



PLANNING COMMISSION STAFF REPORT

DATE: August 12, 2015

SUBJECT: RECOVERY INNOVATIONS INC., APPLICANT, FOR A DETERMINATION THAT AN OUTPATIENT BEHAVIORAL HEALTH OFFICE IS A SIMILAR PERMITTED USE IN THE C-1 (RETAIL BUSINESS) ZONE (FF).

FROM: Department of Planning Services

PROJECT DESCRIPTION

Recovery Innovations Inc., on behalf of the owner of the Northgate 111 Shopping Center at 2500 N. Palm Canyon Drive, has requested a determination that an outpatient behavioral health office is a similar permitted use in the C-1 (Retail Business) zone.

ISSUES

- While the facility will be open 24-hours per day similar to a hospital or urgent care clinic, patient services and treatment is more closely related to a professional office or medical office use.

RECOMMENDATION

Determine that an outpatient behavioral health office is a similar permitted use in the C-1 (Retail Business) zone.

BACKGROUND INFORMATION

| <i>Related Relevant Actions by Planning, Building, Fire, etc.</i> | |
|--|---|
| 01/20/82 | The City Council approved a Planned Development District (PDD 136) for the subject site, and established the uses allowed under the C-1 zoning district as the permitted uses for the development site. |
| 09/19/84 | The Planning Commission approved an amendment to the approved Planned Development District to allow the development of a 3,292 square-foot restaurant with drive-through facilities (PDD 136-A). |
| 11/24/14 | The Architectural Advisory Committee (AAC) recommended approval of a proposed repaint of the shopping center (Case #3.2090 MAA). |

| Related Relevant Actions by Planning, Building, Fire, etc. | |
|---|---|
| 07/06/15 | The AAC recommended approval of a proposed turf removal and re-landscaping plan for the shopping center (Case #3.2090 MAA). |

| Most Recent Change of Ownership | |
|--|--|
| 04/30/14 | Property purchased by Gibraltar Capital Fund II, LLC |

| Field Check | |
|--------------------|---|
| 08/04/15 | Staff visited the site and noted existing conditions. |

DETAILS OF APPLICATION REQUEST

| Site Area | |
|------------------|------------|
| Net Acres | 5.02 Acres |

| Surrounding Property | Existing Land Use Per Chapter 92 | Existing General Plan Designation | Existing Zoning Designation |
|-----------------------------|---|--|------------------------------------|
| Subject Property | Shopping Center Use | MU | C-1/PD 136 |
| North | Undeveloped, Residential Use | MU, LDR | C-1, R-G-A(6) |
| South | Restaurant Use | MU | PD 113 |
| East | Undeveloped, Residential Use | MU | C-1, R-2/PD 304 |
| West | Hotel Use, Retail Use | MU | C-1 |

| | |
|--|-------------------|
| Master Plan Areas | Compliance |
| Mixed/Multi-Use Area | Y |
| Special Purpose and Overlay Districts | Compliance |
| "R" Resort Overlay Zone | Y |

ANALYSIS

Recovery Innovations Inc., has submitted a determination request to allow an outpatient behavioral health office in the Northgate 111 Shopping Center. The office is proposed to occupy Suites A1 to A4, totaling approximately 6,700 square feet in floor area. The use is most closely aligned with a professional office or medical office use, but differs somewhat in its operations and hours.

Pursuant to Section 92.08.01(B) of the Palm Springs Zoning Code, the Planning Commission may permit any other use which it determines to be similar to those listed in the subject zoning district, subject to certain findings. There is an acknowledgement in the code that not all uses of land can be listed, nor can all future uses be anticipated;

consequently, there is a need for determinations where proposed uses are not specifically addressed by the code.

The General Plan designation for the property is MU (Mixed-use/Multi-use), which is intended for community-serving retail commercial, professional offices, service businesses, restaurants, daycare centers, and public and quasi-public uses. A professional office use is consistent with the General Plan designation. The property is zoned C-1 (PDD 136), which is intended as a business district that is primarily retail in character, with related hotel, service, office, cultural and institutional uses. An office use is permitted by right within the zoning district.

