



CITY OF PALM SPRINGS
DEPARTMENT OF PLANNING SERVICES
MEMORANDUM

Date: June 10, 2015
To: Planning Commission
From: Department of Planning Services *RS*
Subject: Agenda Item 2D. Jonathan Wasser for Chill Bar

At its meeting of May 27, 2015, the Planning Commission continued the subject item to the next regular meeting of June 10, 2015. The continuance was to allow additional notification to business occupants within 500 feet of the site. Correspondence has been received from the adjacent business and is attached to this memo. Staff believes the concerns expressed by the neighbor will be appropriately addressed with the recommended conditions in the draft resolution and recommends approval of the amendment.

Attachments:

1. May 27, 2015 Planning Commission Staff Report with Attachments
2. Public Correspondence (2 letters)



PLANNING COMMISSION STAFF REPORT

DATE: May 27, 2015

SUBJECT: JONATHAN WASSER ON BEHALF OF PLAZA INDIAN AVENUE INC. FOR A CONDITIONAL USE PERMIT AMENDMENT TO ALLOW AMPLIFIED ENTERTAINMENT, ADD A DANCE FLOOR AND MODIFY THE HOURS OF OPERATION FOR AN EXISTING COCKTAIL LOUNGE (CHILL BAR) LOCATED AT 212 AND 216 SOUTH INDIAN CANYON DRIVE, ZONED LSC BY SECTION 14 SPECIFIC PLAN (CASE NO. 5.1320 CUP). (DN)

FROM: Department of Planning Services

SUMMARY

The Planning Commission will consider a Conditional Use Permit Amendment request to allow amplified entertainment, dance floor and modified operation hours (10:00AM – 2:00AM daily) for an existing cocktail lounge within a multi-tenanted commercial complex located at 212 and 216 South Indian Canyon Drive. Business name: Chill Bar

RECOMMENDATION:

Approve, subject to conditions.

ISSUES:

- New business owner seeking changes to CUP.
- Application a result of complaint.
- No net increase in parking required.

BACKGROUND:

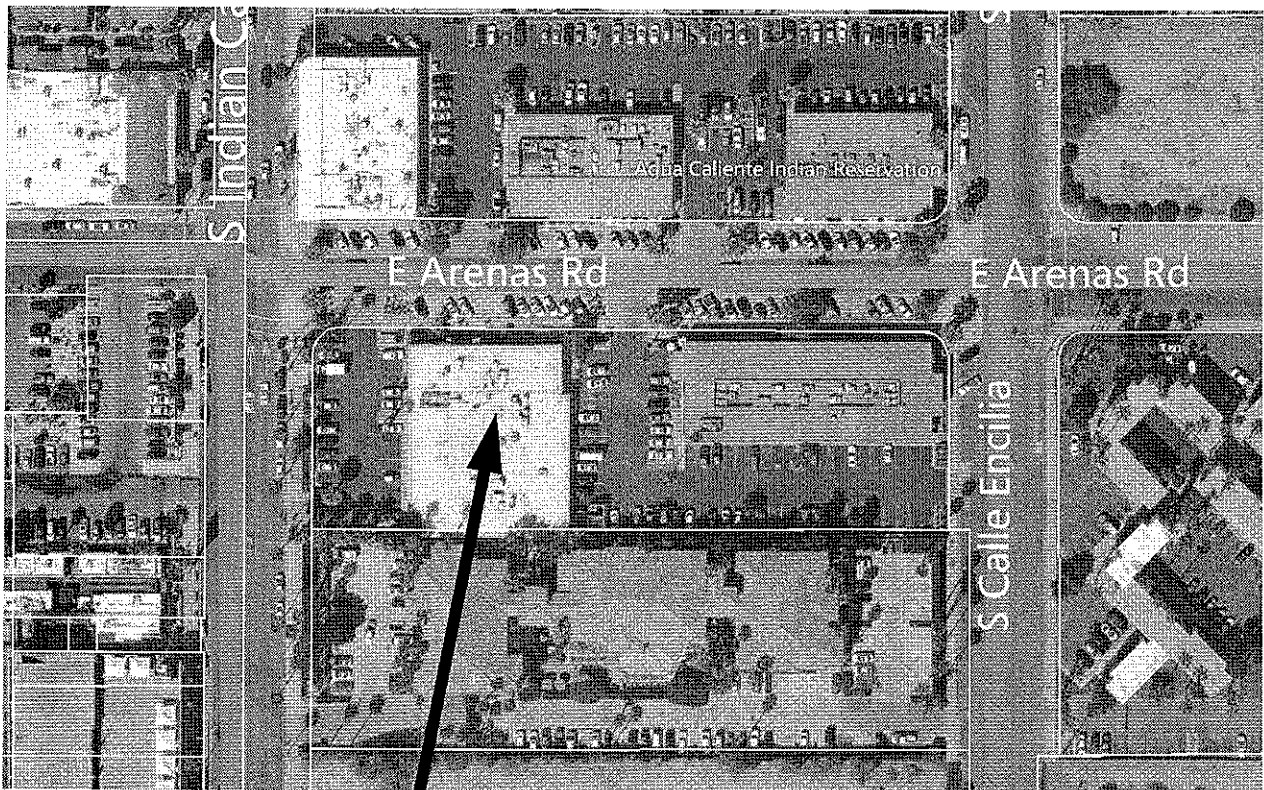
Planning Areas		
Specific Plan	Yes	Section 14 Specific Plan
Design Plan	Yes	Section 14 Specific Plan – however, no exterior changes proposed at this time.
Airport Overlay	None	
Indian Land	Yes	

Notification	
05/14/2015	Public hearing notice mailed to all property owners and registered occupants within 500 feet of the site.
05//2015	Public hearing notice published in local paper as required by Section 94.09.00 of Palm Springs Zoning Code.

Related Relevant City Actions by Planning, Fire, Building, etc...	
2/26/2014	Planning Commission approved original CUP for cocktail lounge
3/05/2014	City Council approved a letter of convenience / necessity for the applicant to allow the additional liquor license within the Census tract.

Field Check	
May 2015	Staff has visited the site to observe existing conditions

Site Area	
Existing Site	1.59-acres (69,260-square feet)
Existing Buildings	Approx. 26,951-square feet
Tenant Space	Approx. 5,395-square feet



TENENT SPACE

Surrounding Property	Existing General Plan Designations	Existing Land Use	Existing Zoning Designations
Subject Property	CBD (Central Business District)	Multi-tenant Commercial	LSC (Local Serving Commercial)
North	CBD	Multi-tenant Commercial bldgs.	LSC
South	CBD	Las Brisas Hotel	LSC
East	CBD	Multi-family apartment	HR (High Residential)
West	CBD	Off-street parking lot	CBD (Central Business District)

PROJECT DESCRIPTION:

As a new operator the applicant seeks to modify the previously approved operational and floor plans for the existing cocktail lounge located at 212 and 216 S. Indian Canyon Drive. The business was approved to operate as a lounge-type bar with sports and video television entertainment open daily from noon to 2:00 AM. Changes to the floor plan include a new dance floor, back bar and DJ booth within the existing business footprint – no additional floor space is proposed. Operationally the applicant wishes to offer amplified music and entertainment for dancing, karaoke and cabaret-style entertainment. New hours are proposed at 10:00 AM to 2:00 AM daily.

ANALYSIS:

General Plan

Land Use: The current General Plan Land Use of the project site is “CBD” (Central Business District), which is described as follows:

Central Business District (1.0 FAR; 21–30 dwelling units per acre).

Bounded approximately by Ramon Road, Calle Encilia, Alejo Road and Belardo Road, the Central Business District designation allows for a mix of commercial, residential, and office uses at a higher concentration, density, and intensity than in other areas of the City. The CBD serves as the main activity center and cultural core of the community and, as such, theatres, museums, retail, and other entertainment venues are encouraged here. Uses such as grocery stores, hardware stores, and convenience or pharmacy stores that provide services to the Downtown’s residential population are also encouraged. The Central Business District is subdivided into zones or areas that provide for diversity in development standards and land use intensities. These subareas are defined in Appendix A, Downtown Urban Design Plan. Examples include the gateways into Downtown, Downtown Central Core, and the Downtown Outer Core. The Downtown Central Core (roughly bounded by Amado Road, Tahquitz Canyon Way, Museum Drive, and Indian Canyon Drive) and the Gateway areas (at

roughly the north and south ends of the CBD) may be developed with a maximum FAR of 3.5. If projects in these areas provide substantial public spaces or plazas, an FAR of up to 4.0 may be developed upon approval of a Planned Development District or Specific Plan. The Downtown Central Core may also accommodate up to 70 dwelling units per acre for residential or hotel uses if a Planned Development District or Specific Plan is prepared and approved.

