



PLANNING COMMISSION STAFF REPORT

DATE: September 9, 2015

PUBLIC HEARING

SUBJECT: DEAD OR ALIVE, LLC FOR A CONDITIONAL USE PERMIT TO ALLOW A BEER AND WINE LOUNGE OF APPROXIMATELY 980-SQUARE FEET IN SIZE WITHIN AN EXISTING MULTI-TENANT BUILDING LOCATED AT 150 EAST PALM CANYON DRIVE, ZONE C-1 (CASE 5.1381 CUP). (DN)

FROM: Department of Planning Services

SUMMARY

The Planning Commission will review a request by Dead or Alive, LLC on behalf of Felipe Castaneda for a Conditional Use Permit (CUP) to operate a beer and wine lounge of approximately 980-square feet in size within an existing two-unit commercial building located at 150 E. Palm Canyon Drive.

RECOMMENDATION:

Approve, subject to conditions.

BACKGROUND INFORMATION:

<i>Related Relevant City Actions by Planning, Fire, Building, etc...</i>	
July 19, 1955	Building permit issued for construction of building.

<i>Most Recent Ownership/Business</i>	
Aug. 1999	Felipe Castaneda purchased property.

<i>Field Check</i>	
Aug. 2015	Staff has visited the site to observe existing conditions.

DETAILS OF APPLICATION REQUEST:

Site Area	
Lot Area	~2,548-square feet
Building Area	~1,690-square feet building ~980-square feet tenant space

Surrounding Property	Existing Land Use	Existing General Plan Designation	Existing Zoning Designation
Subject Property	Commercial	TRC (Tourist Resort Commercial)	C-1 (Retail Business)
North	Restaurant	TRC	C-1
South	Liquor Store	TRC	C-1
East	Single-family Residential	TRC	R-3 (Multi-family Residential and Hotel)
West	Medical Office	NCC (Neighborhood / Community Commercial)	PD-131



SUBJECT SITE

PROJECT DESCRIPTION:

The applicant is requesting approval of a Conditional Use Permit (CUP) to operate a beer and wine lounge called "Dead or Alive". The lounge will occupy approximately 890-square feet of an existing single-story, two-unit commercial building. The total number of seats will be 16 indoor and 3 outdoor. Hours of operation will be from 5:00 PM to 2:00 AM daily.

PROJECT ANALYSIS:

General Plan

Element	Request	Compliance
<p><u>Land Use:</u> Tourist Resort Commercial (0.35 FAR for stand-alone commercial uses; 43 hotel rooms per net acre; 86 rooms per net acre on Indian Land). This land use designation provides for large-scale resort hotels and timeshares including a broad range of convenience, fitness, spa, retail, and entertainment uses principally serving resort clientele. Commercial recreation and entertainment facilities, such as convention centers, museums, indoor and outdoor theatres, and water parks are included in this designation, but should be designed to be compatible with neighboring development. Tourist Resort Commercial facilities are most appropriate in the Palm Canyon Drive and Tahquitz Canyon Drive corridors. It is intended that the primary use in any Tourist Resort Commercial area shall be hotel/tourist-related uses...</p>	<p>The proposed request is to operate a lounge within an existing commercial building that serves residents and tourists.</p>	<p>Yes</p>

Zoning

Permitted Uses:

The subject property is zoned C-1 (Business Retail). Pursuant to Section 92.12.01(D)(9) of the Palm Springs Zoning Code (PSZC), cocktail lounges are permitted with the approval of a Conditional Use Permit (CUP). Since the proposed use is similar to a cocktail lounge serving alcoholic beverages, it is permitted under this designation when approved by CUP.

Off-street Parking:

There are three off-street parking spaces at the rear of the site and one on-street parking space in front along Palm Canyon Drive. Pursuant to Section 92.06.00(D)(5) of the PSZC, cocktail lounges are required to accommodate one parking space per thirty-five square feet of gross floor area where the public is served or one parking space for every three seats. The floor plan shows a total of sixteen seats inside and three seats outside.

Based on this number of seats, a total of 6 parking spaces would be required for this tenant space.

In order to proceed with the business at this location, the applicant has submitted a Land Use Permit to waive the additional parking requirements, pursuant to following applicable Section of the Zoning Code:

94.02.01(C)(2)(f)

A change of use for an existing commercial/retail building on property with frontage on Palm Canyon Drive (including East Palm Canyon Drive and South Palm Canyon Drive) or Indian Canyon Drive, will be eligible for a waiver of all or a portion of additional parking that would otherwise be required for such change of use so long as:

- i. The property is not within a Planned Development District;*
- ii. The property is not more than three acres in total area;*
- iii. The existing building is less than 20,000 square feet; and*
- iv. The property is not within "D" downtown parking combining zone; and*
- v. The building existed prior to October 3, 2014.*

The property is not located within a Planned Development District or the "D" downtown parking combining zone, and is less than three acres in size at approximately 2,500-square feet. The existing building was built in 1955 and is less than 20,000-square feet in size at roughly 1,690-overall square feet. Thus, the project meets the criteria necessary to waive the additional parking requirements and the LUP may be approved.

Safety and Security:

Staff requested comments and recommendations on the proposal from the Fire and Police Departments. The Fire Department provided recommended conditions of approval. The Police Department (PD) recommended the applicant meet with PD staff at the site to ensure safety measures can be accommodated. Conditions are included in the draft resolution to ensure the operation is compliant with PD requirements.

