at 450 S. Palm Canyon Drive Palm Springs, CA 92262. This location has been operating as a restaurant with a liquor license attached for 15 years our liquor license has only a change in venue.

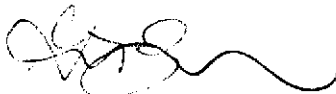
During the application process, the ABC board is requiring us to provide a Public Convenience of Necessity letter from a local governing council that supports Viva Las Palomas, LLC's application. This letter is a request by myself Dr. Guy T. Burrows MD to the Palm Springs City Council to provide the information requested by the ABC Board.

Our bar, lounge and nightclub The Palm House is to be opened on December 1, 2014. The proposed sale of liquor is a natural component to this type of establishment. The bar lounge and nightclub The Palm House will cater to broad spectrum of people both tourists and local residents that are looking for an upscale drinking establishment outside of Palm Springs' many hotels and restaurants.

Our bar, lounge and nightclub The Palm House will operate within all local laws and ordinances. The preliminary 500 feet radius shows no residents with in that radius. We will have DJ entertainment. We anticipate 250 or more patrons; along with 25 employees. Our hours of operation will be from 5 PM-2 AM. The Palm House has ample parking for our patrons totally to 125 parking spaces and 5 handicap parking spaces. We will also provide a Valet service and a space for Taxi's so that it will have no negative impact on the surrounding area. Our staff will be TIPS certified, so that they are aware of and enforce, all laws regarding liquor sales. No minors or intoxicated individuals will be served. Furthermore, our bar lounge and nightclub The Palm House will employ a number of people and generate additional tax revenue for the city of Palm Springs.

Should you have any questions or concerns I can be reach on my cell phone 310-600-3405 or my email Gabadoc1@me.com.

Sincerely,



Dr. Guy T. Burrows MD

Instructions to Applicant(s):

Thank you for filing your application. The application will be assigned to a representative for investigation. After the application is initially reviewed, the representative will notify you if additional information is necessary for the investigation. **Failure to respond to the requests for additional information will be considered an abandonment of the application and it will be administratively withdrawn.** The items needed for our investigation are check below. *Please furnish them to this office as soon as possible to avoid delays or denial of your application.* When completing forms, print in ink or type. For questions or help, please call and ask to speak with your assigned investigator or licensing representative at **(760) 324-2027**.

<b>DATE:</b> <u>October 13, 2014</u>
<b>LICENSE TYPE &amp; NUMBER:</b> <u>48-550866</u>

- Post your premises with Form ABC-207, Public Notice...(white poster), or ABC-207B, Public Notice...(yellow poster). Your 30-day statutory waiting period begins when you post the notice. Make sure to date the notice.
- ABC-293, Affidavit of Posting - Sign, date and return.
- ABC-207-A, Notice of Application - Publish one time in a newspaper of general circulation in the city where the licensed premises will be located. If none, publish in a newspaper of general circulation in the city nearest the premises.
- ABC-207-C, Notice of Application to Sell Alcoholic Beverages - Publish once a week for three consecutive weeks. Publish in a newspaper of general circulation in the city where the licensed premises will be located. If none, publish in a newspaper of general circulation in the city nearest the premises.
- ABC-207-D, Notice of Application for Change in Ownership of Alcoholic Beverage License - Publish one time in a newspaper of general circulation in the city where the licensed premises will be located. If none, publish in a newspaper of general circulation in the city nearest the premises.
- ABC-528, Instructions to Applicants...Section 23985.5, 500' law.
- ABC-207-E, Notice of Intention to Engage in the Sale of Alcoholic Beverages - Mail to certain addresses within 500' of the premises. Follow instructions on Form ABC-528.
- ABC-207-F, Declaration of Service by Mail (Section 23985.5, 500' law). Complete, sign, date and return to ABC with a copy of the ABC-207-E.
- Copy of Conditional Use Permit - Obtain from your city or county planning department.
- ABC-208-A/B, Individual Personal/Financial Affidavit - The following person(s) must complete the form:
- LiveScan (fingerprints) for the following person(s) - Please provide second copy of BCII 8016 signed by Live Scan operator:  

BURROWS, Guy  
BURROWS, Candice
- Re-record and provide certified copy of ABC-227 or ABC-227-A, Notice of Intended Transfer, to include corrections:
- ABC-245, Information and Instructions re: Section 23958.4 (Public Convenience or Necessity).
- ABC-282, Declaration re Temporary Permit - Required if applicant is not available to sign ABC-280, Temporary Retail Permit.
- ABC-283, Information Concerning Temporary Permit - Information only; please read.

