



PLANNING COMMISSION STAFF REPORT

DATE: December 9, 2015

New Business

SUBJECT: RECOVERY INNOVATIONS INC., REQUESTING A MODIFICATION TO THE CONDITIONS OF APPROVAL FOR AN OUTPATIENT BEHAVIORAL HEALTH OFFICE, LOCATED AT 2500 NORTH PALM CANYON DRIVE, (CASE LUP 15-038) (FF).

FROM: Department of Planning Services

PROJECT DESCRIPTION

Recovery Innovations Inc., is requesting to modify the conditions of approval of their Land Use Permit (LUP 15-038) to remove the requirement for a six-month review by the Planning Commission.

RECOMMENDATION

That the Planning Commission evaluate the request to modify the conditions of approval of LUP 15-038.

BACKGROUND INFORMATION

<i>Related Relevant Actions by Planning, Building, Fire, etc.</i>	
08/12/15	The Planning Commission approved a Request for Determination (10.478 DET), making a finding that an outpatient behavioral health office was similar to other office uses permitted in the C-1 (Retail Business) Zone. The Planning Commission requested that the use be reviewed after six months of operations.
08/17/15	A Land Use Permit (LUP 15-038) was issued to Recovery Innovations, Inc., for an outpatient behavioral health office at 2500 North Palm Canyon Drive. The permit included the requirement for a six-month review as imposed by the Planning Commission.

<i>Most Recent Change of Ownership</i>	
04/30/14	Property purchased by Gibraltar Capital Fund II, LLC

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., submitted a determination request to allow an outpatient behavioral health office in the Northgate 111 Shopping Center in August 2015. The applicant intended to lease Suites A1 to A4, totaling approximately 6,700 square feet in floor area, for the health office use. The Planning Commission made a determination at their August 12, 2015 meeting that the proposed use was similar to other office uses allowed in the C-1 (Retail Business) Zone, and required a six-month review of the operation as Condition of Approval. Planning staff issued a Land Use Permit (LUP 15-038) to the applicant on August 17, 2015, and included the Planning Commission's requirement for a six-month review as a condition of the use, in addition to other standard conditions.

The applicant submitted a request to the Department of Planning Services on November 19, 2015, requesting to modify the Conditions of Approval to remove the requirement for a six-month review by the Planning Commission. In the request letter, the applicant states that the landlord will not provide an early-termination clause that would allow the applicant to end the lease should the Planning Commission reverse their determination at the six-month review. The applicant will not pursue the lease at the Northgate location without some assurance that they will be allowed to operate for the term of the lease.

In addition to the requirement for a six-month review by the Planning Commission and

other standard conditions, the approved Land Use Permit includes the following requirements specific to the use:

- Any changes to the operating plan shall require an amendment to the Land Use Permit;
- 24-hour operations allowed;
- No staff or patient parking allowed in the West Cortez Road parking lot between the hours of 6:00 p.m. and 7:00 a.m. (to avoid impacts to the residential properties on the north side of West Cortez Road);
- No patient beds are permitted, nor shall any patient be allowed to stay at the facility for longer than 24 hours; and
- The interior patient waiting room shall be adequately sized and remain open during the hours of operation so as to protect patient safety and to avoid loitering in exterior parking lot areas.

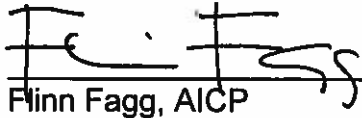
It is also noted in the Land Use Permit that any violation of the Conditions of Approval may result in the revocation of the permit. The revocation process for a Land Use Permit is described in PSZC Section 94.02.01(D)(5), and allows the Planning Director to revoke a permit upon the failure of an applicant to comply with the conditions of approval. The decision of the Planning Director to revoke a Land Use Permit may be appealed to the Planning Commission. The applicant should note that revocation is a possibility at any time of the operation, should the conditions of approval be violated.

The requirement for a six-month review by the Planning Commission is a standard land use practice for new or uncommon uses. The review allows the Planning Commission to assess if there are any unanticipated impacts of the use, and to assess the adequacy of any Conditions of Approval. The review process is intended to protect the general public welfare as it provides an opportunity to review the impacts of land use decisions.