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:

- a. That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

Section 92.12.01(D)(9) of the Palm Springs Zoning Code permits a cocktail lounge in the C-1 zone when approved under a Conditional Use Permit.

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

general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.

The use will provide a lounge space within a Retail Business Zone of Palm Springs. The proposed use is desirable for the development of the community as it adds tourist economy of the City and will be located along a commercial corridor. A lounge at the proposed location is not anticipated to be detrimental to existing uses or future uses specifically permitted in the C-1 zone.

c. *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*

The proposed use is within a commercial building with parking located on site at the rear of the property and street parking at the front. The business will operate a lounge environment of approximately 980-square feet in size and no additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.

d. *That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*

The project site is located adjacent to East Palm Canyon Drive, which is designated as a Major Thoroughfare in the General Plan Circulation Element, and is improved with four vehicle lanes. Public transit is also available on Palm Canyon Drive. The lounge is approximately 980-square feet in size and any traffic generated by the proposed use will be insignificant to the streets and highways.

e. *That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards.*

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

CONCLUSION:

The project is consistent with the land use policies of the General Plan and Zoning Code. Staff is able to recommend findings necessary for approval of the proposed use.

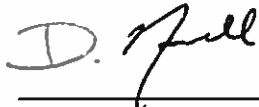
On that basis, staff is recommending approval of the proposal.

ENVIRONMENTAL:

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

NOTIFICATION:

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



David A. Newell
Associate Planner



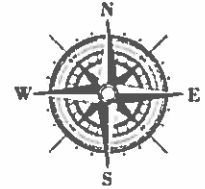
Filnn Fagg, AICP
Director of Planning Services

Attachments:





1. Vicinity map
2. Draft resolution
3. Applicant's justification letter
4. Plan exhibits



Department of Planning Services Vicinity Map



Legend

-  Site
-  500ft Site Radius
-  Zoning
-  Parcel lines

CITY OF PALM SPRINGS

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF PALM SPRINGS, CALIFORNIA,
APPROVING CASE 5.1381, A CONDITIONAL USE
PERMIT (CUP) TO OPERATE A COCKTAIL LOUNGE
AT 150 EAST PALM CANYON DRIVE.

WHEREAS, Dead or Alive, LLC on behalf of Felipe Castaneda (“Applicant”) has filed a Conditional Use Permit application with the City pursuant to Section 94.02.00 of the Zoning Code to allow a cocktail lounge (beer and wine) use within an existing commercial building located at 150 East Palm Canyon Drive, Zone C-1, Section 23, APN: 508-346-015; and

WHEREAS, a cocktail lounge may be permitted in the C-1 (Retail Business) Zone with the approval of a Conditional Use Permit, pursuant to Section 92.12.01(D)(9) of the Zoning Code; and

WHEREAS, notice of public hearing of the Planning Commission of the City of Palm Springs to consider Case No. 5.1381 – CUP was given in accordance with applicable law; and

WHEREAS, on September 9, 2015, a public hearing on the application was held by the Planning Commission in accordance with applicable law; and

WHEREAS, the proposed project is considered a “project” pursuant to the terms of the California Environmental Quality Act (“CEQA”), and has been determined to be Categorically Exempt as a Class I exemption (Existing Facilities) pursuant to Section 15301 of the CEQA Guidelines; and

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

THE PLANNING COMMISSION HEREBY FINDS AS FOLLOWS:

Section 1: Section 94.02.00(B)(6) of the Zoning Code requires the Planning Commission not approve a Conditional Use Permit unless it finds as follows:

1. *That the use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by this Zoning Code.*

Section 92.12.01(D)(9) of the Palm Springs Zoning Code permits a cocktail lounge in the C-1 zone when approved under a Conditional Use Permit.

2. *That the use is necessary or desirable for the development of the community, is in harmony with the various elements or objectives of the general plan, and is not*

detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.

The use will provide a lounge space within a Retail Business Zone of Palm Springs. The proposed use is desirable for the development of the community as it adds tourist economy of the City and will be located along a commercial corridor. A lounge at the proposed location is not anticipated to be detrimental to existing uses or future uses specifically permitted in the C-1 zone.

3. *That the site for the intended use is adequate in size and shape to accommodate such use, including yards, setbacks, walls or fences, landscaping, and other features required in order to adjust such use to those existing or permitted future uses of land in the neighborhood.*

The proposed use is within a commercial building with parking located on site at the rear of the property and street parking at the front. The business will operate a lounge environment of approximately 980-square feet in size and no additional square footage is necessary to accommodate the proposed use. Therefore, the site is adequate in size and shape to accommodate the proposed use.

4. *That the site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use.*

The project site is located adjacent to East Palm Canyon Drive, which is designated as a Major Thoroughfare in the General Plan Circulation Element, and is improved with four vehicle lanes. Public transit is also available on Palm Canyon Drive. The lounge is approximately 980-square feet in size and any traffic generated by the proposed use will be insignificant to the streets and highways.