# INVESTIGATION CHECKLIST (Cont.)

Copy of Menu

Food Lessee Agreement

Agreement:

Manager

Franchise

Non-retail applicant: Contact U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB), to find out if a Federal Basic permit is needed (ABC may also need a copy). Contact TTB at National Revenue Center, 550 Main St., Cincinnati, OH 45202-3263, Phone: (800) 398-2282. Website: [www.ttb.gov](http://www.ttb.gov).

Non-retail applicant: Contact ABC Headquarters, (916) 419-2571, concerning the need for: Malt Beverage price Schedule (ABC-701), Territorial Agreements, Label Approval Application (ABC-412), Certificate of Compliance (ABC-578 and ABC 410), and Out-of-State Distilled Spirits Shipper's Certificate (ABC-413 and ABC-414)

Non-retail applicants, except Types 06, 08, 14, 16, 17, 27 and 29, will be contacted directly by the California Board of Equalization, Excise Tax Division, concerning registration requirements for excise tax due on alcoholic beverages.

Retail applicant: Contact U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB), (877) 882-3277, about the Special Tax Registration; ATF-5630.5, Annual Tax Registration and Return; ATF-5170.2, Liquor Laws and Regulations for Retail Dealers. Website: [www.ttb.gov](http://www.ttb.gov).

Petition for Conditional License - ABC-172.

ABC-203, Acknowledgement of ABC Laws, Rules or Regulations

Rule 60(j) or (l) affidavit.

ABC-226, Statement re: Consideration Deposited in Escrow. Escrow holder must sign and mail to ABC.

Date mailed to escrow holder: October 13, 2014

You may need to provide verification (proof) of the source of your funds (e.g., bank statements, savings passbooks, loan papers, real estate papers, financial statement, gift/loan letters, etc.).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

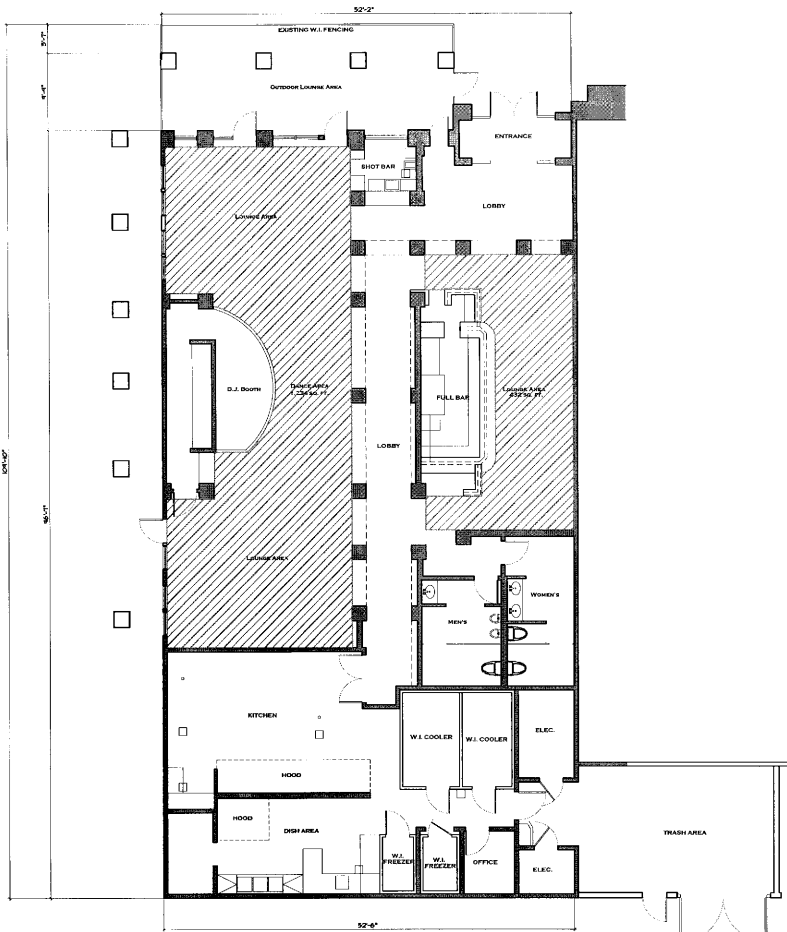
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.