The proposed behavioral health office will provide crisis stabilization services, which includes psychiatric evaluation, counseling, peer support, and referral to or coordination with local hospitals and other mental health providers. The office will not provide services for individuals taken into custody under Section 5150 of the California Welfare and Institutions Code, and all services are provided on a voluntary outpatient basis. The office will be open 24 hours a day, but the facility will not have patient beds or provide for overnight stays. Patients will arrive by private vehicle or police transport; ambulances will not be used for transporting patients.

The proposed use is similar in many ways to a medical or professional office in terms of the services provided and the fact that patients will be participating in treatment voluntarily. What is unique about the proposed use is the 24-hour operation of the facility, which is similar to the operations of an urgent care clinic or hospital. However, unlike those facilities, patients will not be transported to the facility via ambulance nor will the facility have patient beds. Consequently, the use will not have the typical impacts associated with a hospital or urgent care center, although access will be available on a 24-hour basis.

FINDINGS – COMMISSION DETERMINATION

Section 94.01.02(B) of the Palm Springs Zoning Code (PSZC) requires that the following conditions be met in order to approve the requested use determination:

1. That the use is in keeping with the stated intent and purpose of the zone.

Pursuant to PSZC Section 92.12.00, the purpose of the C-1 zone is to provide for retail business districts with supporting service, office, hotel, and cultural and institutional uses. The proposed use is most similar to a medical or professional office, which is in keeping with the purpose of the C-1 zoning district.

2. That field investigations have disclosed that the subject use and its operation are compatible with the uses permitted in the zone wherein it is proposed to be located.

The proposed use will be generally compatible with other office or retail uses that

are permitted by right in the C-1 zoning district. While the office will be open 24 hours a day, this operational aspect will not adversely impact other businesses within the shopping center or general vicinity. As no ambulances will be used to transport patients to or from the facility, it is not anticipated that the noise generated by the use will be different from any other professional office.

3. **That the subject use is similar to one (1) or more uses permitted in the zone within which it is proposed to be located.**

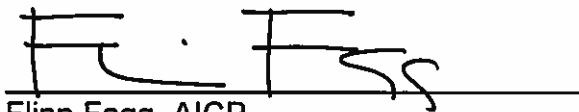
The proposed use is most closely aligned with an office use, which is one of the uses permitted by right in the C-1 zoning district.

4. **That the subject use will not cause substantial injury to the values of property in the zone within which it is proposed to be located.**

The proposed use will be located within an existing shopping center building, and will maintain the appearance of a professional office use. While the operational schedule differs from most other office uses, the impacts will be minimal and will not injure the values of property within the C-1 zoning district.

CONCLUSION

The proposed outpatient behavioral health office is similar in nature to professional or medical offices, in that patients utilize the offices on a voluntary basis and no patient beds are provided. While the office is open 24 hours per day, the impacts associated with the 24-hour use will be minimal to adjacent businesses and properties. Consequently, it is recommended that the use be found similar to an office use.