5. *That the conditions to be imposed and shown on the approved site plan are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards. Such conditions may include:*
 - a. *Regulation of use*
 - b. *Special yards, space and buffers*
 - c. *Fences and walls*
 - d. *Surfacing of parking areas subject to city specifications*
 - e. *Requiring street, service road, or alley dedications and improvements or appropriate bonds*
 - f. *Regulation of points of vehicular ingress and egress*
 - g. *Regulation of signs*
 - h. *Requiring landscaping and maintenance thereof*
 - i. *Requiring maintenance of grounds*
 - j. *Regulation of noise, vibrations, odors, etc.*

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

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

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby approves Case No. 5.1381 – CUP, a Conditional Use Permit to allow a cocktail lounge serving beer and wine within an existing two-unit commercial building located at 150 East Palm Canyon Drive, subject to the conditions set forth in the attached Exhibit A.

ADOPTED this 9th day of September, 2015.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Flinn Fagg, AICP
Director of Planning Services

RESOLUTION NO. _____

EXHIBIT A

Case 5.1381 CUP
Dead or Alive (Beer and Wine Lounge)

150 East Palm Canyon Drive

September 9, 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.

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case 5.1381 CUP, except as modified the conditions below.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans date stamped August 12, 2015 and 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 5.1381 CUP. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the matter

and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

- ADM 6. Maintenance and Repair. The property owner(s) and successors and assignees in interest shall maintain and repair the improvements including and without limitation all structures, sidewalks, bikeways, parking areas, landscape, irrigation, lighting, signs, walls, and fences between the curb and property line, including sidewalk or bikeway easement areas that extend onto private property, in a first class condition, free from waste and debris, and in accordance with all applicable law, rules, ordinances and regulations of all federal, state, and local bodies and agencies having jurisdiction at the property owner's sole expense. This condition shall be included in the recorded covenant agreement for the property if required by the City.
- ADM 7. Time Limit on Commencement of Use. The time limit for commencement of the use authorized by this conditional use permit shall be two (2) years from the effective date of approval. A conditional use permit shall become effective after an elapsed period of fifteen (15) days from the date of the decision by the commission authorizing the permit.
- ADM 8. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05. Permits will not be issued until the appeal period has concluded.
- ADM 9. Cause No Disturbance. The owner shall monitor outdoor parking areas, walkways, and adjoining properties and shall take all necessary measures to ensure that customers do not loiter, create noise, litter, or cause any disturbances while on-site. The owner and operator shall ensure that at closing time, all customers leave the property promptly and that the property is clean and secure before the owner/operator leaves the premises. The Police Chief, based upon complaints and/or other cause, may require on-site security officers to ensure compliance with all City, State, and Federal laws and conditions of approval. Failure to comply with these conditions may result in revocation of this permit, temporary business closure or criminal prosecution.

- ADM 10. Grounds for Revocation. Non-compliance with any of the conditions of this approval or with City codes and ordinances, State laws; any valid citizen complaints or policing and safety problems (not limited to excessive alcohol consumption, noise, disturbances, signs, etc) regarding the operation of the establishment; as determined by the Chief of Police or the Director of Building and Safety, may result in proceedings to revoke the Conditional Use Permit. In addition, violations of the City Codes and Ordinances will result in enforcement actions which may include citations, arrest, temporary business closure, or revocation of this permit in accordance with the law.
- ADM 11. Comply with City Noise Ordinance. This use and property shall comply with the provisions of Section 11.74 Noise Ordinance of the Palm Springs Municipal Code. Violations may result in revocation of this Conditional Use Permit.
- ADM 12. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers.

PLANNING DEPARTMENT CONDITIONS

- PLN 1. Alcohol Sales. The Conditional Use Permit authorizes the sale of beer and wine at 150 E. Palm Canyon Drive.
- PLN 2. Hours of Operation. The operating hours may occur between 5:00 P.M. and 2:00 A.M. daily. Any future modifications to the hours of operation shall require an amendment to this Conditional Use Permit.
- PLN 3. Letter of Convenience or Necessity. The applicant shall obtain a Letter of Convenience or Necessity from the City Council prior to commencement of the alcohol sales. If the Resolution of Convenience and Necessity is not approved, this CUP application will not be valid.
- PLN 4. Entertainment and Amplified Noise. Amplified music (recorded and live) is permitted within the building with the understanding that the intent of the music is to be background music. The music sound level will be such that in the opinion of the enforcement officer (as designated by the Director of Planning Services or Police Chief) those within the lounge can hold a conversation without needing to shout above the music.
- PLN 5. Sign Applications Required. No signs are approved by this action. Separate approval and permits shall be required for all signs in accordance with Zoning Ordinance Section 93.20.00.
- PLN 6. Exterior Alarms & Audio Systems. No sirens, outside paging or any type of signalization will be permitted, except approved alarm systems.

- PLN 7. Outside Storage Prohibited. No outside storage of any kind shall be permitted except as approved as a part of the proposed plan.
- PLN 8. Land Use Permit. The business operator shall ensure compliance Land Use Permit Case LUP 15-032 for the waiver of parking and outdoor seating.

POLICE DEPARTMENT CONDITIONS

- POL 1. The operator shall comply with the noise ordinance (Chapter 11.74 of the Municipal Code) 24-hours a day.
- POL 2. The operator shall work with the Police Department to amicably resolve complaints related to the business operations at this property.
- POL 3. The operator shall contact the Police Department to complete a walk-through to determine if safety and security measures are necessary, including but not limited to, a security plan, additional exterior lighting, etc.

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.