**PRELIMINARY FLOOR PLAN**  
3/18" x 1'-0"



**GABRIEL LUJAN & ASSOCIATES**  
 ARCHITECTS • INTERIORS • LANDSCAPE ARCHITECTS  
 450 S. PALM CANYON DR. PALM SPRINGS, CA 92262  
 TEL: 951.251.1100 FAX: 951.251.1101  
 WWW.GABRIELLUJAN.COM

**A CONDITIONAL USE PERMIT FOR :**  
**THE PALM HOUSE BAR/LOUNGE NIGHTCLUB**  
 450 S. PALM CANYON DR. PALM SPRINGS, CA 92262

REVISIONS : BY

SHEET TITLE :  
**PRELIMINARY FLOOR PLAN**

- DATE
- DESIGNER
- SCALE
- PROJECT NO.
- CLIENT
- DATE

**P2**  
 Printed On: 11/28/14



**California Department of Alcoholic Beverage Control  
For the County of RIVERSIDE - (By license type 48)  
and Census Tract = 446.06**

Report as of 12/7/2014

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	332446	ACTIVE	48	10/2/1997	7/31/2015	BITONTI, LARRY JAMES 238 N PALM CANYON DR PALM SPRINGS, CA 92262  Census Tract: 0446.06	HAIR OF THE DOG ENGLISH PUB	30889 AVENIDA XIMINO CATHEDRAL CITY, CA 92234-2949	3310
2)	486008	ACTIVE	48	6/2/2010 2:24:12 PM	5/31/2015	DESERT FOX PRODUCTIONS 224 N PALM CANYON DR PALM SPRINGS, CA 92262-5510  Census Tract: 0446.06	DESERT FOX		3310
3)	536408	ACTIVE	48	11/25/2013 2:01:30 PM	10/31/2015	LEGENDS OF PALM SPRINGS LLC 125 E TAHQUITZ CANYON WAY, STE 102 PALM SPRINGS, CA 92262-6457  Census Tract: 0446.06	LEGENDS OF PALM SPRINGS		3310
4)	544914	ACTIVE	48	8/29/2014 3:05:42 PM	7/31/2015	LOLA COFFEE LLC 140 W. VIA LOLA, #1101 PALM SPRINGS, CA 92262-4339  Census Tract: 0446.06	ERNEST COFFEE/BOOTLEGGER TIKI	1959 JACQUES DR. PALM SPRINGS, CA 92262-3112	3310

--- End of Report ---

For a definition of codes, view our [glossary](#).







## PLANNING COMMISSION STAFF REPORT

DATE: December 10, 2014

SUBJECT: VIVA LAS PALOMAS, LLC ON BEHALF OF 450 PALM CANYON DRIVE LLC FOR A CONDITIONAL USE PERMIT TO ALLOW A NIGHTCLUB AND COCKTAIL LOUNGE OF APPROXIMATELY 5,069-SQUARE FEET IN SIZE WITHIN AN EXISTING MULTI-TENANT BUILDING AT 450 SOUTH PALM CANYON DRIVE, ZONED CBD (CASE 5.1357 CUP).

FROM: Department of Planning Services

### SUMMARY

The Planning Commission will consider a Conditional Use Permit request for a new 5,069-square foot cocktail lounge and nightclub within an existing multi-tenant commercial building located at 450 South Palm Canyon Drive. Business name: The Palm House

### RECOMMENDATION:

Approve, subject to conditions.

### ISSUES:

- Proposed location is currently vacant.
- No net increase in parking required.