The property is an existing multi-tenant commercial complex containing restaurant, bar and retail businesses. The cocktail lounge as proposed is consistent with this General Plan designation by providing an entertainment venue to the visitors of Downtown Palm Springs. Further, the proposed use is consistent with General Plan Land Use Policies 7.1 and 10.4.

Zoning

Permitted Use: The subject site is located within the Section 14 Specific Plan area. This plan designates the property as “LSC” (Local Serving Commercial). Pursuant to Table 6-1 of the Specific Plan, nightclubs, bars and cocktail lounges are permitted with the approval of a Conditional Use Permit.

Parking: The Specific Plan refers to the Palm Springs Zoning Code (PSZC) for determining off-street parking requirements. The site is part of the “D” Downtown Parking Combining Zone, Section 92.26.00, of the PSZC. Pursuant to Section 92.26.00(C)(6), one parking space per 375-square feet is required for mixed use developments which exceed 20,000-square feet in gross floor area.

The gross floor area of both buildings is approximately 26,951-square feet in size and at 1 space per 375-square feet, 72 parking spaces are required. The site has 83 off-street parking spaces and no further parking is required to accommodate the proposed amendment for the cocktail lounge with the requested amendments.

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 a security plan be a condition of approval for the CUP.

Noise: After receiving a noise complaint about the business, staff determined an amendment to the approved CUP was necessary and notified the business owner. In order to reduce potential noise issues, staff has included the following specific conditions in draft resolution:

PSP 1. Entertainment. Entertainment shall be indoors only. Bass levels shall be at a reasonable level.

- PSP 2. Noise Attenuated Walls. The applicant shall provide sound barrier wall construction between the subject business and abutting tenant spaces. To comply with this requirement, the applicant shall submit construction plans showing wall location and construction details which meet a minimum of 60 STC (Sound Transmission Class) rating within 30-days of the CUP approval. Such modifications must be verified within 60-days of the CUP approval.
- PSP 3. Doors and Windows Ajar. Whenever amplified music / entertainment is playing, the business operator shall ensure all doors and operable windows remain closed.

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.*

The subject property is zoned LSC (Local Serving Commercial) by the Section 14 Specific Plan. Pursuant to Table 6-1 of the Specific Plan, nightclubs, bars and cocktail lounges are permitted with the approval of a Conditional Use Permit. Such uses often include amplified entertainment. Therefore, the use applied for at the site is one for which a conditional use permit is authorized by the Section 14 Master Plan and Zoning Code.

- 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 will aid in creating a vibrant downtown for both residents and visitors, consistent with General Plan Policies 7.1 and 10.4. Therefore, the use, including proposed amendments, is desirable for the development of the community and in harmony with the various elements of the General Plan.

The business is conditionally permitted and it is not anticipated to be detrimental to existing uses or future uses specifically permitted in the LSC zone, provided

compliance with the noise ordinance, reduced or limited noise transmission to adjacent businesses and other imposed conditions.

- 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 multi-tenant commercial property includes existing retail and entertainment uses. The subject tenant space has been operating as a cocktail lounge, but will offer additional entertainment options. The property has 83 off-street parking spaces, which is more than the minimum of 72 required, pursuant to Section 92.26.00 of the Zoning Code. No additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape.

- 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 at the corner of Indian Canyon Drive and Arenas Road, which are identified by the General Plan Circulation Element as Major and Secondary Thoroughfares, respectively. Vehicular access to the site is provided from both streets. The tenant space has been operating as a cocktail lounge and the amendment includes minor changes to the business operation and floor plans. Thus, the traffic generated by the proposed use is similar and any additional traffic as a result of the changes 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 cocktail lounge with amplified music, dancing and entertainment space. 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, physical improvements to reduce noise and other necessary requirements.

CONCLUSION:

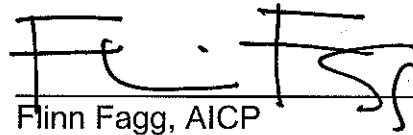
The project is consistent with the land use policies of the General Plan and Zoning Code. Staff is able to recommend findings necessary for approval of the proposed use. On that basis, staff is recommending approval of the proposal.

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).



David A. Newell
Assistant Planner



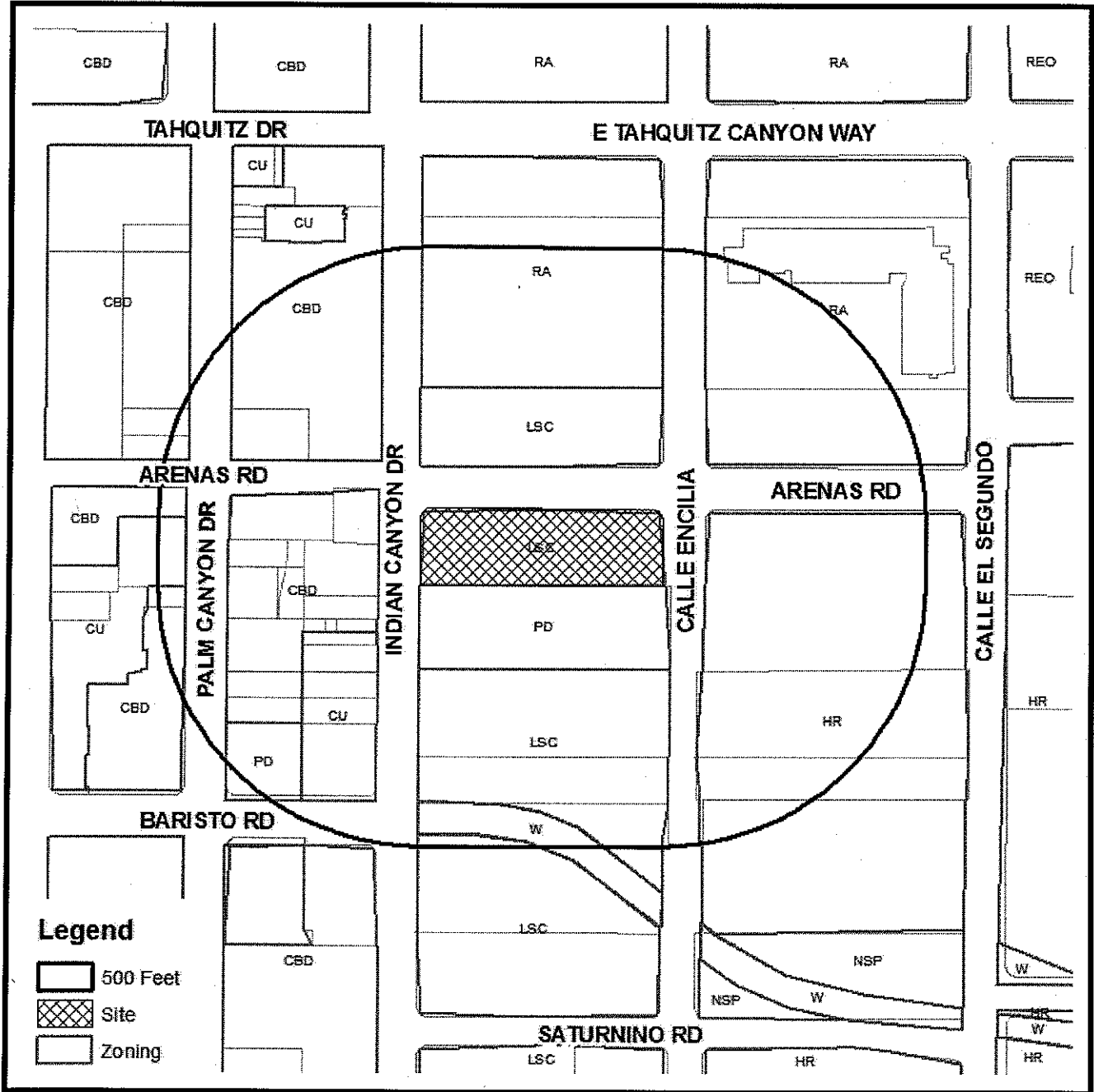
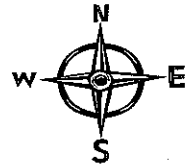
Flinn Fagg, AICP
Director of Planning Services

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



CITY OF PALM SPRINGS

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING AN AMENDMENT TO CASE 5.1320, A CONDITIONAL USE PERMIT (CUP) TO MODIFY THE OPERATIONS OF A COCKTAIL LOUNGE LOCATED AT 212 AND 216 SOUTH INDIAN CANYON DRIVE.