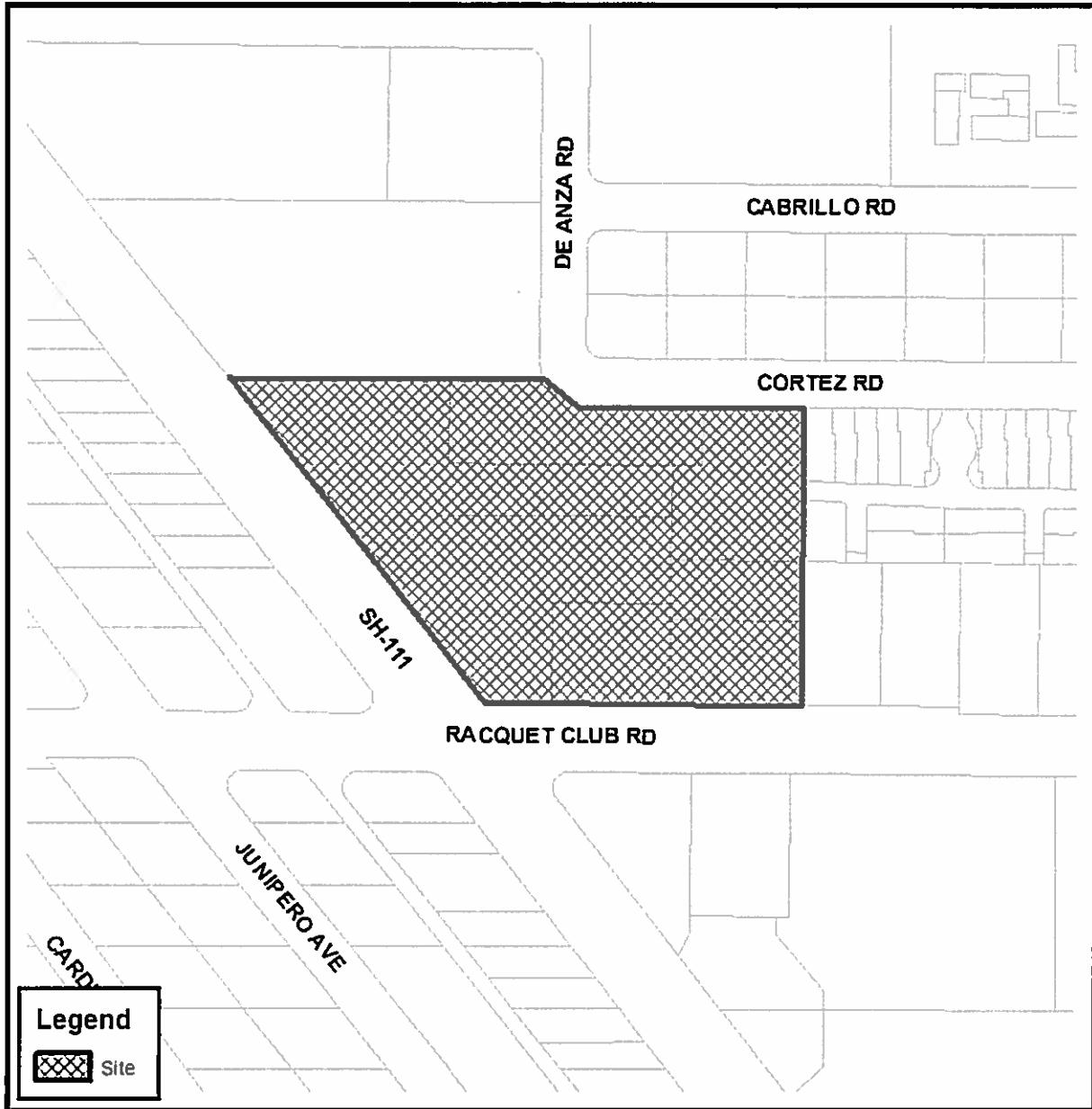
Flinn Fagg, AICP
Director of Planning Services

Attachments:

1. Vicinity Map
2. Draft Resolution
3. Letter of Request – Recovery Innovations
4. Letter of Request – Gibraltar Capital Fund II
5. Site Plan – Northgate 111 Shopping Center



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, DETERMINING THAT AN OUTPATIENT BEHAVIORAL HEALTH OFFICE IS SIMILAR TO OTHER PERMITTED USES IN THE C-1 (RETAIL BUSINESS) ZONE (CASE 10.478 DET).

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

A. Leon Boyko, of Recovery Innovations, Inc. ("Applicant"), on behalf of Gibraltar Capital Fund II, LLC ("Property Owner") has filed an application with the City pursuant to Section 94.01.00 of the Palm Springs Zoning Code (PSZC) for a determination that an outpatient behavioral health office, to be located at 2500 N. Palm Canyon Drive, is similar to other permitted uses in the C-1 (Retail Business) zone (Case No. 10.478 DET).

B. On August 12, 2015, a public meeting on the application was held by the Planning Commission in accordance with applicable law.

C. 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.

D. Pursuant to the requirements of Section 94.01.02(B), the Planning Commission finds:

1. *That the use is in keeping with the stated intent and purpose of the zone.*

Pursuant to PSZC Section 92.12.00, the purpose of the C-1 zone is to provide for retail business districts with supporting service, office, hotel, and cultural and institutional uses. The proposed use is most similar to a medical or professional office, which is in keeping with the purpose of the C-1 zoning district.