Should the Planning Commission determine that the six-month review is unnecessary, there are other protections in place to address any impacts of the behavioral health office use. The Department of Planning Services can continue to monitor the applicant's compliance with the Conditions of Approval for the Land Use Permit, and the director has the ability to revoke the permit should there be violations. In addition, the director has the authority to impose additional Conditions of Approval if there are any issues that arise that are not currently addressed.

CONCLUSION

The requirement for a six-month review by the Planning Commission is standard practice to assess the impacts of land use decisions and assists in protecting the general public welfare. Should the Planning Commission choose to eliminate the review requirement, other safeguards are in place to address impacts associated with the use.



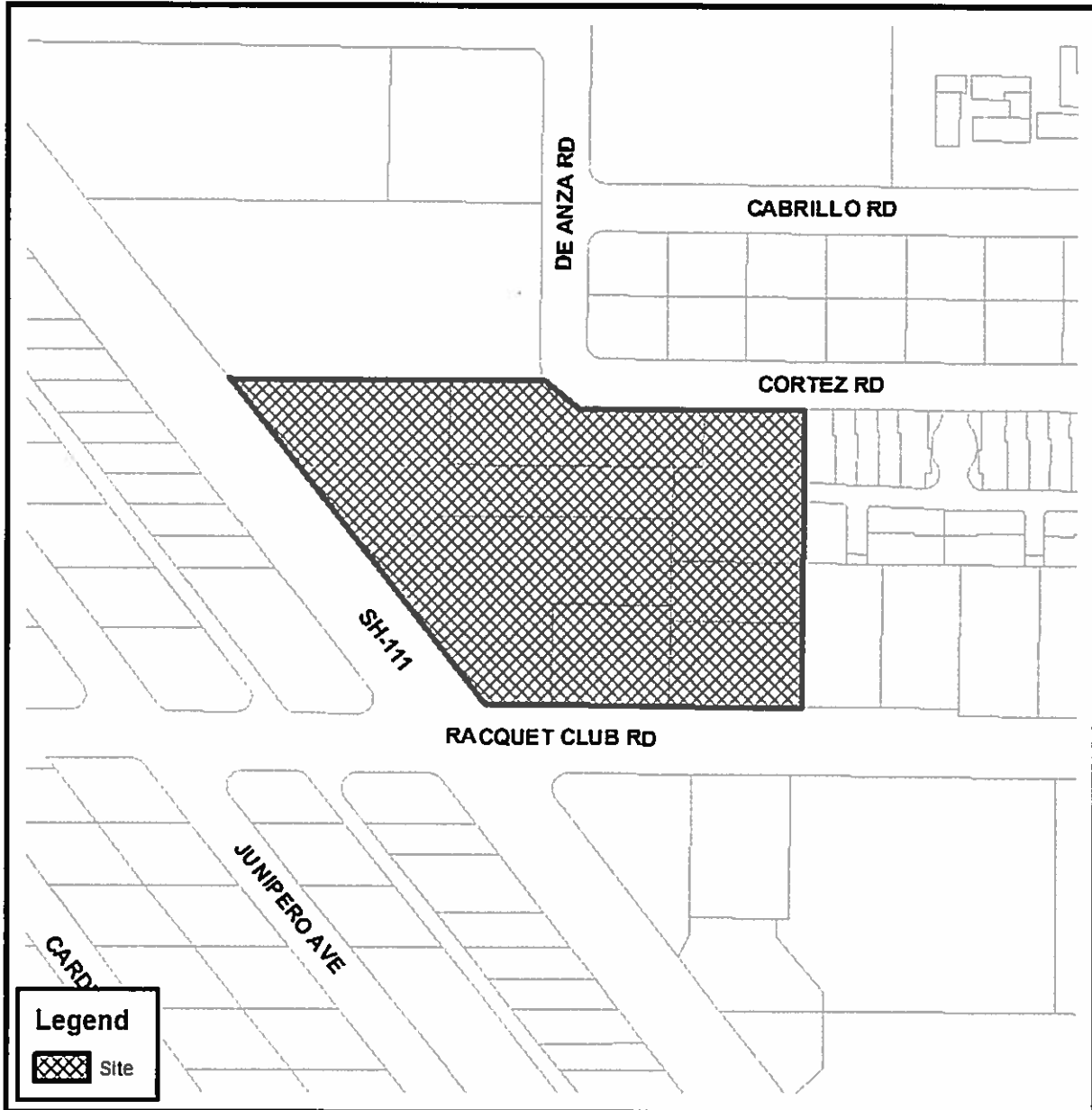
Flinn Fagg, AICP
Director of Planning Services