### BACKGROUND:

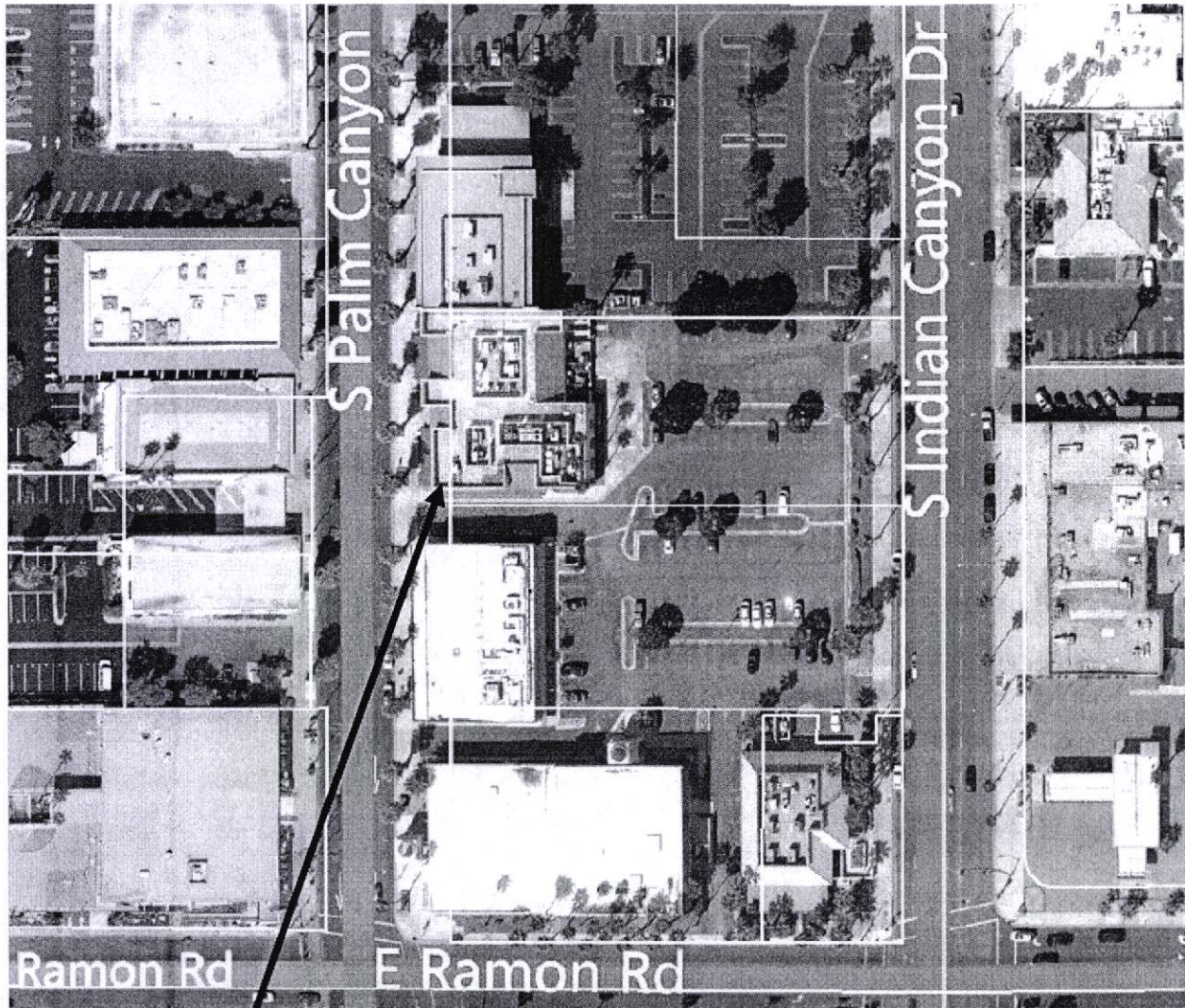
<i>Related Relevant City Actions by Planning, Fire, Building, etc...</i>	
1989	The subject building was constructed
<i>Most Recent Ownership/Business</i>	
2013	450 Palm Canyon Drive LLC
<i>Field Check</i>	
November 2014	Staff has visited the site to observe existing conditions



<i>Details of Application Request</i>	
<i>Site Area</i>	
Complex Building Area	48,598-square feet
Site Building Area	10,308-square feet
Tenant Area	5,069-square feet

**BACKGROUND AND SETTING:**

The applicant is requesting approval of a Conditional Use Permit (CUP) to operate a new cocktail lounge and nightclub called “The Palm House” in a vacant 5,069-square foot space located at 450 South Palm Canyon Drive. Hours of operation to be from 5:00 PM to 2:00 AM, Wednesday to Sunday. Entertainment will include DJs. The applicant is seeking a Type 48 liquor license serving beer, wine, and distilled spirits.



**TENENT SPACE**



<b>Surrounding Property</b>	<b>Existing General Plan Designations</b>	<b>Existing Land Use</b>	<b>Existing Zoning Designations</b>
Subject Property	Central Business District	Multi-tenant Commercial	CBD
North	Central Business District	Multi-tenant Commercial	CBD
South	Central Business District	Multi-tenant Commercial	CBD
East	Local Serving Commercial (Section 14)	Multi-tenant Retail	LSC
West	Central Business District	Commercial	CBD

## ANALYSIS

*General Plan:* The General Plan designation of the subject site is CBD (Central Business District). This designation allows for “theatres, museums, retail and other entertainment venues”. The subject property is an existing mixed-use complex containing restaurant and retail businesses. The addition of a cocktail lounge with a Type 48 liquor license will advance the goals of the General Plan and provide a service to the visitors of Downtown Palm Springs. Therefore, the proposed use is consistent with the General Plan.