2. *That field investigations have disclosed that the subject use and its operation are compatible with the uses permitted in the zone wherein it is proposed to be located.*

The proposed use will be generally compatible with other office or retail uses that are permitted by right in the C-1 zoning district. While the office will be open 24 hours a day, this operational aspect will not adversely impact other businesses within the shopping center or general vicinity. As no ambulances will be used to transport patients to or from the facility, it is not anticipated that the noise generated by the use will be different from any other professional office.

3. *That the subject use is similar to one (1) or more uses permitted in the zone within which it is proposed to be located.*

The proposed use is most closely aligned with an office use, which is one of the uses permitted by right in the C-1 zoning district.

4. *That the subject use will not cause substantial injury to the values of property in the zone within which it is proposed to be located.*

The proposed use will be located within an existing shopping center building, and will maintain the appearance of a professional office use. While the operational schedule differs from most other office uses, the impacts will be minimal and will not injure the values of property within the C-1 zoning district.

THE PLANNING COMMISSION RESOLVES:

Based upon the foregoing, the Planning Commission hereby approves Case No. 10.478 DET.

ADOPTED this ____ day of _____, 2015.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Flinn Fagg, AICP
Director of Planning Services



David Covington
President/CEO
Recovery Innovations, Inc.
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Phoenix, AZ 85006
602.636.4444 FAX: 602.636.5218
David.Covington@recoveryinnovations.org

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RI RRC - Peoria
11361 N. 99th Avenue, Suite 402
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Wellness City East
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Mesa, AZ 85202
480.491.7224 FAX: 480.491.7225

Recovery Innovations - California
3565 Del Rey Street, Suite 202
San Diego, CA 92109
Phone: 658.274.4650 FAX: 658.274.4662

1911 Williams Dr. Suite 125
Oxnard, CA 93030
Phone: 805.981.5439 FAX: 805.981.1448

Chocoma Learning Center
1211 Embarcadero, Suite 200
Oakland, CA 94608
Phone: 510.535.1409 FAX: 510.535.1452

RI Hope House (Bethany Services/Freese House)
721 P Street
Bakersfield, CA 93304
Phone: 861.328.9700 FAX: 861.328.9700

Recovery Innovations - Riverside
3636 Brockton Ave Bldg 3
Riverside, CA 92501
Phone: 951.686.5487 FAX: 951.686.6630

Recovery Innovations - Contra Costa
2400 Sycamore Dr
Antioch, CA 94500
Phone: 925.732.7930 FAX: 925.732.7938

2975 Treat Blvd., Suite C
Concord, CA 94518
Phone: 925.363.7290 FAX: 925.363.7725

2101 Vale Rd. Suite 300
San Pablo, CA 94806
Phone: 510.236.3020 FAX: 510.236.3040

Recovery Innovations - Delaware
Wilmington Wellness City
2383 Limestone Road
Wilmington, DE 19808
Phone: 302.300.3111 FAX: 302.691.3424

Recovery Response Center-Elendale
700 Main Street
Elendale, DE 19941
Phone: 302.424.5680 FAX: 302.424.5681

Restart
2383 Limestone Road
Wilmington, DE 19808
Phone: 302.300.3111 FAX: 302.691.3424

Recovery Innovations - North Carolina
Recovery Response Center
302 Parkview Drive West
Henderson, NC 27533
Phone: 252.438.4145
Fax: 252.321.0578

Hope Station Wellness City
2407 South Memorial Drive
Greensboro, NC 27834
Phone: 252.321.0179 FAX: 252.321.0578

Wellness City Durham
401 East Lakeswood Avenue Suite E1-A
Durham, NC 27707
Phone: 919.687.4041 FAX: 919.678.4045

Case Center
1311 Health Drive
New Bern, NC 28560
Phone: 252.672.8781 FAX: 252.672.2784

Recovery Innovations - Washington
Pierce County Recovery Response Center
2150 Freeman Road East
Fife, WA 98801
Phone: 253.942.3776 FAX: 253.922.4722