Attachments:

1. Vicinity Map
2. Draft Resolution
3. Letter of Request – Recovery Innovations
4. Planning Commission Minutes – August 12, 2015
5. Resolution #6520
6. Land Use Permit #15-038



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, ELIMINATING THE REQUIREMENT FOR A SIX-MONTH REVIEW AS A CONDITION OF APPROVAL FOR AN OUTPATIENT BEHAVIORAL HEALTH OFFICE (CASE LUP 15-038).

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") 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 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 found the following:

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.

E. In making the use determination, the Planning Commission directed the applicant to obtain a Land Use Permit for the use, and required that the Land Use Permit be reviewed by the Planning Commission after six months of operation.

F. A Land Use Permit (LUP 15-038) was issued to the applicant by the City on August 17, 2015, with the requirement for a six-month review by the Planning Commission.

G. On November 19, 2015, Jamie Seller, on behalf of Recovery Innovations, Inc., submitted a letter to the City requesting that the requirement for a six-month review be eliminated, due to the uncertainties of the review and potential impacts to the terms of the lease with the property owner.

H. On December 9, 2015, a public meeting on the request was held by the Planning Commission in accordance with applicable law.

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

J. The Planning Commission found that with the elimination of the requirement for review, there were still adequate safeguards in place to address any impacts of the behavioral health office use, including the remaining Conditions of Approval for LUP 15-038, and the procedures identified in PSZC Section 94.02.01(D)(5) and 94.02.01(D)(6).

THE PLANNING COMMISSION RESOLVES:

SECTION 1. Condition #7, as listed in the Conditions of Approval for LUP 15-038 and requiring a six-month review of the behavior health office operations,

shall be eliminated.

SECTION 2. All other Conditions of Approval for LUP 15-038, as presently stated, shall remain in place.

ADOPTED this 9th day of December, 2015.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Flinn Fagg, AICP
Director of Planning Services



November 19, 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 all the time that has been given to RI International. We are appreciative of the approval given from the Planning Commission on our Land Use Permit for the address 2500 N. Palm Canyon Drive. We are requesting a modification of the Land Use Permit to remove one condition described below:

"This Land Use Permit shall be subject to review by the Planning Commission in six months after the opening of the office." (Condition 7)

The landlord of this property is currently refusing to give RI International a clause that would allow us to get out of this longer term lease in the event that the Planning Commission reverses its original decision at the above mentioned review. RI International not in a position to sign a long term contract on space that may not be usable after the first 6 months.

We recognize that it would be rare for the Planning Commission to reverse its original decision and lead to your revocation of the Land Use Permit. However, since there has been precedent in the past of this happening, we are requesting removal of this particular condition. This would afford us a higher degree of certainty in signing a lease that holds us accountable for a significant amount of money.

Please do not hesitate to contact me at Jamie.Sellar@RIinternational or 602.292.6130 with any questions.

Sincerely,

Jamie Sellar
Regional Director of Crisis Operations – Western Region
RI International

ACTION: To recommend approval to the City Council.