*Zoning:* The subject property is zoned Central Business District (CBD). Pursuant to Section 92.09.01(D)(5) of the Palm Springs Zoning Code (PSZC), “cocktail lounges and nightclubs with or without dancing” are permitted with the approval of a Conditional Use Permit.

*Parking:* The existing parking lot at the rear of the building serves the parking demand for the multi-tenant complex. There are a total of 125 off-street parking spaces and 21 on-street parking spaces. Pursuant to Section 92.26.00(C)(4) of the PSZC, mixed use shopping centers exceeding 20,000-square feet in size are required to accommodate one parking space per 375-square feet of gross floor area. With a total area of 48,569-square feet for the complex, a total of 130 parking spaces are required. No additional parking is required due to parking standards set forth in the Downtown Parking Combining zone and allowance of on-street parking credit.

*Safety and Security:* Staff requested comments and recommendations on the proposal from the Fire and Police Departments. The Fire Department indicated that there were no issues with the use and provided recommended conditions of approval. The Palm Springs Police Department (PSPD) requested that a security plan be a condition of approval for the CUP. A security plan will be reviewed with the applicant in the near future.



## REQUIRED FINDINGS

The Planning Commission must make certain findings in order to approve this Conditional Use Permit pursuant to Section 94.02.00 of the Palm Springs Zoning Code; those findings are analyzed by staff below:

- 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.*

Section 92.09.01(D)(5) of the Palm Springs Zoning Code permits a cocktail lounge and nightclub in the CBD zone when approved under a Conditional Use Permit.

- 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.*

The use will provide entertainment and gathering space within the Central Business District of downtown Palm Springs. The proposed use is desirable for the development of the community as it adds to the nighttime activities available in the vicinity of downtown. A nightclub at the proposed location is not anticipated to be detrimental to existing uses or future uses specifically permitted in the CBD zone.

- 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 use is within a mixed-use development with adequate parking as required by the zoning code. The business will operate within a 5,069-square foot space and no additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.

- 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 project site is located between South Palm Canyon Drive and South Indian Canyon Drive, which are designated as major thoroughfares in the General Plan Circulation Element, and are improved with three vehicle lanes and four vehicle lanes, respectively. The tenant space is approximately 5,069-square feet in size and

any traffic generated by the proposed use will be insignificant to the streets and highways.

- 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.*

The proposal is to operate a 5,069-square foot nightclub in an existing building. Conditions of Approval have been included in the attached Exhibit A to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance, limitations on operating hours and other necessary requirements.

## CONCLUSION

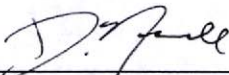
The project is consistent with the land use policies of the General Plan and Zoning Code. Staff is able to recommend findings necessary for approval of the proposed use. On that basis, staff is recommending approval of the proposal.

## ENVIRONMENTAL

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project has been determined to be categorically exempt from further environmental review pursuant to Section 15301(a) (Existing Facilities).

## NOTIFICATION

A public hearing notice was published in the local newspaper and mailed to all property owners and registered occupants within a 500-foot radius of the subject property. As of the writing of this report, staff has not received any public correspondence.