Recovery Innovations - New Zealand
585 Great South Road
Penrose, Auckland 1742
New Zealand
Phone: 09-982-0828

July 15, 2015

Flinn Fagg, AICP
Director of Planning Services
3200 E Tahquitz Canyon Way
Palm Springs, CA 92262

RE: Northgate Planning Commission Approval

Dear Mr. Fagg:

Thank you and your staff for meeting with Recovery Innovations, Inc. on 7/13/15 to discuss the services that Recovery Innovations is proposing to provide in the Northgate complex (2500 N. Palm Canyon Drive Suite A1-A4). In August of last year Recovery Innovations successfully responded to an RFP from Riverside County Health Department to provide crisis stabilization units (CSU) in the city of Riverside and Palm Springs.

This letter is a request for a P.C. Determination to allow the occupancy and use to Recovery Innovations into the C-1 zone at the above address. If approved, this outpatient behavioral health site will provide crisis stabilization services to the greater Palm Springs community. Services include: counselling, peer support, psychiatric evaluation/services, and coordination of care with local hospitals and community mental health providers.

Our services are open 24 hours a day, 7 days a week, and 365 days a year. We do not provide residential or hospital services. We are considered an outpatient behavioral health clinic by the State of California and Riverside County. Our services are voluntary and will not include 5150 or other involuntary services.

The Northgate property is the best fit for our program in Palm Springs. After our meeting with you on July 13, we met with Desert Regional Hospital and they are very supportive of our having a crisis stabilization unit and will frequently refer to it. This facility will also be a great benefit to first responders. This site was recommended to us by the Palm Springs Chief of Police.

Our understanding is that this site has been vacant for a long period of time with no other opportunities for tenancy. Our occupancy will provide safety and security for the site while serving the people of Palm Springs. We appreciate your recommendation for our use and know that we will be a very strong asset to all residents of Palm Springs. We would like to be in operation as early as October 2015 to support the city's residents.

Please do not hesitate to contact me, designated administrator, at Leon.Boyko@recoveryinnovations.org or 602.636.3077 with any questions.

Sincerely,

Leon Boyko
Chief of Recovery/Crisis Services
Recovery Innovations, Inc.

2701 N. 16th Street - Suite 316
Phoenix, AZ 85006

Toll Free: (866) 481-5361
Fax: (602) 650-1616

RECEIVED

JUL 20 2015

www.recoveryinnovations.org

PLANNING SERVICES

DEPARTMENT 8

JUL 20 4/8

GIBRALTAR CAPITAL FUND II, LLC

8383 WILSHIRE BOULEVARD, SUITE 646
BEVERLY HILLS, CALIFORNIA 90211
TELEPHONE (310) 858-3333

August 3rd, 2015

Mr. Flinn Fagg, AICP
Director of Planning Services
City of Palm Springs - Department of Planning Services
3200 E. Tahquitz Canyon Way
Palm Springs, California 92262

Re: Request for Determination – Case 10,478

Dear Mr. Fagg,

Accompanying Mr. Leon Boyko's letter dated July 15th, I would like to clarify that this application is a request for a determination by the Planning Commission, to determine that the proposed behavioral health clinic office is the same as any other type of office as listed in Zoning Code Section 92.12.01.A.40 ("Offices").

Gibraltar Capital Fund II, LLC, owners of the subject property, have investigated this tenant's proposed use at Northgate 111, and have determined that it poses a low possibility for nuisance. All of our tenants must agree to the property's rules and regulations, which include multiple provisions banning nuisance behavior. I've attached a highlighted copy of these rules and regulations for your reference. The breaking of any of these rules is a default under the terms of the lease, and grounds for legal removal of the tenant from the premises.

Furthermore, we have successfully had a similar tenant at the property for over one year without incident or complaint. Sovereign Health Care of California has been operating a behavioral health service (specializing in substance addiction) at the property since June of 2014. Please note, Sovereign Health Care of California recently vacated the property, as of August 3rd, to relocate to a larger space than we were able to provide (so there would NOT be two such businesses at this location). However, for the year that they were operating a behavioral health clinic office at the center, out of approximately 7,000 square feet of leased space, there were no police incidents, no fire or life-safety incidents, and no neighbor complaints of any kind.