- FID 1 **Fire Extinguisher Requirements (CFC 906):** Provide one 2A-10BC portable fire extinguisher for every 75 feet of floor or grade travel distance for normal hazards. Extinguishers shall be mounted in a visible, accessible location 3 to 5 feet above floor level. Preferred location is in the path of exit travel or near an exit door.

END OF CONDITIONS

DEAD OR ALIVE
{bar}
Justification Letter

To Whom It May Concern:

Dead or Alive is a small bar that will serve craft beer and wine. It will cater to locals and tourists alike. The bar will serve as a quiet, relaxed place for people to enjoy a glass of wine or beer and conversation. The property will be used to house the bar. Potential environmental impact will be additional waste (beer and wine bottles). Only minor architectural changes will be necessary: adding of a drain to the interior, the addition of a sign (existing wiring) to the exterior, and a small (72 sq. ft.) patio enclosure in front of the building.

The project will be run by the owners and 2-4 employees. Hours will be 5pm to 2am nightly. A type 42 ABC license is required to open and run the business.

Dead or Alive will be a welcome addition to the neighborhood. It lies in the Special Focus Area of Palm Springs, south of Ramon. It will serve the nearby residents and visitors of the hotels just down the street. It is on East Palm Canyon, near a few other restaurants which increases the offerings of this humble corridor. Dead or Alive will be a neighborhood bar with deep roots in the community - the landlord is next door, the owners live nearby and were born and raised here. It will not be detrimental to future uses. It can remain a bar, or be reverted back to a retail space. It has a low impact yet will be a welcome addition.

The space is more than adequate for the intended use. There is an ample back storage area, and a low planned occupancy of 19 seats. The space is adequate to adhere to all local, county, state and federal regulations and codes. It is a small bar and will fit nicely into the neighborhood.

The site is a street facing location along a major stretch of East Palm Canyon. The streets will more than adequately carry the quantity of traffic that will be generated by the proposed use. Additionally, the site is near a BUZZ trolley stop and within walking distance of 4 major hotels and a dozen smaller hotels. Additionally, a small bicycle rack is planned to serve our patrons and promote safe transportation to and from our location.

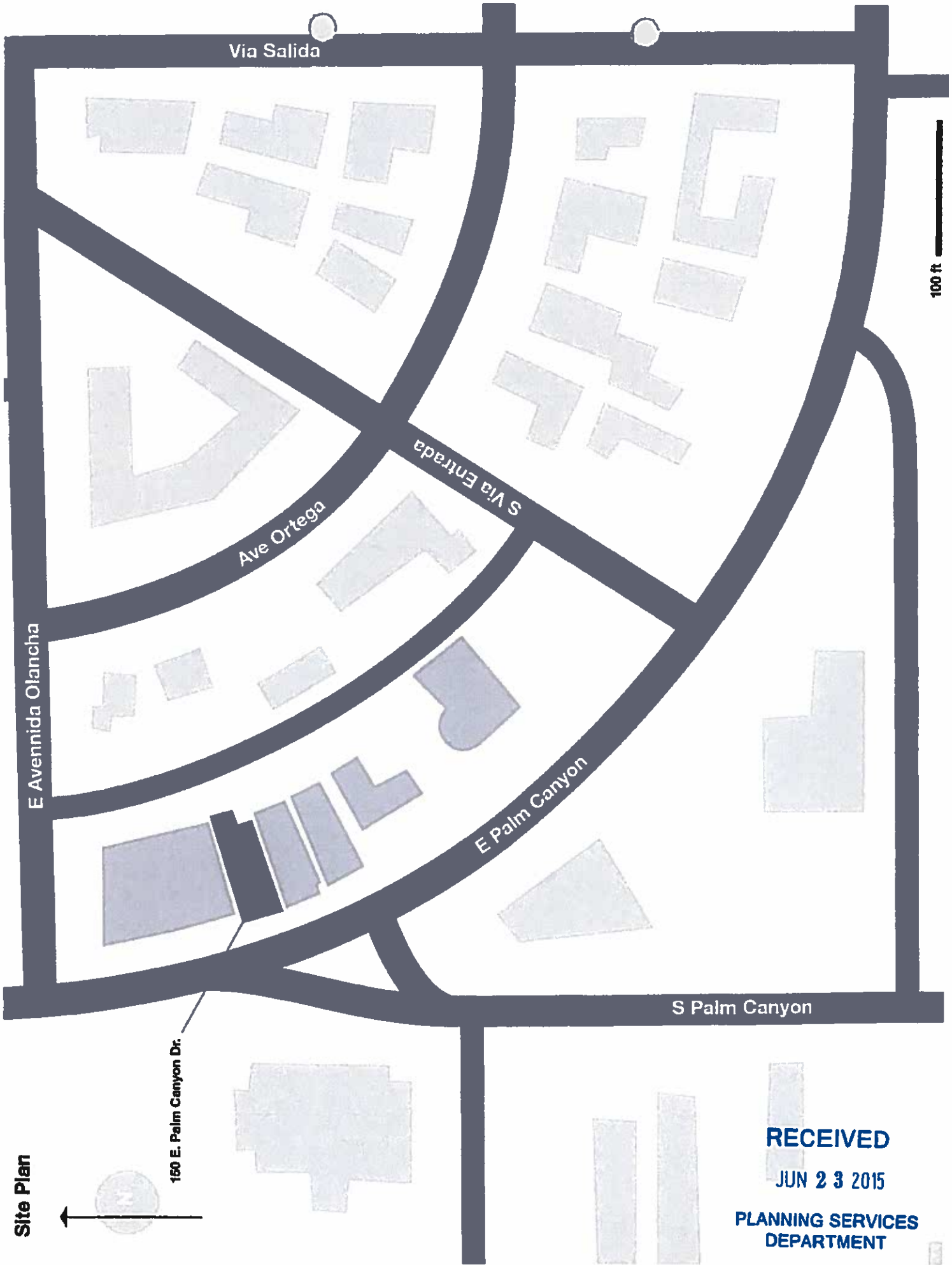
Dead or Alive will be looking forward to opening it's doors in the fall of 2015.