  
\_\_\_\_\_  
David A. Newell  
Assistant Planner

  
\_\_\_\_\_  
Flinn Fagg, AICP  
Director of Planning Services

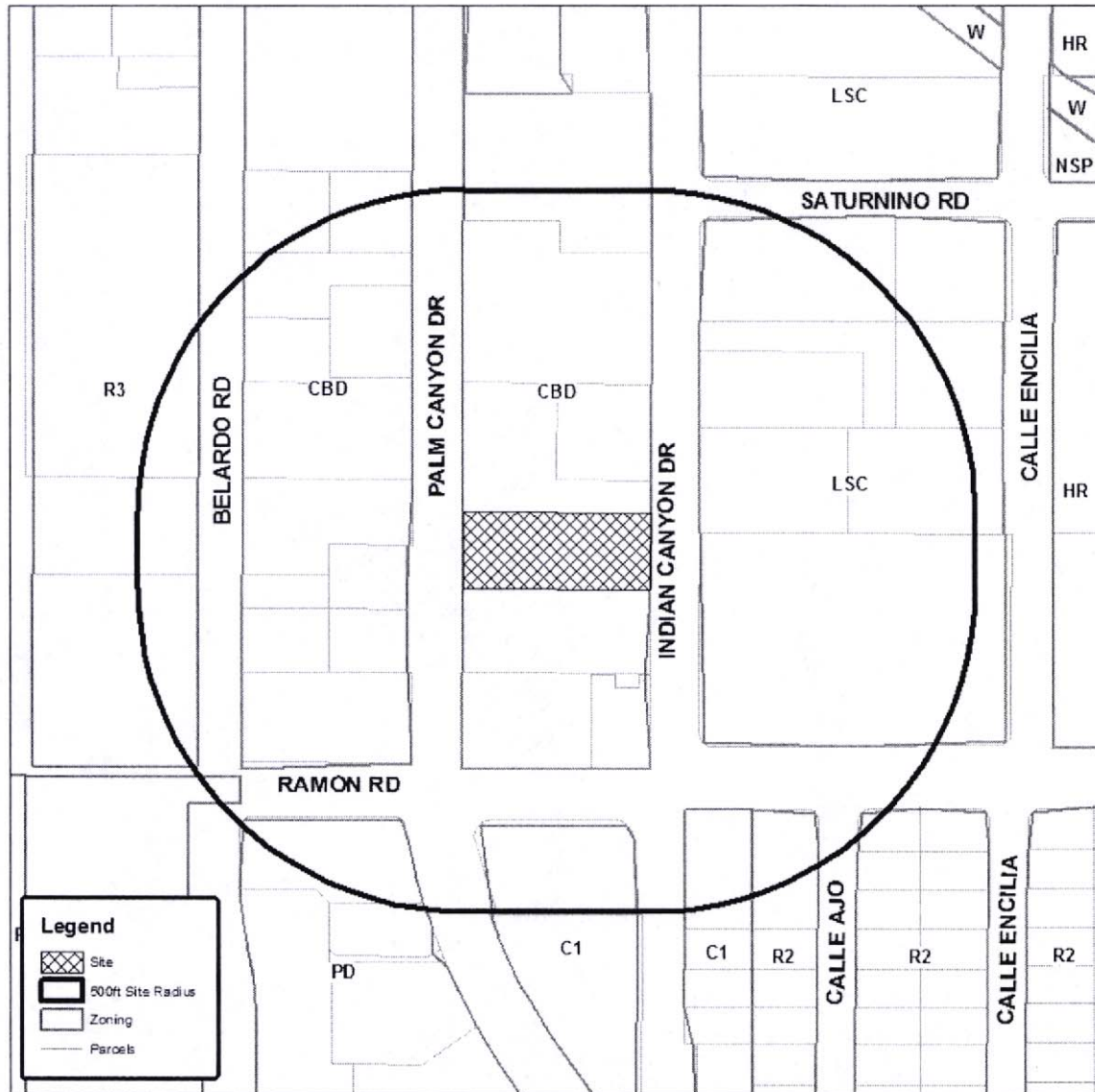
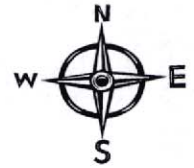
## ATTACHMENTS

1. Vicinity Map
2. Draft Resolution with Conditions of Approval
3. Justification Letter
4. Site Plan
5. Floor Plan





# Department of Planning Services Vicinity Map



**Legend**

- Site
- 500ft Site Radius
- Zoning
- Parcels

## CITY OF PALM SPRINGS

**CASE NO:** 5.1357 CUP

**APPLICANT:** Viva Las Palomas, LLC  
on behalf of 450 Palm Canyon Drive LLC

**DESCRIPTION:** A Conditional Use Permit to allow a nightclub and cocktail lounge of approximately 5,069-square feet in size within an existing multi-tenant building at 450 South Palm Canyon Drive, Zoned CBD, Section 15, GP:CBD.

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING CASE 5.1357, A CONDITIONAL USE PERMIT (CUP) TO OPERATE A NIGHTCLUB USE AT 450 SOUTH PALM CANYON DRIVE.