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

- A. Jonathan Wasser on behalf of Plaza Indian Ave, Inc. ("Applicant") has filed a Conditional Use Permit Amendment application with the City pursuant to Section 94.02.00 of the Zoning Code to allow amplified entertainment, dance floor and modified operation hours (10:00AM – 2:00AM daily) for an existing cocktail lounge within a multi-tenanted commercial complex located at 212 and 216 South Indian Canyon Drive, Zone LSC by Section 14 Specific Plan, APN: 508-085-002.
- B. Cocktail lounges, bars and nightclubs may be permitted in the LSC (Local Serving Commercial) designation of the Section 14 Specific Plan with the approval of a Conditional Use Permit, pursuant to Table 6-1 of the Land Use Regulations (Chapter 6) contained within the Section 14 Specific Plan.
- C. Notice of public hearing of the Planning Commission of the City of Palm Springs to consider Case No. 5.1320 CUP Amendment was given in accordance with applicable law.
- D. On May 27, 2015, a public hearing on the application was held by the Planning Commission in accordance with applicable law.
- E. The proposed CUP Amendment 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
- F. 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.
- G. Pursuant to Section 94.02.00(B)(6) of the Zoning Code the Planning Commission finds as follows:
 - 1. *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

The subject property is zoned LSC (Local Serving Commercial) by the Section 14 Specific Plan. Pursuant to Table 6-1 of the Specific Plan, nightclubs, bars and cocktail lounges are permitted with the approval of a Conditional Use Permit. Such

uses often include amplified entertainment. Therefore, the use applied for at the site is one for which a conditional use permit is authorized by the Section 14 Master Plan and Zoning Code.

- 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 will aid in creating a vibrant downtown for both residents and visitors, consistent with General Plan Policies 7.1 and 10.4. Therefore, the use, including proposed amendments, is desirable for the development of the community and in harmony with the various elements of the General Plan.

The business is conditionally permitted and it is not anticipated to be detrimental to existing uses or future uses specifically permitted in the LSC zone, provided compliance with the noise ordinance, reduced or limited noise transmission to adjacent businesses and other imposed conditions.

- 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 multi-tenant commercial property includes existing retail and entertainment uses. The subject tenant space has been operating as a cocktail lounge, but will offer additional entertainment options. The property has 83 off-street parking spaces, which is more than the minimum of 72 required, pursuant to Section 92.26.00 of the Zoning Code. No additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape.

- 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 at the corner of Indian Canyon Drive and Arenas Road, which are identified by the General Plan Circulation Element as Major and Secondary Thoroughfares, respectively. Vehicular access to the site is provided from both streets. The tenant space has been operating as a cocktail lounge and the amendment includes minor changes to the business operation and floor plans. Thus, the traffic generated by the proposed use is similar and any additional traffic as a result of the changes 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 cocktail lounge with amplified music, dancing and entertainment space. 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, physical improvements to reduce noise and other necessary requirements.

THE PLANNING COMMISSION RESOLVES:

Based upon the foregoing, the Planning Commission hereby approves an amendment to Case No. 5.1320 – CUP, allowing amplified entertainment and modified operational hours and floor plan for an existing cocktail lounge located within a mixed use complex at 212 and 216 South Indian Canyon Drive, subject to the conditions set forth in the attached Exhibit A.

ADOPTED this 27th day of May 2015.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Flinn Fagg, AICP
Director of Planning Services

RESOLUTION NO. _____

EXHIBIT A

Case 5.1320 CUP Amendment
Chill Bar

212 & 216 South Indian Canyon Drive

May 27, 2015

CONDITIONS OF APPROVAL

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

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

PROJECT SPECIFIC CONDITIONS

- PSP 1. Entertainment. Entertainment shall be indoors only. Bass levels shall be at a reasonable level.
- PSP 2. Noise Attenuated Walls. The applicant shall provide sound barrier wall construction between the subject business and abutting tenant spaces. To comply with this requirement, the applicant shall submit construction plans showing wall location and construction details which meet a minimum of 60 STC (Sound Transmission Class) rating within 30-days of the CUP approval.
- PSP 3. Doors and Windows Ajar. Whenever amplified music / entertainment is playing, the business operator shall ensure all doors and operable windows remain closed.

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case 5.1320 CUP Amendment, except as modified these conditions.
- 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 5.1320 CUP Amendment. 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 212 and 216 S. Indian Canyon Drive.
- PLN 2. Hours of Operation. The operating hours shall be 10:00 A.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. Sign Applications Required. No signs are approved by this action. Separate approval and permits shall be required for any new sign in accordance with Zoning Ordinance Section 93.20.00.
- 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. Food. Snack foods shall be available at all times.

POLICE DEPARTMENT CONDITIONS

- POL 1. Security Plan. Within thirty (30) 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 preliminary conditions are subject to final plan check and review. Initial fire department conditions have been determined from the amended CUP application dated April 23, 2015. Additional requirements may be required at the time of the Exit Analysis plan submittal.
- 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.

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 (CFC 104.7.2): 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 interior (restaurant & bar) and outdoor patios. 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
- Exit access travel distance
- Egress paths to public way
- Means of egress illumination locations
- Illuminated EXIT sign locations
- Compliant exit doors/gates and door/gate hardware (panic hardware)
- Note any elevation changes in the exit discharge
- Locations of fire extinguishers (minimum rating 2A-10BC).

- Project Note – New exit analysis plan required to reflect proposed changes.

FID 5 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.

- Occupant load numbers will be determined by the Fire Marshal after the receipt and approval of the Exit Analysis Plan

END OF CONDITIONS

Justification Letter

Conditional Use Permit

Project Description:

Application for an amended Conditional Use Permit to add the following:

- 1) Dance floor area to the back bar area ("Lounge") to allow dancing;
- 2) Elevated DJ/Video Booth (DJ Booth");
- 3) Back bar ("Service Area 2");
- 4) Hours of operation changed from 12 noon – 200am to 10:00am – 2:00am;
- 5) Cabaret style entertainment (located in dance floor area)

There are no environmental impacts or architectural changes known or requested.

Intended Use:

1) The Lounge Area will be an area that can be used as needed or required for dancing, cabaret style entertainment (i.e., live performance, Karaoke,) and for Special Events (private parties/events, public parties/events, weddings, receptions, community meetings, charity fund raising events, catered events, etc.). It is anticipated that a specified area of the Lounge will be used as a dance floor/cabaret area as needed (please refer to drawings), depending on the season of the year, customer occupancy, the weekends (week days may be included), and for special events.

2) The DJ Booth will be used by the DJ for playing and control of TV, music, music video, and lights, both for the Video Bar (Service Area 1) and the Lounge (Service Area 2).

3) Back Bar (Service Area 2) will be used as a full service bar when the Lounge is open and in use for its Intended Use.

4) Currently, the hours of operation are from 12:00 noon to 2:00am. We are seeking buy this application to change the opening hour from 12 noon to 10:00am. There are no current plans to open Chill Bar at 10:00am, however, we would like to have this option available in the future, looking forward forward to next season and special events..

Information:

1), 2) and 3) above will add approximately 3 - 7 additional employees during its hours of operation (bartenders, servers, bar backs, DJ and security).

Chill Bar Video Bar & Lounge - CUP

1320
RECEIVED

MAY 14 2015

PLANNING SERVICES
DEPARTMENT

It is anticipated that the Lounge area's hours of operation would normally be from 7pm to closing when in use. However, it is intended that the Lounge area may be used during the day from (10:00am until closing) on weekdays, as well as weekends, for Special Events, as described above.

In anticipation of use of the Lounge as a dance floor/cabaret and special events area, significant expense and extensive sound mitigation construction has been made as follows:

- All the walls in the Lounge area that abut the business Spurline have been lined with construction grade soundboard from floor up to the roofline, all areas between the studs behind the soundboard have been filled with sound insulating material, and sheetrock has been faced covering the soundboard. Additionally, there is approximately 8 feet of service area (wall to wall) separating the Lounge area from the common wall with Spurline. (See drawings). Further information will be provided at the CUP hearing by a knowledgeable representative of Mirage Construction, the contractor that developed and built the interior of Chill Bar.

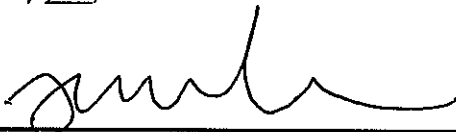
- Further, the Lounge area has been constructed so that there is an approx. 8 foot separating partition (storage area rooms and service area) from the common walls between the Lounge and Spurline (please refer to drawings).

- All doorways between the Lounge and the Storage Areas and Service Areas will have lockable doors (please refer to drawings), which provides sound mitigation as well as securing liquor supplies.