Christine Soto
christine.soto@gmail.com
Anthony Cioffi
info@anthonycioffidesign.com

536 S. Calle Santa Rosa
Palm Springs, CA 92264

DEAD OR ALIVE
150 E. Palm Canyon Drive
Palm Springs, CA 92264

RECEIVED
JUN 23 2015
PLANNING SERVICES
DEPARTMENT



Site Plan



150 E. Palm Canyon Dr.

100 ft

RECEIVED

JUN 23 2015

PLANNING SERVICES
DEPARTMENT

AVENIDA MORAGA

RECEIVED

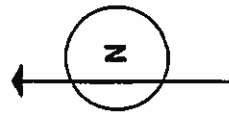
AUG 25 2015

PLANNING SERVICES
DEPARTMENT

El Mirasol


EAST PALM CANYON DRIVE

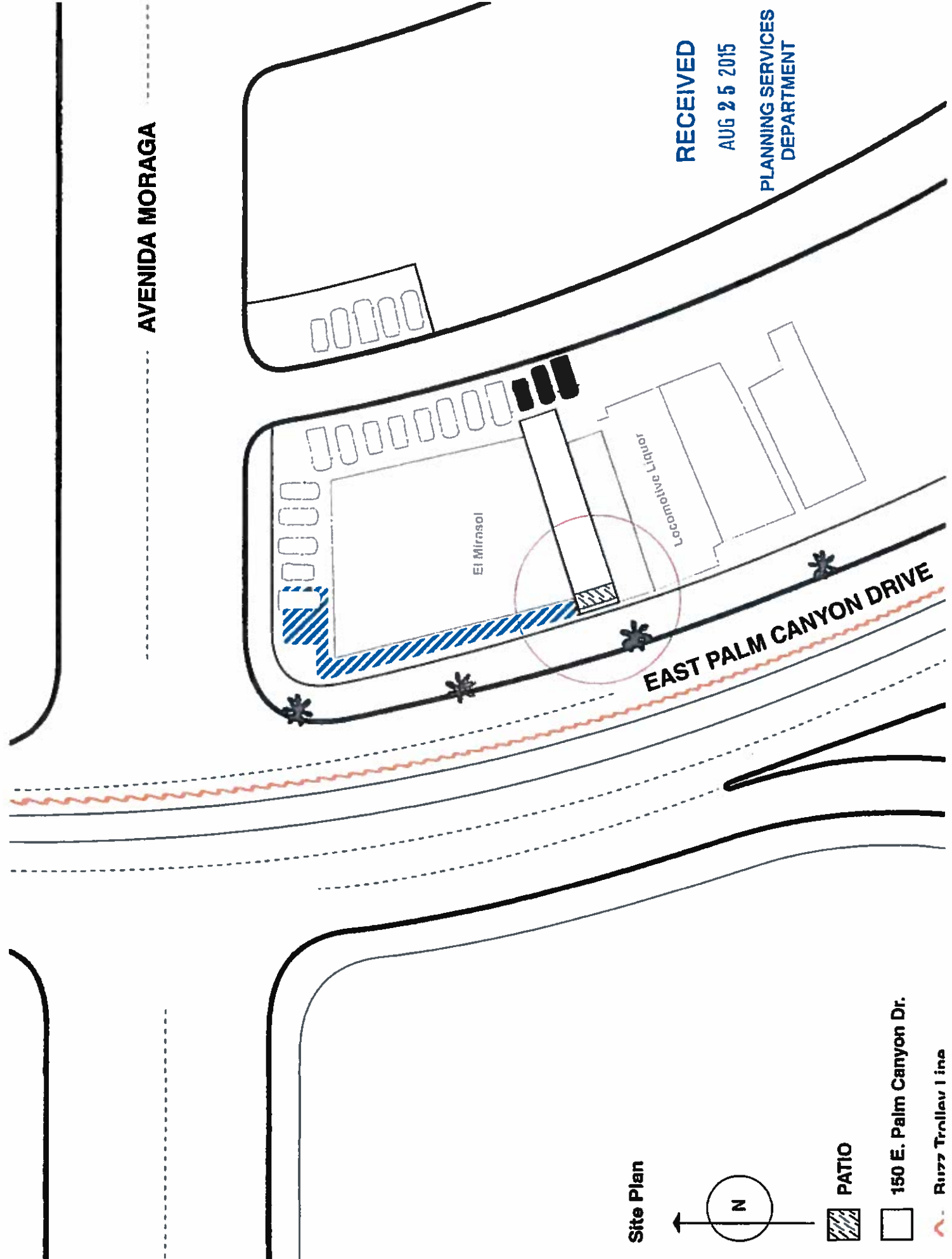
Site Plan



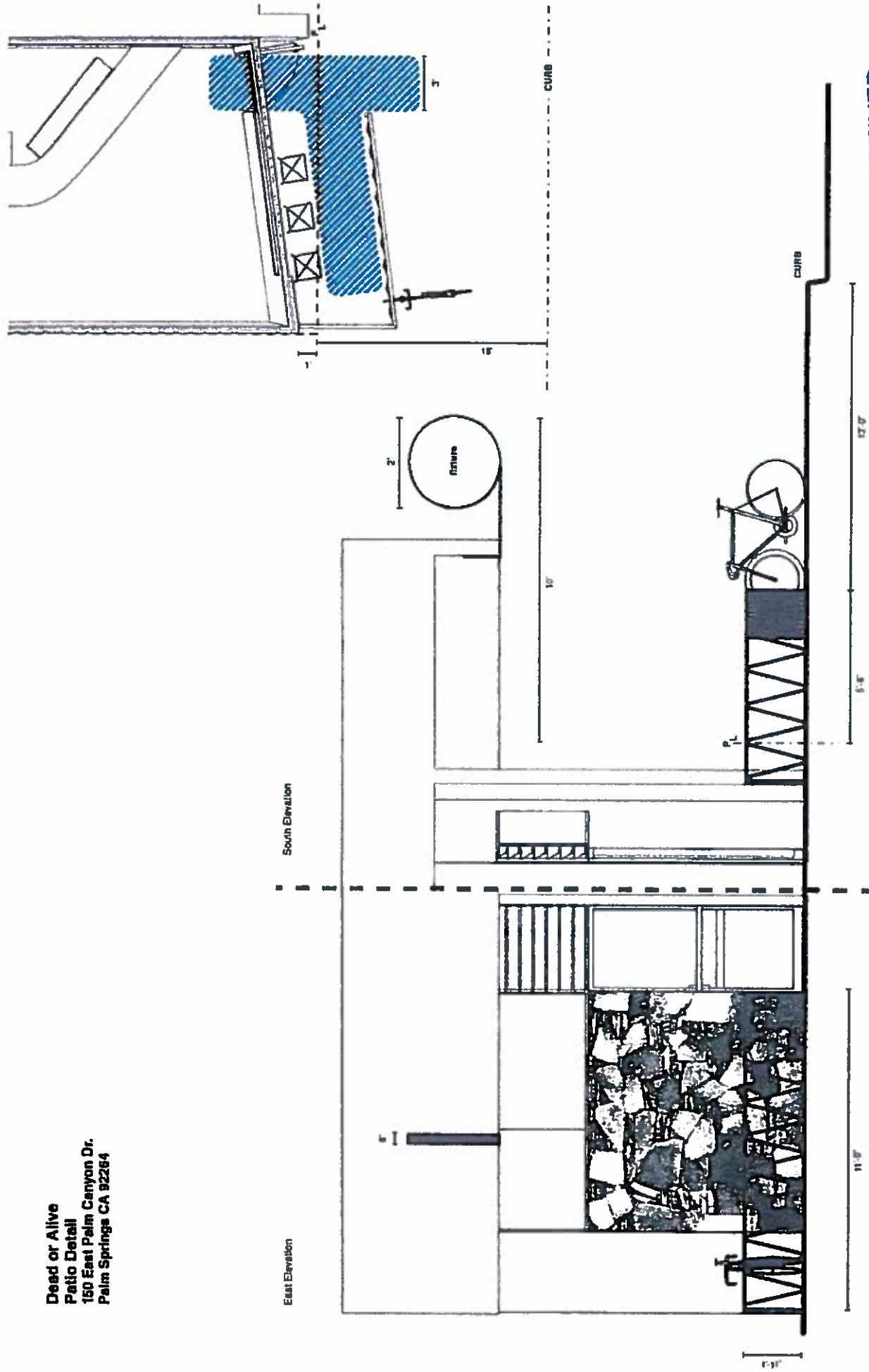
 PATIO

 150 E. Palm Canyon Dr.

 R1177 Trolley Line