Motion: Vice-Chair Roberts, seconded by Commissioner Middleton and unanimously carried 6-0-1 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Donenfeld, Commissioner Lowe, Commissioner Middleton, Vice-Chair Roberts, Chair Klatchko

ABSENT: Commissioner Weremiuk

3. NEW BUSINESS:

3A. PALM SPRINGS MOTORSPORTS LLC. FOR A MAJOR ARCHITECTURAL APPLICATION TO CONSTRUCT A DRIVE-THROUGH RESTAURANT ON A 2.64-ACRE SITE THAT IS PARTIALLY DEVELOPED WITH AN EXISTING MOTORCYCLE DEALERSHIP AT 6550 NORTH INDIAN CANYON DRIVE (CASE 3.3870 MAJ). (DN)

Associate Planner Newell presented the proposed project to construct a drive-through restaurant.

The Commission commented and/or requested clarification on:

- The right-of-way dedication required along Garnet Avenue;
- No sewer systems in this area;
- Will a signage application come forward?

LAILITH CHANDRASENA, applicant, responded to questions pertaining to signage. He indicated that the Yamaha building would remain the same but the Subway building will return for a sign permit.

ACTION: Approve, subject to Conditions of Approval.

Motion: Commissioner Middleton, seconded by Commissioner Lowe and unanimously carried 6-0-1 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Donenfeld, Commissioner Lowe, Commissioner Middleton, Vice-Chair Roberts, Chair Klatchko

ABSENT: Commissioner Weremiuk

3B. RECOVERY INNOVATIONS INC. FOR A DETERMINATION THAT AN OUTPATIENT BEHAVIORAL HEALTH OFFICE IS A SIMILAR PERMITTED USE IN THE C-1 (RETAIL BUSINESS) ZONE (CASE 10.478 DET). (FF)

Planning Director Fagg provided an overview on the proposed use as outlined in the staff report.

LEON BOYKO, Chief of Crisis in Recovery Services, indicated that this center is a crisis stabilization unit to help divert people from emergency departments for mental health issues that could be treated in an out-patient setting. Mr. Boyko responded to questions from the Commission pertaining to the type of clientele, staff training, voluntary unit and form of therapy.

Commissioner Lowe commented that this is a phenomenal service the city needs because there is a huge shortage of mental health services.

City Attorney Daudt suggested one option that could be used for an additional level of approval is to make this use permitted pursuant to a Land Use Permit - through which certain conditions could be imposed.

ACTION: That this use is similar to other uses permitted by-right in the C-1 zoning district. The use shall be subject to the approval of a Land Use Permit pursuant to a six (6) month review by the Planning Commission.

Motion: Vice-Chair Roberts, seconded by Commissioner Donenfeld and unanimously carried 6-0-1 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Donenfeld, Commissioner Lowe, Commissioner Middleton, Vice-Chair Roberts, Chair Klatchko
ABSENT: Commissioner Weremiuk

3C. WESSMAN DEVELOPMENT FOR A ONE-YEAR TIME EXTENSION FOR PLANNED DEVELOPMENT DISTRICT 294; A PREVIOUSLY APPROVED PROJECT CONSISTING OF A 79 LOT SUBDIVISION ON APPROXIMATELY 42.2 ACRE-SITE KNOWN AS THE CRESCENDO LOCATED ALONG WEST RACQUET CLUB ROAD AND VISTA GRANDE AVENUE (CASE 5.0996 / PDD 294) (ER)

Principal Planner Robertson presented the proposed one-year time extension as outlined in the staff report.

The Commission requested clarification and/or commented on:

- The validity of the environmental impact report that was prepared ten years ago.
- The override of greenhouse emissions.

Commissioner Calerdine disclosed that he worked on the environmental report seven or eight years ago and confirmed with the City Attorney that there is no conflict.

RESOLUTION NO. 6520

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:

SECTION 1. This use shall be subject to the approval of a Land Use Permit, issued pursuant to the requirements of PSZC Section 94.02.01. The Land Use Permit shall be subject to review by the Planning Commission in six months after the opening of the office.

SECTION 2. Based upon the foregoing, the Planning Commission hereby approves Case No. 10.478 DET.

ADOPTED this 12th day of August, 2015.