Additional:

The Front Bar (Service Area 1), now fully permitted and operational since the beginning of the year, as well as the Lounge (Service Area 2) (the subject of this CUP) are ABC licensed (under one license) and in good standing with the ABC as well as all California sales taxing departments.

May 14 2015



Leonard Colombo General Manager of Chill Video Bar and Lounge

5-1320

RECEIVED

MAY 14 2015

PLANNING SERVICES
DEPARTMENT

TENANT IMPROVEMENT PROJECT FOR:
CHILL VIDEO BAR & LOUNGE
 216 S. INDIAN CANYON
 PALM SPRINGS, CA 92262

REVISIONS

SUBMIT FOR PLAN CHECK	5-26-14
A PLAN CHECK CORRECTIONS	6-20-14
B PLAN CHECK CORRECTIONS	7-18-14
C PLAN CHECK CORRECTIONS	8-4-14

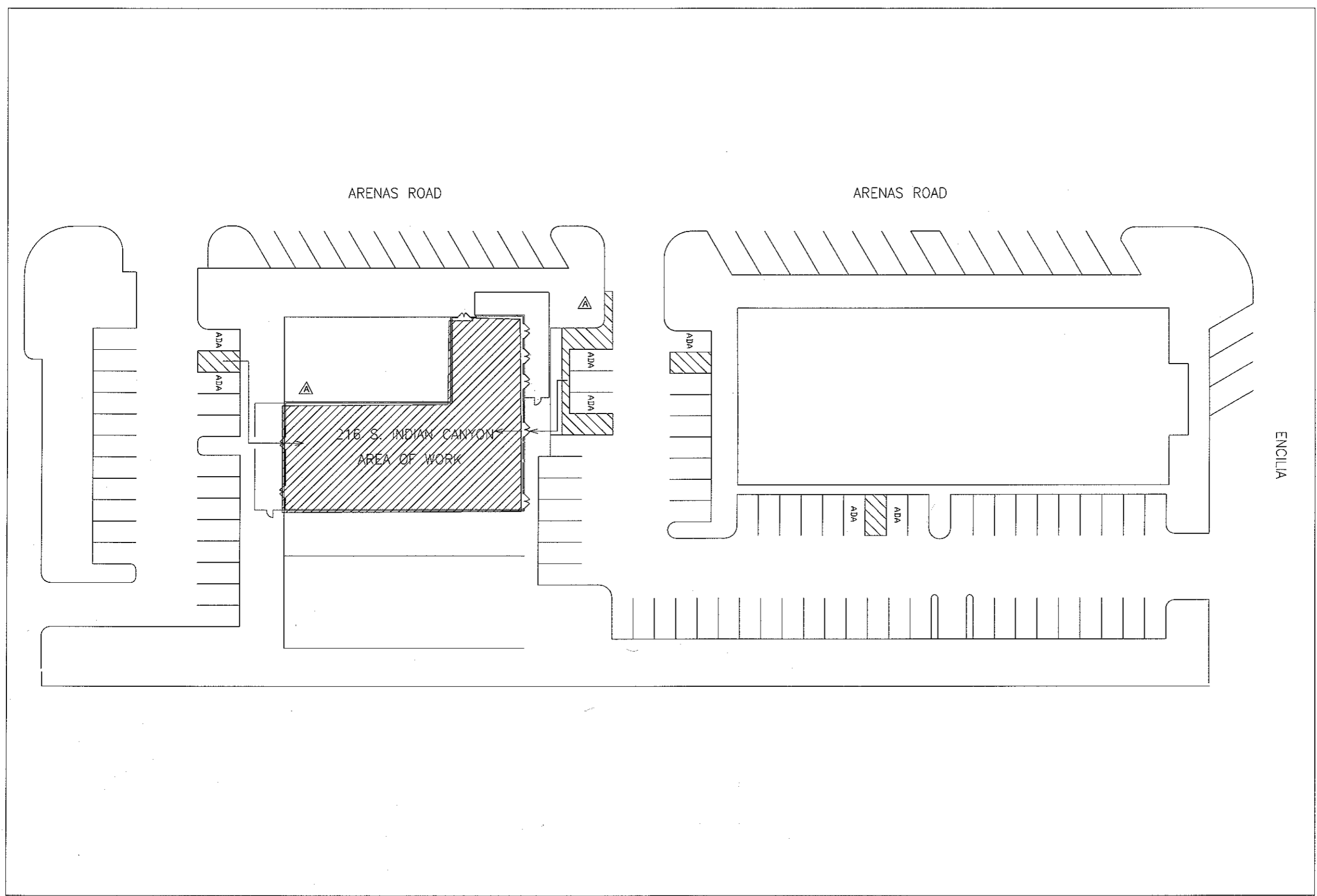
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SHEET TITLE

SITE PLAN

DATE	3-18-14
APPROVED	TS
DRAWN BY	TS
REVIEWED	TS
PROJECT NO.	CHILL-14
SCALE	N/A
SHEET NO.	

A-0.2



SITE PLAN

N.T.S.



S. INDIAN CANYON

ARENAS ROAD

ARENAS ROAD

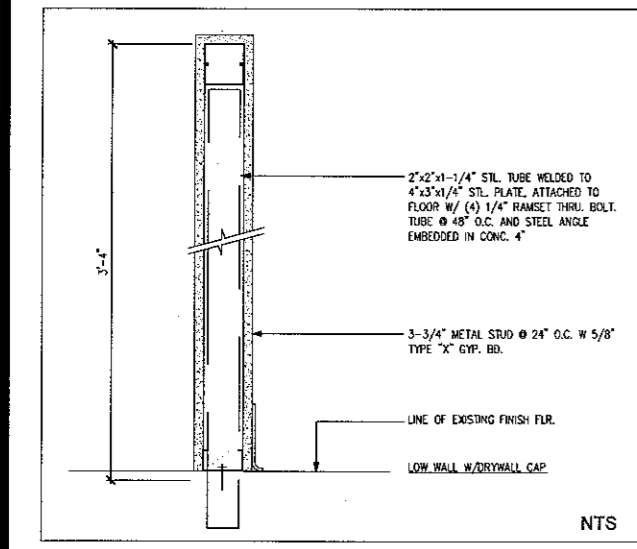
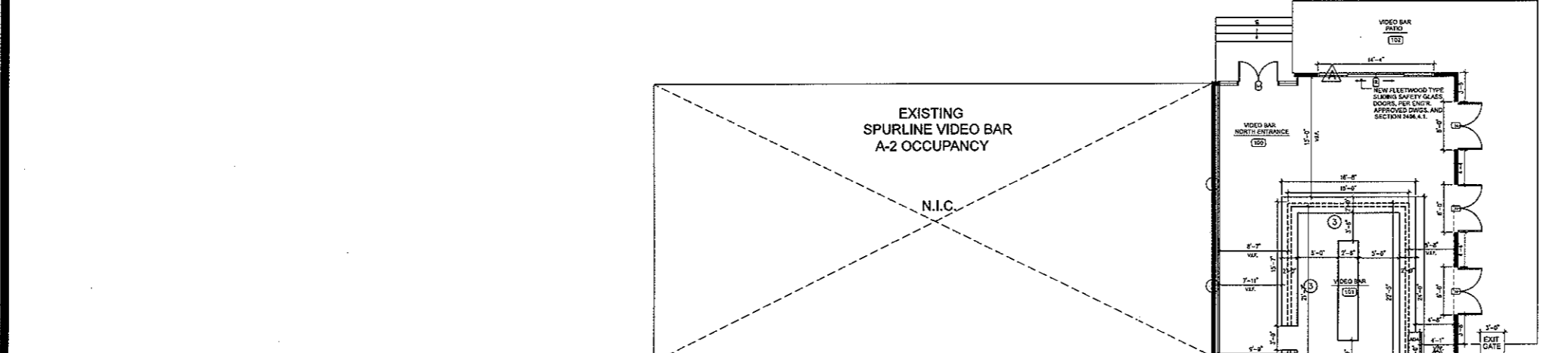
216 S. INDIAN CANYON
 AREA OF WORK