Dead or Alive
Patio Detail
150 East Palm Canyon Dr.
Palm Springs CA 92264

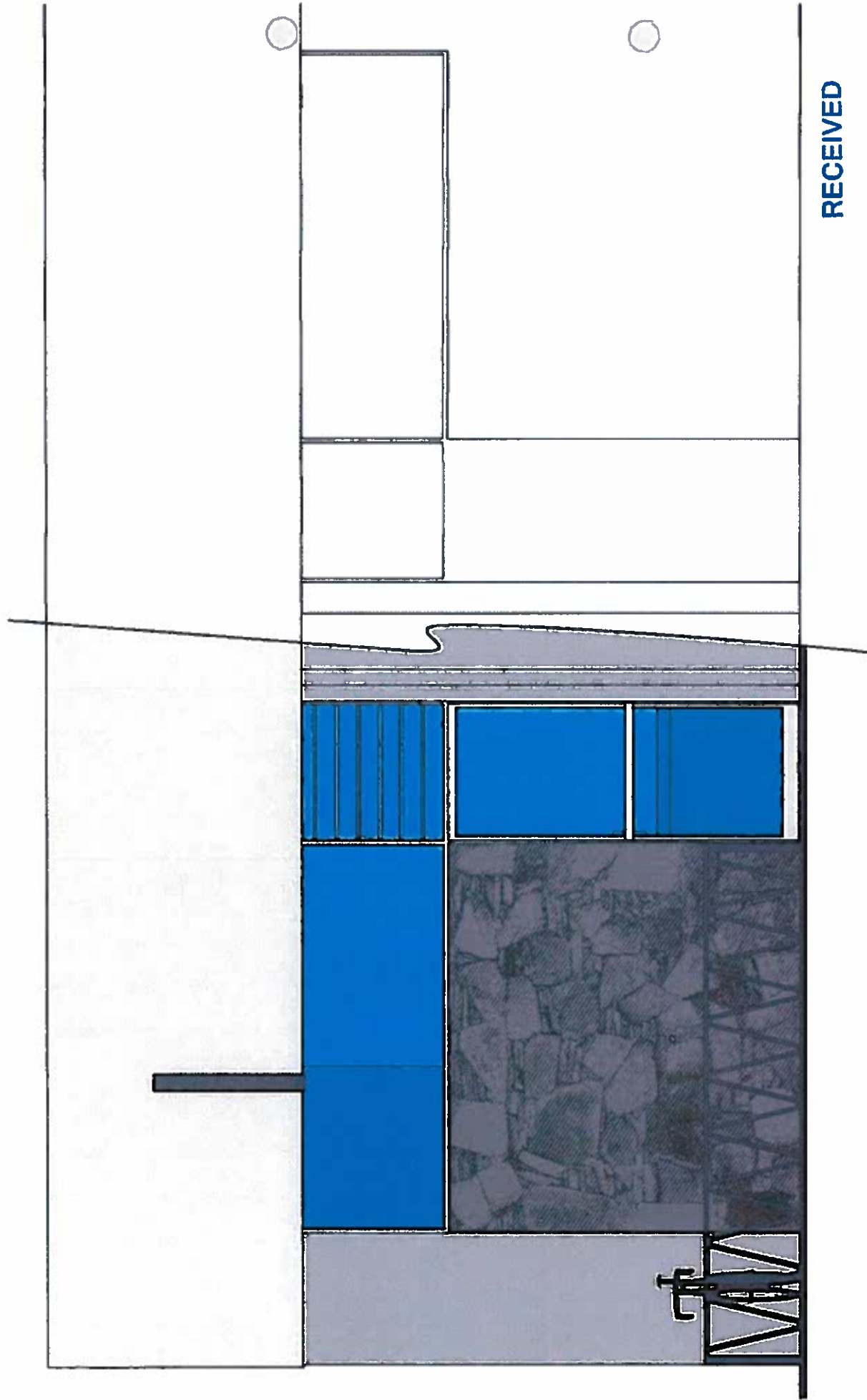


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PLANNING SERVICES
COMMUNITY

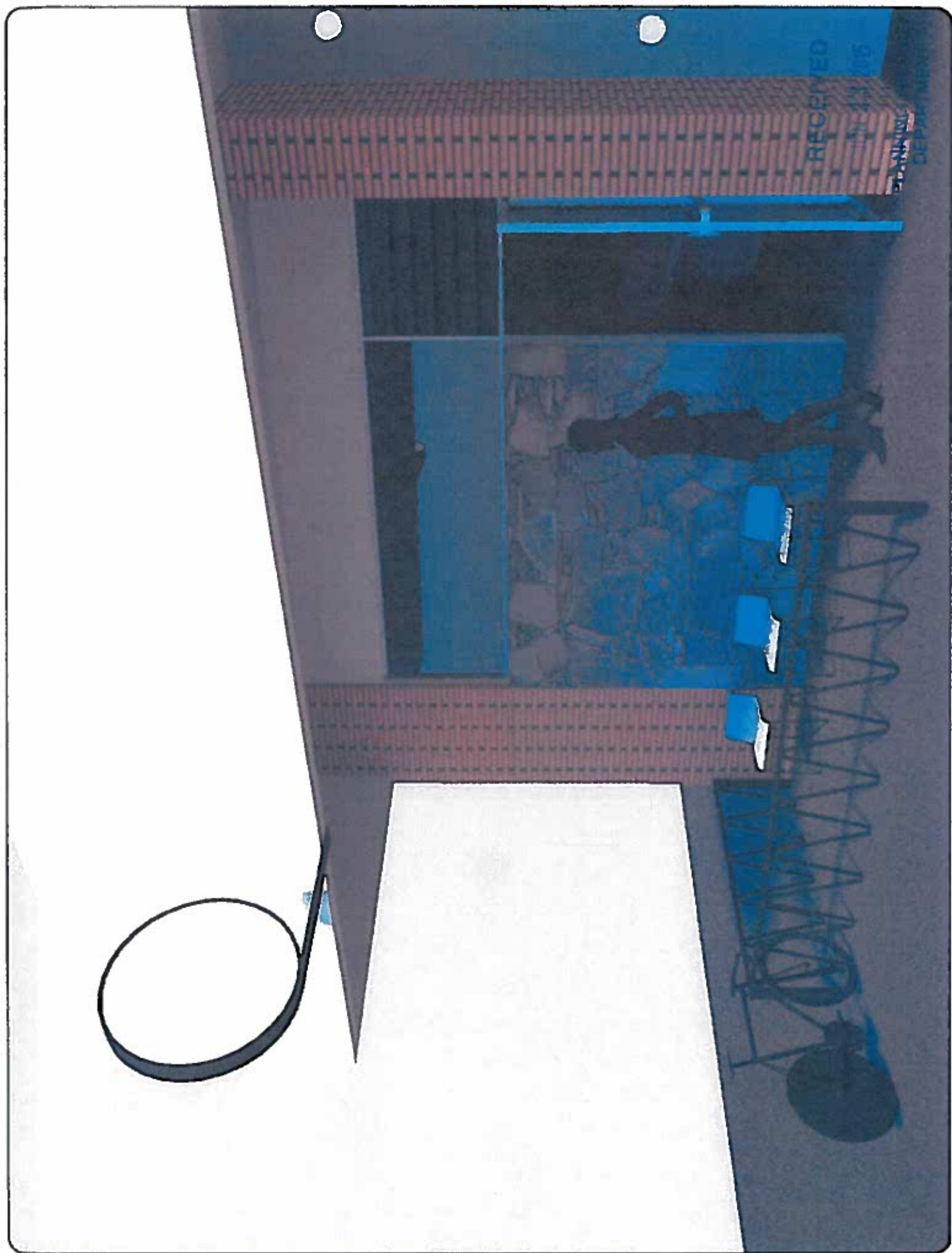
150 E. Palm Canyon Dr.
East Elevation



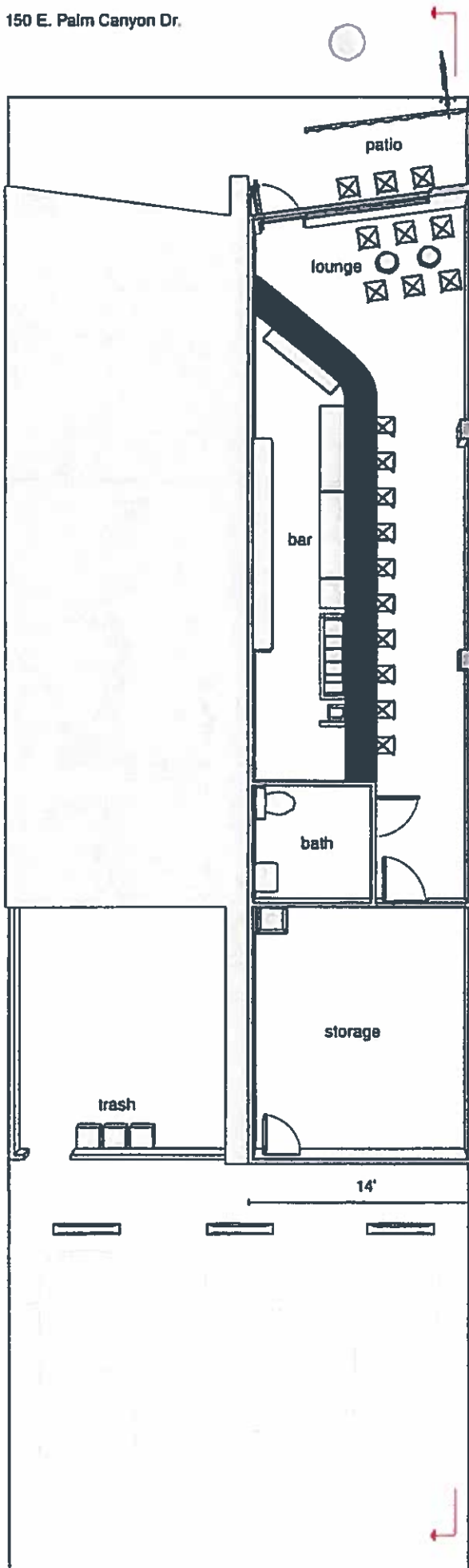