AYES: 6, Vice-Chair Roberts, Donenfeld, Calerdine, Lowe, Middleton and Chair Klatchko

NOES: None

ABSENT: 1, Weremiuk

ABSTAIN: None

ATTEST: CITY OF PALM SPRINGS, CALIFORNIA


Flinn Fagg, AICP
Director of Planning Services



City of Palm Springs
 Department of Planning Services
 Land Use Permit #15-038

Applicant: Leon Boyko	Mailing Address: 2701 N. 16th Street, Suite 316 Phoenix, AZ 85006	Phone: 602-636-3077 Fax: 602-636-5291 E-Mail: <u>Leon.Boyko@recoveryinnovations.org</u>
Business Name: Recovery Innovations	Site Address: 2500 N. Palm Canyon Drive	
Zone/GP: C-1/PD 136	APN: <u>504-140-040</u>	Section, Township, Range: S10/T4S/R4E

PROCEDURE: An application for a land use permit shall be submitted to the Department of Planning Services, and shall be accompanied by the following:

1. A Processing fee of \$696.00
2. A floor plan and/or site plan displaying the layout of the proposal. Outdoor seating that encroaches into the public right-of-way will require an encroachment agreement or license, subject to the approval of the Director of Planning Services.
3. Such other information as the Director of Planning Services may require, including, but not limited to: adjacent uses, photographs, building elevations, landscape plans, design studies, furniture information, etc.

STATEMENT OF ACTIVITY: Applicant shall submit a statement of the use, expected size, volume, hours, and length of operations; information relating to sanitation, noise, air pollution, vehicle parking, traffic circulation, and any other information of the proposed project.

Operation of a 24-hour outpatient behavioral health office (crisis stabilization unit) within a C-1 zoning district in accordance with Case No. DET 10.478. The office will provide psychiatric evaluation, counseling, peer support, and referral/coordination with local hospitals and other mental health providers.

CONDITIONS:
 See attached.

TRANSFER: Transfer of Land Use Permit to another applicant is subject to review and approval by the Director of Planning Services.

REVOCATION: The Director of Planning Services may revoke any Land Use Permit that does not meet or comply with conditions and requirements of this permit.

Applicant's Signature 	Permit Center Signature	Date 10/14/15	Account # 011-32204
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City of Palm Springs
Department of Planning Services
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
(760) 323-8245 (760) 322-8360 – facsimile

LAND USE PERMIT #15-038

DATE: August 17, 2015

REQUEST: *Operation of a 24-hour outpatient behavioral health office (crisis stabilization unit) within a C-1 zoning district in accordance with Case No. DET 10.478. The office will provide psychiatric evaluation, counseling, peer support, and referral/coordination with local hospitals and other mental health providers.*

APPLICANT: Leon Boyko/Recovery Innovations

LOCATION: 2500 N. Palm Canyon Drive

ZONING/GP: C-1/PD 136. The outpatient behavioral health office was found to be similar to a professional or medical office a determination of the Planning Commission (Case No. 10.478 DET).

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 Chief of Police, the Fire Chief, or their designee, depending on which department recommended the condition(s).

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

The proposed development of the premises shall conform to all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, or any other City Codes, ordinances and resolutions which supplement the zoning district regulations.

1. 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 this Land Use Permit application. 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.

2. Any changes to the operating plan shall require an amendment to this Land Use Permit.
3. Permitted hours of operation: 24-hour operations permitted.
4. No staff or patient parking shall be permitted in the W. Cortez Road parking lot between the hours of 6:00 p.m. and 7:00 a.m.
5. No patient beds or stays of longer than 24 hours are permitted.
6. The interior patient waiting room shall be adequately sized and remain open during the hours of operation so as to protect patient safety and to avoid loitering in exterior parking lot areas.
7. This Land Use Permit shall be subject to review by the Planning Commission in six months after the opening of the office.
8. A business license and any other permits are required.
9. This Land Use Permit shall not constitute an approval of required Building or Fire Department Codes or regulations. It is the responsibility of the applicant to obtain all required City approvals.
10. No signage is approved as part of this land use permit. Any and all signage must be permitted and comply with the Sign Ordinance, Section 93.20.00 of the Palm Springs Zoning Ordinance.
11. This Land Use Permit shall be displayed on-site at all times and made available to City officials upon request.
12. Failure to comply with Municipal Codes, Ordinances, and the conditions of this land use permit may result in revocation of this permit.