ENCILIA

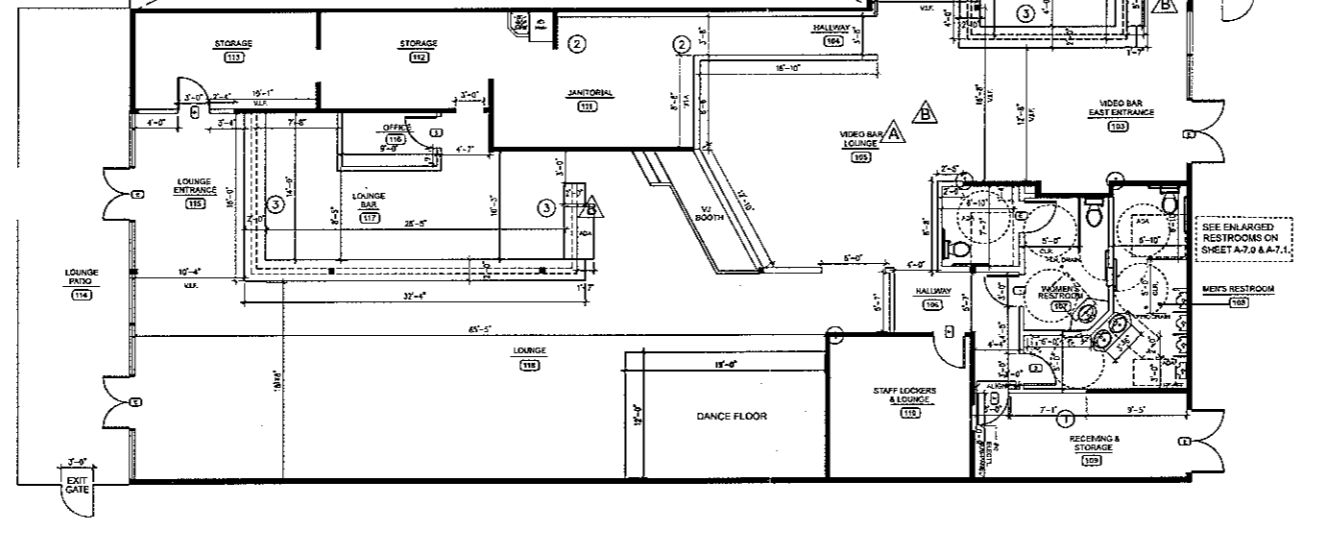
ROOM NAME & NUMBER		DOOR SCHEDULE		DOOR TYPES		WINDOW SCHEDULE		SYMBOLS				
ROOM NO.	ROOM NAME	DOOR SYM.	DOOR TYPE	FRAMES	REMARKS	WINDOW TYPE	TYPE	WIDTH	HT.	MAT.	FRAME	SPECIFICATIONS/REMARKS
100	NORTH ENTRANCE	110	STAFF LOCKERS & LOUNGE									
101	VIDEO BAR	111	SANITARIAL									
102	VIDEO BAR PATIO	112	STORAGE									
103	EAST ENTRANCE	113	STORAGE									
104	HALLWAY	114	LOUNGE ENTRANCE									
105	VIDEO BAR LOUNGE	115	LOUNGE PATIO									
106	HALLWAY	116	OFFICE									
107	WOMEN'S RESTROOM	117	LOUNGE BAR									
108	MEN'S RESTROOM	118	LOUNGE									
109	RECEIVING & STORAGE											



NOTE: SECTION 2406.4 & 2406.4.1, SAFETY GLAZING IN HAZARDOUS LOCATIONS: GLAZING IN DOORS - GLAZING IN ALL FIXED AND OPERABLE PANELS OF SWINGING, SLIDING AND BIFOLD DOORS SHALL BE CONSIDERED A HAZARDOUS LOCATION.



1 LOW PARTITION W/ METAL STEEL SUPPORT POST DETAIL FOR VIDEO & LOUNGE BARS



NEW PARTITION PLAN SCALE: 1/8"=1'-0"

SYMBOL	DESCRIPTION
—	EXISTING PARTITION TO REMAIN. REPAIR, PATCH AND SAND/PREP. FOR NEW PAINTED SURFACE.
—	NEW NON-RATED PARTITION, TO 6" ABOVE SUSPENDED CEILING ABOVE, WITH INSULATION
—	NEW NON-RATED PARTITION, TO SUSPENDED CEILING ABOVE, WITHOUT INSULATION
—	NEW FULL HEIGHT DEMISING PARTITION, 1 HOUR RATED, W/ R-19 INSULATION, SOUND BOARD AND A DOUBLE LAYER OF TYPE "X" GYP. BD. ONE SIDE TO DECK/STRUCTURE ABOVE.
◊	NEW NON RATED PARTITION, FROM FLOOR TO 6" ABOVE SUSPENDED CEILING, 3-5/8" METAL STUDS 25 GA @ 24" O.C. W/ 5/8" TYPE "X" GYP. BD. REFER TO DETAIL 13/D-1.0.
◊	NEW LOW PARTITION, FROM FLOOR TO 34" AFF., 3-5/8" METAL STUDS 25 GA @ 24" O.C. W/ 5/8" TYPE "X" GYP. BD. REFER TO DETAIL #1, THIS SHEET.
◊	NEW FULL HEIGHT PARTITION, FROM SLAB TO DECK STRUCTURE ABOVE, G. C. SHALL USE 6" 20 GA. METAL STRUCTURAL STUDS @ 16" O.C. W/ 5/8" TYPE "X" GYP. BD., BOTH SIDES. PROVIDE SOUND BATT R-19 INSULATION BETWEEN STUDS. REFER TO DETAIL 9/D-1.0.
◊	DEMISING WALL PARTITIONS, USE EXISTING 2" x 6" WOOD STUDS (WHERE APPLICABLE), @ 24" O.C. W/ R-19 INSULATION BETWEEN STUDS, ADD A LAYER OF "SOUND BOARD" AND TWO LAYERS OF 5/8" THICK TYPE "X" GYP. BD., ON SAME SIDE OF DEMISING WALL. SAND & PREP. FOR FINISHED WALL SURFACE. REFER TO DETAIL 13/SHI, D-1.0. NOTE: EXTEND WD. STUDS TO DECK ABOVE TO MAINTAIN A ONE HOUR DEMISING WALL FIRE RATING.

GENERAL NOTES

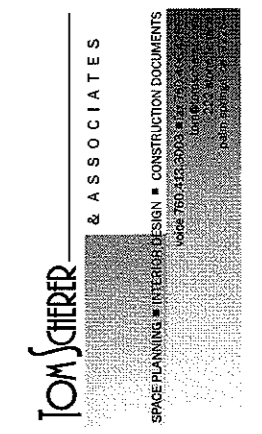
- ALL FINISHED PARTITIONS SHALL BE PLUMB, STRAIGHT AND TRUE AND SHALL HAVE TAPED JOINTS, FLUSH AND SMOOTH.
- PROVIDE BACKING IN WALLS FOR WALL HUNG FIXTURES AND CABINETS. COORDINATE EXACT REQUIREMENTS WITH FIXTURE AND/OR CABINET MFR.
- STANDARD DRYWALL STUDS SHOULD BE ELECTROGALVANIZED STEEL WITH PUNCHED UTILITY OPENINGS AND KNURLED FLANGE AT LEAST 1-1/4" WIDE FLANGE RETURNS. FURNISH 25 GA. STUDS EXCEPT WHERE 20 GAUGE OR HEAVIER IS SHOWN OR REQUIRED.
- GAUGE SPECIFIED ABOVE ARE A MINIMUM, WHERE REQUIRED STUD HEIGHT EXCESS CODES APPROVALS, PROVIDE HEAVIER GAUGE STUDS TO DECREASE STUD SPACING AS NECESSARY TO CONFORM TO CODE.
- CONTRACTOR TO SUBMIT SUBMITTALS OF ALL (FINISHES, PLUMBING FIXTURES, ELECTRICAL COMPONENTS, DOOR HARDWARE AND LIGHT FIXTURES) TO ARCHITECT FOR WRITTEN APPROVAL PRIOR TO ORDERING MATERIAL. IF SUBMITTALS ARE NOT SUBMITTED AND APPROVED IN WRITING THE CONTRACTOR WILL BE RESPONSIBLE FOR ALL COST ASSOCIATED WITH REPLACEMENT.
- FEC FIRE EXTINGUISHER IN SEMI-RECESS CABINET - #2A10BC RATED FIRE EXTINGUISHER WHITE OR BUILDING STANDARD EQUAL, 75" APART.
- SUBMIT CUT-SHEET OR ACTUAL DOOR SAMPLE AND HARDWARE SCHEDULE (COMPLETE WITH CATALOG CUTS) FOR APPROVAL PRIOR TO PURCHASE OR FABRICATION OF DOORS.
- MAXIMUM DOOR OPERATION PRESSURE FOR INTERIOR DOORS SHALL BE SLBS.
- MAXIMUM THRESHOLD HEIGHT AT DOORS SHALL BE 1/2" WITH 1/4" BEVEL.
- DOOR HARDWARE SHALL BE PUSH-PULL OR OTHER TYPE WHICH DOES NOT REQUIRE GRASPING AND TURNING.
- CONTRACTOR SHALL FURNISH AND INSTALL ALL DOORS, HARDWARE AND FRAMES REQUIRED FOR A COMPLETE AND PROPER INSTALLATION.
- ALL DOORS SHALL HAVE DOOR OR FLOOR STOPS TO PREVENT DAMAGE TO DOOR, HARDWARE OR ADJACENT WALL SURFACES.
- CONTRACTOR TO VERIFY ALL KEY REQUIREMENTS WITH LANDLORD AND SHALL COORDINATE BUILDING STANDARD CYLINDERS AND KEYWAYS AS REQUIRED.
- ALL DOORS SPECIFIED SHALL BE FINISHED ON BOTH FACES AND ON THE HINGED AND STRIKE EDGES, TOP AND BOTTOM EDGES UNFINISHED.
- CORRIDOR DOOR OPENINGS SHALL BE PROTECTED BY A TIGHT FITTING SMOKE AND DRAFT CONTROL ASSEMBLY HAVING A FIRE RATING OF NOT LESS THAN 20 MINUTES (715.4.3, TABLE 1017.1) DOOR SHALL BE SELF CONTROL OR AUTOMATIC CLOSING BY ACTUATION OF SMOKE DETECTOR.