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JUN 23 2015

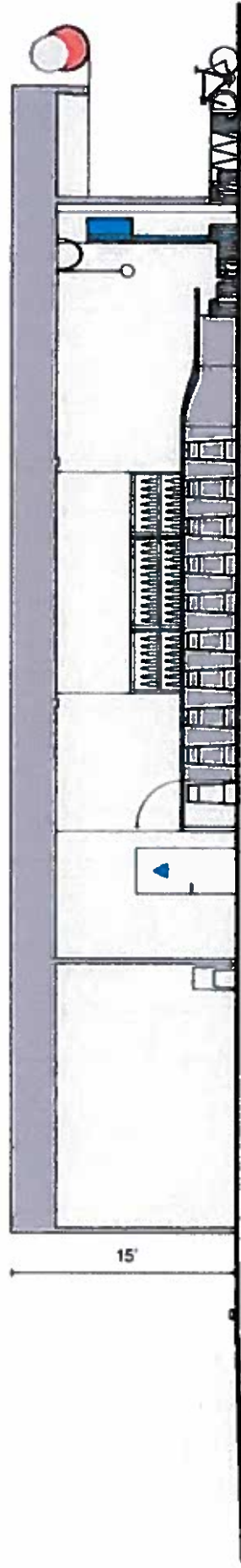
PLANNING SERVICES
DEPARTMENT 3/8"=1'



150 E. Palm Canyon Dr.



70'



section

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JUN 23 2015

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3/32"=1'