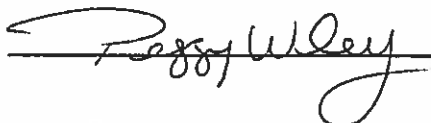
Director of Planning
Services' Signature:



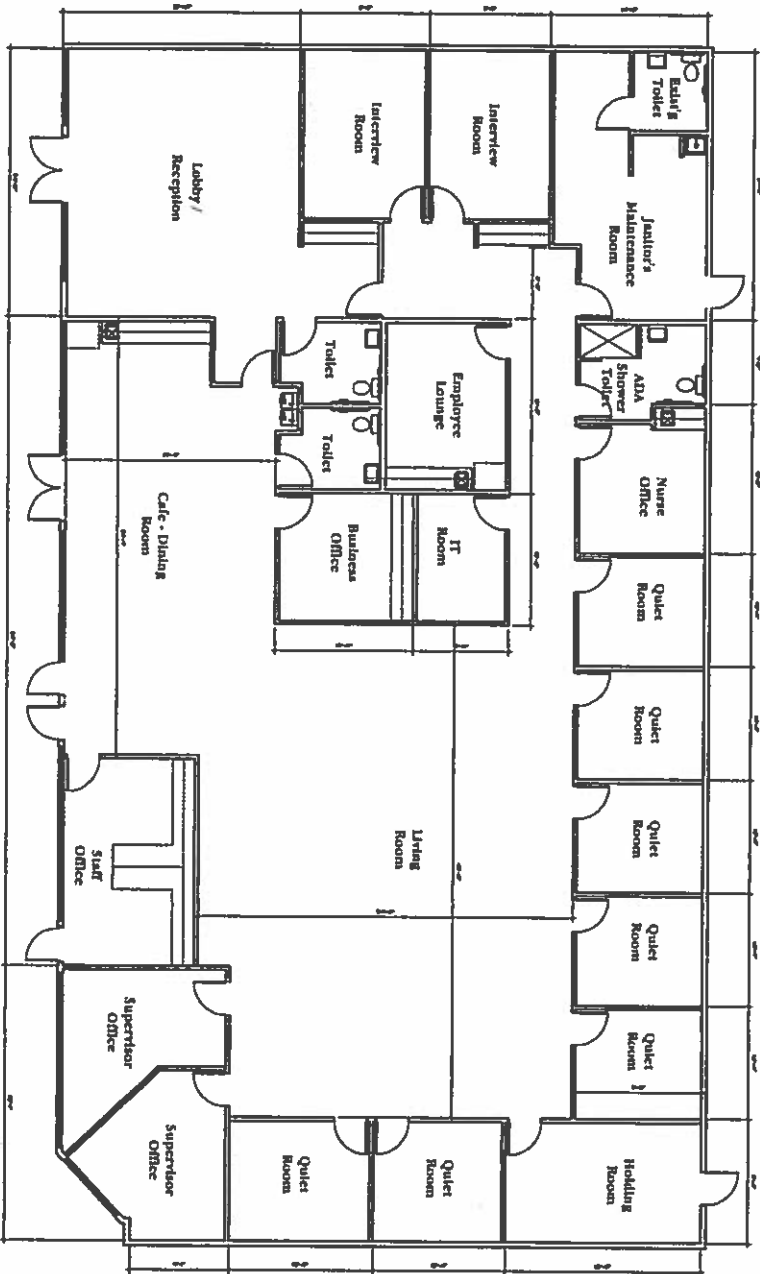
Filnn Fagg, AICP Director of Planning

Date: 8/17/15

Applicant's
Signature:



Date: 10/14/15



*Preliminary
Floor Plan*



Final
Floor Plan

RECEIVED

OCT 14 2015

PLANNING SERVICES
DEPARTMENT

15-038