KEY NOTES

- G. C. SHALL CONSTRUCT BARS' LOW PARTITIONS, PER DETAIL #1, THIS SHEET.
- G. C. TO PROVIDE METAL STUD BACKING IN PARTITION CONSTRUCTION, AS REQUIRED, AT WALL MOUNTED EQUIPMENT, COMPONENTS, JUKE BOXES, GAMES AND BUILT-IN CABINERY. SEE DETAIL #1 ON SHEET D-1.0.
- INSULATION RATING R-13, IN ALL INTERIOR PARTITIONS AND R-30 AT ROOF DECK, AS REQUIRED, PER TITLE 24 REPORTS AND ENERGY CALCULATIONS, SEE TITLE 24 SHEET M-3.

CONSTRUCTION NOTES

- G. C. SHALL EXTEND EXISTING PARTITIONS FROM 8'-0" UP TO THE DECK/STRUCTURE ABOVE, INSULATE AND DRYWALL, TAPE, MUD AND SAND.
- G. C. SHALL KEEP THE EXISTING 2" x 6" WOOD STUDS AT EXISTING DEMISING WALL AND PROCEED WITH TYPE "D" PARTITION CONSTRUCTION, AS SPECIFIED.
- THE G. C.'S ELECTRICAL CONTRACTOR SHALL COORDINATE ALL J-BOX LOCATIONS AND HEIGHTS, CONDUITS AND CIRCUITRY BACK TO THE BREAKER SUB-PANEL, AS REQUIRED.



TENANT IMPROVEMENT PROJECT FOR:
CHILL VIDEO BAR & LOUNGE
 216 S. INDIAN CANYON
 PALM SPRINGS, CA 92262

REVISIONS

NO.	DESCRIPTION	DATE
1	SUBMIT FOR PLAN CHECK	5-26-14
2	PLAN CHECK CORRECTIONS	6-20-14
3	PLAN CHECK CORRECTIONS	7-18-14
4	PLAN CHECK CORRECTIONS	8-4-14
5	ADD DANCE FLOOR	4-8-15

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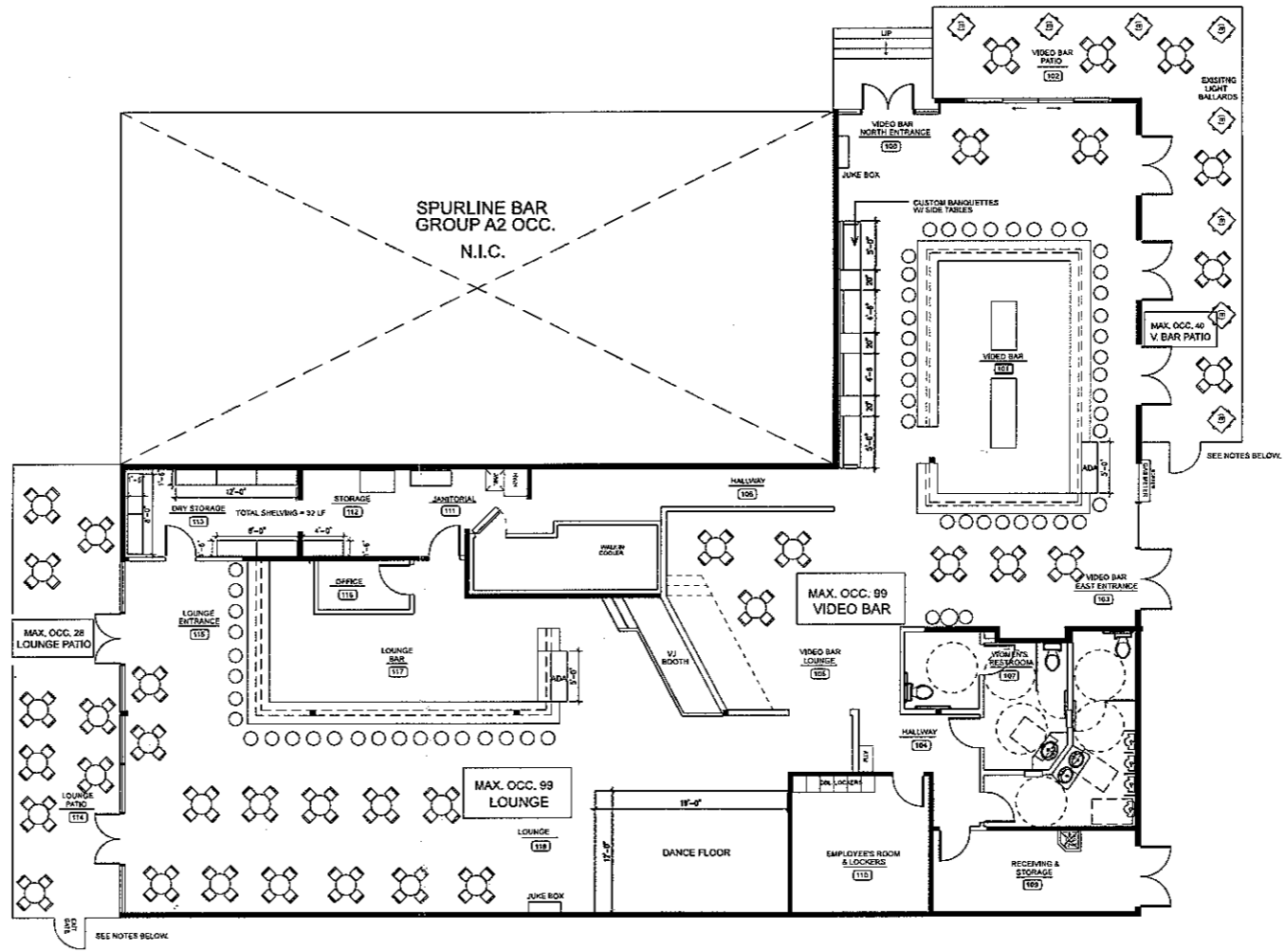
SHEET TITLE

NEW PARTITION PLAN

DATE	3-18-14
APPROVED TS	
DRAWN BY TS	REVIEWED TS
PROJECT NO.	CHILL-14
SCALE	1/8"=1'-0"
SHEET NO.	

A-1.1

MAX. OCC.
40
99
99
28
266



FURNITURE PLAN

SCALE: 1/8"=1'-0"



TENANT IMPROVEMENT PROJECT FOR:

CHILL VIDEO BAR & LOUNGE

216 S. INDIAN CANYON
 PALM SPRINGS, CA 92262

REVISIONS

SUBMIT FOR PLAN CHECK	5-26-14
▲ PLAN CHECK CORRECTIONS	6-20-14
▲ PLAN CHECK CORRECTIONS	7-18-14
▲ PLAN CHECK CORRECTIONS	8-4-14
ADD DANCE FLOOR	4-8-15

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SHEET TITLE

FURNITURE PLAN

DATE	3-18-14
APPROVED	
DRAWN BY	TS
REVIEWED	
PROJECT NO.	CHILL-14
SCALE	1/8"=1'-0"
SHEET NO.	

A-5-0

May 26th, 2015

RECEIVED
CITY OF PALM SPRINGS

To: Palm Springs Planning Commissioners

2015 MAY 26 AM 11:59

FROM: SpurLine Video Lounge, 200 South Indian Canyon, Palm Springs, CA JAMES THOMPSON
CITY CLERK

SUBJECT: Change request in CUP by Chill Bar, 212-216 South Indian Canyon Dr.