Sincerely,


Brook Campbell
Director of Development

Enclosure

Exhibit "C"

RULES AND REGULATIONS FOR SHOPPING CENTER

GENERAL RULES

1. Lessee will keep the Premises and exterior and interior portions of windows, doors, and all other glass or plate-glass fixtures and mirrors in a neat, clean, sanitary, and safe condition.
2. Lessee shall not post any signs, including temporary signs, in violation of applicable laws, ordinances or regulations, and all of Lessee's signs shall conform to Lessor's Sign Criteria as such criteria may be established or modified by Lessor.
3. No awning or shade may be affixed or installed over or in the show windows or the exterior of the Premises by Lessee without the prior written consent of Lessor.
4. Lessee shall not make, suffer, or permit litter or trash except in the appropriate receptacles for that purpose. Lessee will store in the area designated by Lessor all trash in neat and clean containers so as not to create or permit any health or fire hazard and so as not to be visible to members of the public shopping at the Project. Lessee will cooperate with the employment of the trash removal contractor designated by Lessor and will collapse and flatten all corrugated boxes and containers prior to placing the same into metal trash containers. If the amount of trash generated by Lessee or Lessee's customers or supplier's results in any increased cost for removal, Lessee shall be responsible for such cost.
5. Lessee shall refrain from dumping, disposal, reduction, incineration or other burning of any trash, papers, refuse or garbage of any kind in or about the Premises or the Project.
6. Lessee will not use, suffer, or permit the Premises or any part of the Premises to be used in any manner that will constitute a nuisance or unreasonable annoyance to the public, to other occupants of the Project, or to Lessor, or that will injure the reputation of the Project, or for any hazardous purpose or in any manner that will impair the structural strength of the building.
7. The sidewalks, exits, entrances, stairways, fire lanes and all other Common Areas shall not be obstructed by Lessee or Lessee's employees, suppliers, customers, or invitees, nor used by any of them for purpose other than ingress and egress. Lessee shall not suffer or permit the obstruction of any of such areas and Lessee shall refrain from keeping, displaying or selling any merchandise or any object outside the interior of the Premises, or on any portion of any sidewalks, walkway or other portion of the Common Area
8. Lessee's employees and agents may not loiter in the parking area or in the landscaped areas or other driveways, entrances, and exits to the Project and may use the same only as passageways to and from their respective work areas.
9. Lessor reserves the right to exclude or expel from the Premises and the Project any person who, in the judgment of Lessor, is intoxicated or under the influence of liquor or drugs, or whose behavior is threatening to other tenants or invitees, or constitutes any illegal act, or a threat to the safety or reputation of the Project or its occupants, or who shall in any manner do any act in violation of any of these Rules and Regulations.
10. Lessee shall not make or permit any noise or odors that annoy or interfere with other lessees or persons having business within the Project.
11. No loud speaker, television radio, phonograph, tape disc, CD, DVD, computer, or other devices shall be used in any manner so as to be heard outside of the Premises without the prior written consent of Lessor.