WHEREAS, Viva Las Palomas, LLC. ("Applicant") has filed a Conditional Use Permit application with the City pursuant to Section 94.02.00 of the Zoning Code to allow a nightclub use in a 5,069-square foot tenant space within a multi-tenanted commercial complex located at 450 South Palm Canyon Drive, Zone CBD, Section 15, APN: 513-214-004; and

WHEREAS, a nightclub may be permitted in the CBD (Central Business District) Zone with the approval of a Conditional Use Permit, pursuant to Section 92.09.01(D)(5) of the Zoning Code; and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider Case No. 5.1357 – CUP was given in accordance with applicable law; and

WHEREAS, on December 10, 2014, a public hearing on the application was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed project is considered a "project" pursuant to the terms of the California Environmental Quality Act ("CEQA"), and has been determined to be Categorically Exempt as a Class I exemption (Existing Facilities) pursuant to Section 15301 of the CEQA Guidelines; 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: Section 94.02.00(B)(6) of the Zoning Code requires the Planning Commission not approve a Conditional Use Permit unless it 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.*

Section 92.09.01(D)(5) of the Palm Springs Zoning Code permits a cocktail lounge and nightclub in the CBD zone when approved under a 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 use will provide entertainment and gathering space within the Central Business District of downtown Palm Springs. The proposed use is desirable for the development of the community as it adds to the nighttime activities available in the vicinity of downtown. A nightclub at the proposed location is not anticipated to be detrimental to existing uses or future uses specifically permitted in the CBD zone.

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 use is within a mixed-use development with adequate parking as required by the zoning code. The business will operate within a 5,069-square foot space and no additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.

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 project site is located between South Palm Canyon Drive and South Indian Canyon Drive, which are designated as major thoroughfares in the General Plan Circulation Element, and are improved with three vehicle lanes and four vehicle lanes, respectively. The tenant space is approximately 5,069-square feet in size and any traffic generated by the proposed use will be insignificant to the streets and highways.

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. Such conditions may include:*
  - a. *Regulation of use*
  - b. *Special yards, space and buffers*
  - c. *Fences and walls*
  - d. *Surfacing of parking areas subject to city specifications*
  - e. *Requiring street, service road, or alley dedications and improvements or appropriate bonds*
  - f. *Regulation of points of vehicular ingress and egress*
  - g. *Regulation of signs*
  - h. *Requiring landscaping and maintenance thereof*
  - i. *Requiring maintenance of grounds*
  - j. *Regulation of noise, vibrations, odors, etc.*

- k. Regulation of time for certain activities*
- l. Time period within which the proposed use shall be developed*
- m. Duration of use*
- n. Dedication of property for public use*
- o. Any such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this Zoning Code, including but not limited to mitigation measures outlined in an environmental assessment.*

The proposal is to operate a 5,069-square foot nightclub in an existing building. Conditions of Approval have been included in the attached Exhibit A to ensure that the use operates in a manner which protects the public health, safety and general welfare. These conditions include compliance with the City's noise ordinance, limitations on operating hours and other necessary requirements.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves Case No. 5.1357 – CUP, a Conditional Use Permit to allow a nightclub use of approximately 5,069-square feet within a mixed use complex located at 450 South Palm Canyon Drive, subject to the conditions set forth in the attached Exhibit A.

ADOPTED this 10<sup>th</sup> day of December 2014.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

\_\_\_\_\_  
Flinn Fagg, AICP  
Director of Planning Services



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

**EXHIBIT A**

Case 5.1357 CUP  
The Palm House (Nightclub)

450 South Palm Canyon Drive

December 10, 2014

**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 5.1357 CUP, except as modified the conditions below.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans 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 5.1357 CUP. 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 Commencement of Use. The time limit for commencement of the use authorized by this conditional use permit shall be two (2) years from the effective date of approval. A conditional use permit shall become effective after an elapsed period of fifteen (15) days from the date of the decision by the commission authorizing the permit.
- 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. Permits will not be issued until the appeal period has concluded.
- ADM 9. 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 10. 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 Police 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 the law.
- ADM 11. Comply with City Noise Ordinance. This use and property 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.