We are the owners of SpurLine Video Lounge at 200 South Indian Canyon Drive. We are in our 10th year of operation at this location. SpurLine has become a Palm Springs entertainment destination for locals and visitors alike due to our Video Theme nights, especially our signature theme night, our theatrical video presentation of Stage and Screen Showtune Musicals. When we first started doing Showtune nights, we displayed them 2 nights a week. In 2009, due to escalating popularity of our Showtune nights, we increased it up to 3 nights a week. On crowd-sourced, public review sites such as YELP, SpurLine is rated as the #1 Gay Bar in Palm Springs, the #3 Best Nighttime attraction, and the #3 overall Best Bar in Palm Springs. On FOURSQUARE, SpurLine is rated as the #1 Gay Bar in Palm Springs.

On December 30, 2014, a new bar opened in the space next door to us at 212-216 South Indian Canyon Drive Canyon Drive called CHILL Bar.

The Planning Commission report about Chill Bar, which was publicly available, stated CHILL Bar would be a "cocktail lounge" and "lounge/sports bar" with a floor plan which indicated a single bar in operation. This is not the case. Chill has very loud music when a DJ is present 5 night a week, and even louder when they were operating their unapproved dance floor and second full bar. The dance floor and 2nd bar were not indicated on the Planning Commission report dated February of 2014. In late 2013, Mike Cullen introduced himself to us, we welcomed him and his new business, and without solicitation he told us a cocktail bar would be constructed on east side and real estate offices on the Indian Canyon/ west side of his facility. Because of this conversation with Mr. Cullen, we thought the operation of Chill Bar would be similar in type to the defunct Rainbow Bar and Grill which occupied that space in years past, and therefore, felt no need to appear at the scheduled Planning Commission Meeting in February of 2014.

Within a few weeks of Chill opening on December 30th, 2014, Chill hired a full-time DJ playing music five nights a week. Immediately after the DJ began working, we were having sound issues with Chill Bar. Within a couple of more weeks, Chill started operating their non-permitted dance floor and 2nd full bar. It was at that point we went to the owner and one of the managers to complain about the excessive sound levels. In particular, the bass levels. After these two separate meetings initiated by us, there was no decrease in noise, in fact, the sound was even louder.

We share two (2) common walls with CHILL Bar (see attached diagram) and through those walls, we are subjected to continuous thudding, heavy bass music on most nights, as we try to present our musical numbers, of which some are soft ballads or love songs. Our customers began approaching us, raising concerns about the loud bass coming from our neighbor. When we had talked to the owner of Chill, Mike Cullen in October 2013, he insisted he was installing soundproofing. The soundproofing is woefully inadequate.

In March of 2015, after no resolution from the Chill owners, we went to the City of Palm Springs and filed a noise complaint.

AC
Item 2A
5-27-15

It is important to point out that in the 10 years we have occupied this location, we have never filed a noise complaint against the previous multiple owners of The Rainbow Bar and Grill, and they had never filed a noise complaint against SpurLine.

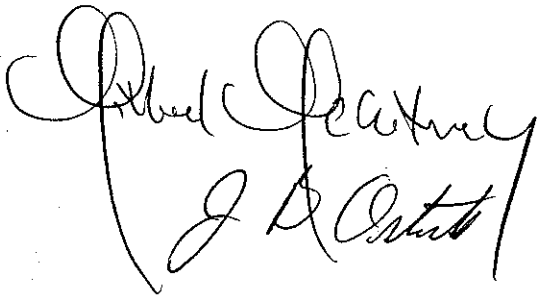
SpurLine has suffered loss of business from the excessive booming from Chill which has degraded our overall atmosphere and ambiance. In addition, if we ever decide to sell our business, we would have to disclose the dance hall noise generated by Chill Bar, and it would greatly decrease our market value.

We hereby respectfully ask the Planning Commission to require Chill Bar to adhere to the following conditions:

- Construct a secondary, standalone, decoupled sound proofing wall with at least a 70 STC from floor to roof on the two adjoining walls they share with SpurLine.(Please reference diagram).
- Chill provide a mutually agreed (with SpurLine) independent, third-party vibro-acoustic professional who would verify that sound and bass levels have been sufficiently remedied.
- No live bands (such as jazz or rock bands) as they can be louder than amplified music produced by an in-house sound system.

Thank you for your consideration.

Respectfully,

The image shows two handwritten signatures in black ink. The top signature is 'Michael McCartney' and the bottom signature is 'Jim Osterberger'. Both are written in a cursive, flowing style.

Michael McCartney - 760-567-8493
Jim Osterberger - 760-567-8492
SpurLine - 760-778-4326

RECEIVED
CITY OF PALM SPRING

2015 MAY 26 PM 2:30

JAMES THOMPSON
CITY CLERK

ATTN

JAMES THOMPSON

URGENT

May 24, 2015

Dear Flinn:

As we have learned, the Planning Commission is meeting to amend the CUP for Chill bar Wednesday, May 27th. Michael and I will be present for public comment regarding the noise issue we have when they were operating the 2nd bar and dance floor which you are well aware.

I do have a question of serious concern. The applicant, Plaza Indian Avenue Inc. is not the legal owner of the liquor license issued by the State of California ABC according to public records on the ABC website. The owner of the license is Cullen 111 Investments, LLC. I cannot find an approval for change of ownership legally licensed and vetted by the State of California informing citizens that there is a new partner involved. I may be totally misinformed, but can the city allow the issue come up at a planning commission meeting? Can the city approve an establishment to serve alcohol without a valid license from the state? I've enclosed a FAQ from the ABC. Don't want to ask this question in the public forum unless necessary to save any of us from any undo embarrassment. Just want to make sure the city did due diligence in light of the media reported question of possible ethics violations by our mayor and city council members. ABC licenses do hold owners to a "morals" clause.

Many thanks for indulging my inquisitiveness.

Jim Osterberger

Co-Owner, Spurline

Cell: 760-567-8492

Planning Commission Meeting

Date: 5-27-15

Additional Material

Item 2A



**California Department of Alcoholic
Beverage Control**
*License Query System Summary
as of 5/23/2015*

License Information	
License Number: 540824	
Primary Owner: CULLEN 111 INVESTMENTS, LLC	
ABC Office of Application: 08 - PALM DESERT	
Business Name	
Doing Business As: CHILL BAR	
Business Address	
Address: 212 & 216 S INDIAN CANYON DR Census Tract: 9414.00	
City: PALM SPRINGS County: RIVERSIDE	
State: CA Zip Code: 92262	
Licensee Information	
Licensee: CULLEN 111 INVESTMENTS, LLC	
Company Information	
Officer: CULLEN, MICHAEL JEROME (MANAGING MEMBER)	
Officer: WASSER, JONATHAN (MEMBER)	
License Types	
1) License Type: 48 - ON-SALE GENERAL PUBLIC PREMISES	
License Type Status: ACTIVE	
Status Date: 11-DEC-2014 Term: 12 Month(s)	
Original Issue Date: 10-DEC-2014 Expiration Date: 30-NOV-2015	
Master: Y Duplicate: 0 Fee Code: P40	
License Type was Transferred On: 10-DEC-2014 FROM: 47-503732	
2) License Type: 48 - ON-SALE GENERAL PUBLIC PREMISES	
License Type Status: ACTIVE	
Status Date: 10-DEC-2014 Term: 12 Month(s)	
Original Issue Date: 10-DEC-2014 Expiration Date: 30-NOV-2015	
Master: N Duplicate: 1 Fee Code: P40	
License Type was Transferred On: 10-DEC-2014 FROM: 47-503732	
Current Disciplinary Action	
... No Active Disciplinary Action found ...	
Disciplinary History	
... No Disciplinary History found ...	
Hold Information	
... No Active Holds found ...	