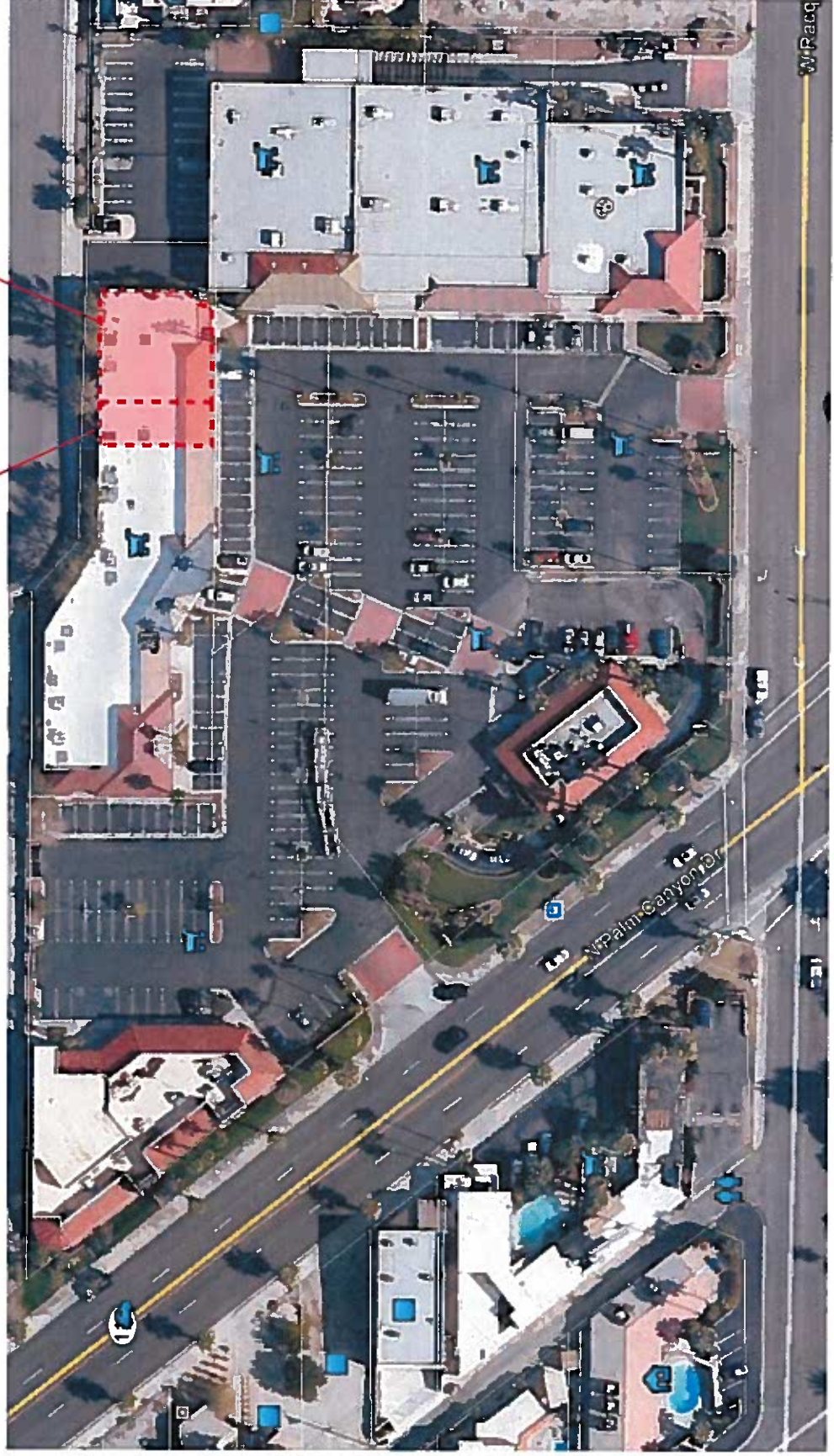
12. Lessee shall not suffer or permit anything in or around the Premises or Building that causes excessive vibration or floor loading in any part of the Project nor, without Lessor's written approval, utilize any equipment requiring electricity in excess of that which is provided to the Premises. Lessee may not use any machinery within the Premises, even though its installation may have been permitted, that may cause any unreasonable noise or jar, or tremor to the floors or walls, or that by its weight might injure the floors of the Premises.
13. Lessee shall not keep animals (except Seeing Eye dogs) or birds within the Project, and shall not bring bicycles, motorcycles or other vehicles into the Premises or other areas not designated as authorized for same.
14. Lessee shall be responsible for the inappropriate use of any toilet rooms, plumbing or other utilities caused by Lessee or Lessee's employees or Lessee's customers. No foreign substances of any kind are to be inserted therein.
15. Furniture, significant freight and equipment shall be moved into or out of the building only with the Lessors knowledge and consent, and subject to such reasonable limitations, techniques and timing, as may be designated by Lessor. Lessee shall be responsible for any damage to the Project arising from any such activity.
16. Lessee may not mark, drive nails, screw or drill into, paint, or in any way deface the exterior walls, roof, foundations, bearing walls, or pillars without the prior written consent of Lessor. The expense of repairing any breakage, stoppage, or damage resulting from a violation of this rule will be borne by Lessee. No boring or cutting of wires is allowed, except with the written consent of Lessor.
17. Lessee shall not use any method of heating or air conditioning other than as provided by Lessor without Lessor's written consent.
18. Neither Lessee nor any employee or invitee or independent contractor acting for Lessee shall go upon the roof of the Building other than contractors providing routine maintenance and repair services without the consent of Lessor.
19. No aerial or antenna (including satellite or microwave dishes, vent, stack, etc.) shall be erected or maintained on the roof or exterior or interior wall of the Premises or on the grounds, without the prior written consent of Lessor in each instance. Any such items installed without such written consent shall be subject to removal by Lessor at any time without notice. The cost of removal of any such item and any repair to the Project required as a result of the removal of these items shall be paid for by the Lessee.
20. Lessee shall not deface the walls, partitions or other surfaces of the Premises or the Project.
21. Lessee shall not install, maintain or operate any vending machines upon the Premises without Lessors written consent.
22. No residential uses, including without limitation, residing or sleeping are permitted anywhere in the Project.
23. The Premises shall not be used for manufacturing.
24. No storage shall be permitted outside of the Premises, including without limitation, the storage of materials or motor vehicles, trucks, boats, trailers, pallets, drums, or equipment of any kind or nature.
25. Lessee shall not conduct any work activity outside of Premises.
26. Lessee shall not work on any motor vehicle anywhere within the Project.
27. Lessee shall not suffer or permit smoking or carrying of lighted cigars or cigarettes in areas designated by applicable governmental agencies as non-smoking areas.
28. Lessee shall not commit or suffer to be committed any waste upon, or any unlawful, improper or offensive use of, the Premises, or any public or private nuisance or act or thing which may disturb the quiet enjoyment of any other tenant, concessionaire, licensee or