#### **PLANNING DEPARTMENT CONDITIONS**

- PLN 1. Alcohol Sales. The Conditional Use Permit authorizes the sale of beer, wine, and distilled spirits from 450 S. Palm Canyon Drive.
- PLN 2. Hours of Operation. The operating hours shall be 5:00 P.M. to 2:00 A.M. daily. Any future modifications to the hours of operation shall require an amendment to this Conditional Use Permit.
- PLN 3. Entertainment. Entertainment to include disc jockeys indoors only. Bass levels shall be at a reasonable level.
- PLN 4. Letter of Convenience or Necessity. The applicant shall obtain a Letter of Convenience or Necessity from the City Council prior to commencement of the alcohol sales use. If the Resolution of Convenience and Necessity is not approved, this CUP application will not be valid.
- PLN 5. 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 6. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.
- PLN 7. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.

## **POLICE DEPARTMENT CONDITIONS**

- POL 1. Security Plan. Within ninety (90) days of approval of the Conditional Use Permit, the applicant and property owner shall agree, in writing, to comply with a security plan that has been approved by the Chief of Police. The business operator or his / her designee shall ensure compliance with the approved security plan at all times. If the Chief of Police has determined that there are continual violations of the security plan, the Conditional Use Permit may be revoked by the City Council, pursuant to Section 94.02.00 of the Zoning Code.

## **BUILDING DEPARTMENT CONDITIONS**

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

## **FIRE DEPARTMENT CONDITIONS**

These Fire Department conditions may not provide all requirements. Detailed plans are still required for review.

- FID 1 These conditions are subject to final plan check and review. Initial fire department conditions have been determined from electronic plans dated "November 2014". Additional requirements may be required at that time based on the submittal of the Tenant Improvement plans.
- FID 2 Fire Department Conditions were based on the *2013 California Fire Code* as adopted by City of Palm Springs, Palm Springs Municipal Code and latest adopted NFPA Standards. Four (4) complete sets of plans for; Tenant Improvements, private fire service mains, fire alarm, or fire sprinkler systems must be submitted at time of the building plan submittal.
- FID 3 **Plans and Permits (CFC 105.1):**

Permits and scaled drawings are required for this project. Plan reviews can take up to 20 working days. Submit a minimum of four (4) sets of drawings for review. Upon approval, the Fire Prevention Bureau will retain one set.

Plans shall be submitted to:

City of Palm Springs  
Building and Safety Department  
3200 E. Tahquitz Canyon Way  
Palm Springs, CA 92262



Counter Hours: 8:00 AM – 6:00 PM, Monday – Thursday

A deposit for Plan Check and Inspection Fees is required at the time of Plan Submittal. These fees are established by Resolution of the Palm Springs City Council.

Complete listings and manufacturer's technical data sheets for all system materials shall be included with plan submittals (four sets). All system materials shall be UL listed or FM approved for fire protection service and approved by the Fire Prevention Bureau prior to installation.

FID 4     **“Exit Analysis Plan” required.** Prepared, stamped and signed by a state licensed architect in ¼” = 1’ scale. The floor plan shall address the following for a Group A-2 occupancy:

- Provide **net** occupant load calculations for the lounge, lobby and outdoor patio. The occupant load determination shall be made by the Fire Marshal
- Seating/table diagram with compliant aisle widths
- Minimum required egress width to accommodate occupant load
- Means of egress illumination locations
- Illuminated EXIT sign locations
- Compliant exit doors and door hardware (panic hardware)
- Elevation changes in the exit discharge
- Locations of fire extinguishers (minimum rating 2A-10BC).

FID 5     **Fire Extinguisher Requirements (CFC 906):** Provide one 2A-10BC portable fire extinguisher for every 75 feet of floor or grade travel distance for normal hazards. Show proposed extinguisher locations on the plans. Extinguishers shall be mounted in a visible, accessible location 3 to 5 feet above floor level. Preferred location is in the path of exit travel or near an exit door.

- Deep fat fryers shall have a Class K UL rated 2A:K wet chemical fire extinguisher located with 30 feet of the fryer(s)

FID 6     **Fire Protection Systems**

- Fire sprinkler system shall have been serviced by a C-16 licensed contractor within the previous 5-years
- Cooking hood suppression system shall have been serviced by a C-16 licensed contractor within the previous 6-months
- Cooking hood, exhaust plenum and exhaust fan grease collector shall have been cleaned within the previous 6-months.

FID 7     **Posting of Occupant Load (CFC 1004.3):** Every room or space *which is*

*used for assembly, classroom, dining, drinking, or similar purposes having an occupant load of 50 or more shall have the occupant load of the room or space posted in a conspicuous place, near the main exit or exit access doorway from the room or space. Posted signs shall be of an approved legible permanent design and shall be maintained by the owner or authorized agent.*

**END OF CONDITIONS**