Penalty Guidelines, Policy, and Schedule
Page 4 of 5

Failure to correct objectionable conditions -24200(e) and (f) B&P	30 day suspension to revocation
Undisclosed Ownership – 23300 & 23355 B&P: Hidden owner qualified	15 day suspension Indefinite until ownership corrected
Hidden owner not qualified	Revocation
Hidden owner-priority license	Revocation
Commission of Crime Involving Moral Turpitude – 24200(a) B&P: Committed on premises	Revocation
Committed away from premises (petty theft/shoplifting)	Revocation stayed 3yrs
Committed away from premises (other than petty theft)	Revocation
Conviction of a crime involving moral turpitude – 24200(d) B&P	Revocation
Violation Of Conditions – B&P 23804	15 day suspension with 5 days stayed for one year
Rule 65 – Chapter 1, Title 4 of the CCR	Revocation stayed for 180 days to permit transfer or reactivation of license
Rule 107 – Chapter 1, Title 4 of the CCR	5 day suspension
Rule 108 – Chapter 1, Title 4 of the CCR	5 day suspension to a suspension equal to double the original suspension
Exceeding license privileges – 24200(a), 23300, 23355 B&P	5 day suspension to revocation
PC 313.1 – Harmful matter	5 day suspension
Sale of alcoholic beverages while under suspension	Double the original suspension to revocation
Receiving Stolen Property – 24200(a) and 664 & 496 PC: By license on premises	Revocation
By employee on premises	Revocation stayed for 3 years, and a 20 day suspension

Frequently Asked Questions

These are ABC's most frequently asked questions about:

LICENSE TRANSFERS

Q. 24. Can a license be transferred from one person to another person without making an application to ABC?

A. No. An application signed by both the present licensee and the transferee must be filed with ABC. ABC then proceeds as it would on a new application and may deny the transfer if the transferee-applicant is not qualified for a license. If such transfer also involves a change of the premises, ABC's approval of the new premises is required. (Sections 24070 and 24073)

Q. 25. Does the filing of the application for transfer accomplish the transfer of the license?

A. No. Neither the transferor nor the transferee should assume that the license will be transferred on a particular date, or at all, merely because the application has been filed. ABC may deny the application, or protests or accusations may be filed which may result in delay or denial of the transfer.

ABC is not required to investigate the personal qualifications or premises of a currently licensed person when a license is being transferred between partners and no new partner is being licensed. (Sections 23958, 23958.2, 24013 and 24070)

Q. 26. How long does it normally take for the issuance or transfer of a license?

A. Most investigations take approximately 55-65 days, and by law the license cannot be issued for a minimum of 30 days. Circumstances often result in a longer waiting period; therefore, before final approval and issuance of a license, applicants are cautioned regarding extensive financial commitments, plans for grand openings, etc. If new construction or considerable remodeling is necessary, the applicant should seek prior approval under Section 24044 before beginning any actual work.

Q. 27. Pending transfer of the license, may the intended transferee operate the licensed business?

A. The transferee may operate the licensed premises during the transfer period if a 120-day permit has been obtained. To qualify for this temporary permit, the premises must be currently licensed and have been operating within the past 30 days prior to application.

Q. 28. When the lease on the licensed premises is terminated and the premises must be vacated, what is required of the licensee?

A. A licensee must surrender his/her license to ABC within 15 days. During the maximum one year surrender period the licensee may transfer the license to other locations or transfer the license to other persons. All renewal fees must be paid during the surrender period. (Sections 23053.5, 23320, 24072, 24072.1, Rules 60 and 65)

Q. 29. What steps are required for the issuance or transfer of an alcoholic beverage license?

A. A person who wants to apply for an ABC license must start with the nearest ABC District Office. An ABC staff member will ask the applicant questions about the proposed operation and determine the type of license needed. The staff member will then advise the applicant what forms and fees are needed to file the application. Some applicants, before filing an application with ABC, must first obtain approval from zoning officials, open an escrow, or go to the office of the County Recorder for a certified copy of a Notice of Intended Transfer.

Generally, all parties must appear at the District Office. This is not generally a "mail-in" process because ABC requires personal information such as personal history affidavits. Fees are paid at this time. The applicant also views a video about ABC laws. A temporary permit may be issued under certain conditions.

Q. 30. Does ABC notify local officials of the license application?

A. Yes. ABC mails a copy of the application to local officials as required by law. If the premises is in the city, a copy goes to the police department, city council and city planning department. If the premises is in the county, a copy goes to the sheriff's department, board of supervisors and district attorney. If local officials have concerns about the issuance of a license, they may request or impose restrictions on the business operation, or they may file a protest. (Section 23987)

Common concerns are that the license: (a) Would create a public nuisance, (b) Would cause or add to crime in the area, (c) Would be contrary to a zoning law, or (d) Is in a high-crime area or an area that has too many licenses and would not serve public convenience or necessity. In the case of (d), the City Council or Board of Supervisors has 90 days to determine this and notify ABC. If the City Council or Board of Supervisors does not decide within 90 days, ABC may issue the license if the applicant shows ABC that issuance would serve public convenience or necessity.

Q. 31. Does ABC conduct an investigation of license applications?

A. Yes. ABC conducts a thorough investigation, as required by law, to see if the applicant and the premises qualify for a license. (Section 23958)

Q. 32. What are the responsibilities of a license applicant?

A. It is the applicant's responsibility to: (a) Post the Public Notice of Application at the premises for 30 days, and (b) Give information to ABC as needed for the investigation. In some cases, ABC may also require the applicant to: (a) Publish a notice in the newspaper, (b) Mail a notice to all persons living within a 500' radius of the premises, and/or (c) Obtain proof from the local planning department that the zoning permits an ABC license. Sections 23985, 23958, 23986, 23985.5 and 23790)

Q. 33. In case of death or incompetency to act as a sole licensee, who may exercise the privileges of the license?

A. The privileges of the license may be exercised by any person acting on behalf of the deceased or incompetent licensee or the estate for a specified period or until an administrator, executor, etc., is appointed. (Section 23102)

Q. 34. Does the law prohibit pledging the transfer of a license as security for a loan or as security for the fulfillment of any agreement?

A. Yes. The law prohibits a licensee from pledging the license as security for a loan or as security for the fulfillment of any agreement. In their transfer application both transferor and transferee must state under oath that the transfer is not being made (a) to satisfy the payment of a loan or to fulfill an agreement entered into more than 90 days before the transfer application is filed, (b) to gain or establish a preference to or for any creditor of the transferor, except as permitted by Section 24074, (c) to defraud or injure any creditor of the transferor. (Section 24076)

Q. 35. How long can the licensed premises be closed before the licensee must surrender possession of the license?

A. When licensed premises are closed, or the exercise of the privileges of the license is discontinued for any reason for a period of 15 consecutive days, the license must be surrendered to ABC. The license may be reactivated upon request of the licensee made at least 10 days in advance. (Rule 65)

Q. 36. May an applicant have some assurance of the issuance of a license before construction of the premises to be licensed is begun or completed?

A. ABC may approve an application for premises under construction. A retail license may be transferred or issued by ABC to premises which are under construction and the transferor has closed his business or surrendered his license. No alcoholic beverages shall be sold until the premises are completed. Actual delivery of the license is withheld until ABC is satisfied that all conditions set forth in the law and rules are met. (Section 24044 and Rule 64)

Q. 37. Must a corporation licensed by ABC report ownership changes to ABC?

A. Yes. If any transfer of stock results in any person owning 10% or more of the corporate stock, such fact must be reported in writing by the corporation to ABC within 30 days. The same reporting requirement is necessary when there is a change in the officers or directors of the corporation. (Section 23405 and Rule 68.5)
When 50% or more of the corporation's stock is to be transferred, a transfer of the corporation's license is now required. The fee for such license transfer shall be 50% of the original fee but not less than \$100 nor more than \$800. Compliance must be made with all laws and rules applicable to license transfer. (Section 24071.1)

Q. 38. Must a limited partnership licensed by ABC report ownership changes to ABC?

A. Yes. It must report to ABC in writing, either of the following: (a) The assignment or transfer of ownership resulting in a person owning as a limited partner 10 percent or more of the capital or profits of the limited partnership; or (b) Any change in the general partners of the limited partnership. The report must be filed with ABC within 30 days after the assignment or transfer of the limited partnership interest.

When there is a new general partner or when the ownership of 50 percent or more of the capital or profits of a limited partnership is to be transferred, a transfer of the limited partnership's license is now required. The fee for such license transfer shall be 50 percent of the original fee for the license, minimum \$100 and maximum \$800. The transfer must comply with all applicable laws and rules. (Sections 23405.1 and 24071.1)

Q. 39. Must a limited liability company licensed by ABC report ownership changes to ABC?

A. Yes. It must report to ABC, in writing, any of the following:

(1) Issuance or transfer of memberships to any person where the issuance or transfer results in the person owning 10 percent or more of the voting interests of the company; (2) Any change in the manager or managers of the company, if the limited liability company is managed by a manager or managers; or (3) Any change in the officers of the company, if any officer has been appointed. The report shall be filed with ABC within 30 days after the issuance or transfer of membership voting interests, or any change in members, managers, or officers.

When the ownership of 50 percent or more of the membership interests in a limited liability company is to be transferred, a transfer of the limited liability company's license is now required. The fee for such license transfer shall be 50 percent of the original fee for the license, minimum \$100 and maximum \$800. The transfer must comply with all applicable laws and rules. (Sections 23405.2 and 24071.2)