- occupant of the Project or the customers or business invitees thereof. Lessee shall not allow gatherings or parties outside of the Premises without Lessors prior written consent.
29. Lessee shall comply with all safety, fire protection and evacuation regulations established by Lessor or any applicable governmental agency.
 30. Lessee assumes all risks from theft or vandalism to Lessee's property and agrees to keep its Premises locked when not staffed by Lessee or Lessee's employees. .
 31. Lessor may restrict Lessee's use of any common area facilities if, in the reasonable opinion of the Lessor, Lessee's use has resulted or may result in the abuse of those facilities.
 32. Lessee shall return all keys at the termination of its tenancy and shall be responsible for the cost of replacing any keys that are lost. Upon termination of the Lease, Lessee shall provide Lessor will security codes for all alarms and security equipment monitoring or limiting access to the Premises.
 33. Lessor shall have the right, exercisable without notice and without liability, to change the name or street address of the building or the Project of which the Premises are a part, or the suite number of the Premises.
 34. Lessee acknowledges that these General Rules, the Parking Rules set forth below, and other lease terms and provisions may vary from one lessee within the Project to another; and such variance shall not invalidate the applicability or enforceability of any of the rules, terms, or provisions contained in this Lease as to Lessee.
 35. Lessor reserves the right to waive any one of these rules or regulations at to Lessee or as to any other particular lessee, and any such waiver shall not constitute a waiver of any other rule or regulation or any Subsequent application thereof to Lessee. No waiver of any rule or regulation by Lessor is effective unless expressed in writing and signed by Lessor.
 36. Lessor reserves the right at any time to change or rescind anyone or more of these rules or regulations or to make such other and further reasonable rules and regulations as in Lessor's judgment may from time to time be necessary for the management, safety, care, and cleanliness of the Premises, the Project, and its occupants. Lessee agrees to abide by these and such other rules and regulations that Lessor may reasonably set forth, provided that Lessee is furnished written notice of any such new rules and regulations.

Northgate 111 Shopping Center - 2500 N. Palm Canyon, Palm Springs

Suite A4

Suite A1-A3



WPacq