



PLANNING COMMISSION STAFF REPORT

DATE: May 11, 2016

PUBLIC HEARING

SUBJECT: APPLICATION BY ATEF D. JABER, OWNER OF FIESTA MARKET, FOR A CONDITIONAL USE PERMIT FOR A CONVENIENCE STORE USE AT THE SOSSA CENTER, LOCATED AT 3700 EAST VISTA CHINO, SUITE "G"; (CASE 5.0691 CUP; APN#: 677-040-027), ZONE M-1-P (KL)

FROM: Department of Planning Services

SUMMARY

The Planning Commission will review a request for approval of a Conditional Use Permit (CUP) for a convenience store use in an existing multi-tenant commercial center at the northeast corner of Gene Autry Trail and Vista Chino Road.

RECOMMENDATION:

Approve subject to conditions of approval.

BACKGROUND:

Since at least 1993, a convenience market / liquor store (Sossa's Market) has been in operation at this location, however because that market has been closed for over twelve months, pursuant to Zoning Code Section 94.02.00(1,5) the CUP has expired and a new one is required at this time.^a

	<i>General Plan Land Use Designations</i>	<i>Existing Land Use</i>	<i>Existing Zoning Designations</i>
Subject Property	Neighborhood Community Commercial (NCC)	Multi-tenant commercial center	M-1-P
North	Public utility	Electrical Substation	M-1-P
South	High Density Residential	Undeveloped (Escena)	M-1-P
East	Industrial	Commercial	PD
West	NCC	Vacant	C-1

^a Typically when a commercial use requiring a CUP closes, the same CUP-required business use re-opens within twelve months, or application for a time extension on the CUP is requested. In this instance once the new convenience store owner was made aware of the lapse in the CUP, the current CUP application was submitted in a timely manner.

<i>Related Relevant City Actions by Planning, Fire, Building, etc...</i>	
March 1993	Conditional Use Permit for a Convenience / Liquor store use



AERIAL VIEW OF SOSSA'S CENTER



SOSSA'S CENTER (PROPOSED MARKET IS IN THE EASTERNMOST TENANT SPACE)



EASTERNMOST TENANT SUITE, FORMER SOSSA'S MARKET, NOW FIESTA MARKET

ANALYSIS

General Plan: The General Plan designation of the subject site is Neighborhood Community Commercial (NCC). This designation allows for "*convenient commercial uses to support adjacent or nearby residential neighborhoods*". The subject property is an existing mixed-use commercial "strip center". A convenience store is an appropriate use for this sort of commercial land use designation. Therefore, the proposed use is consistent with the General Plan.

Zoning: The subject property is zoned M-1-P (Planned Development & Research Park zone). Pursuant to Section 92.16.01 (D),(5) (uses permitted in the M-1-P zone) the proposed convenience store use is permitted on the subject parcel subject to approval of a CUP.

Parking: The multi-tenant commercial center has fifty-three (53) off-street parking spaces. The total square footage of the center is approximately 11,200 gross square feet. Parking for mixed-use centers is calculated at a rate of 1 space per 250 square feet. Thus, the subject center requires a minimum of 45 parking spaces and thus the parking is adequate for the proposed use.

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 M-1-P (Planned Development & Research Park zone).

Pursuant to Section 92.16.01 (D),(5) (uses permitted in the M-1-P zone) the proposed convenience store use is permitted on the subject parcel subject to approval of a CUP.

- 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 convenience store use is desirable at this location, providing easy and convenient shopping for the residents of the surrounding adjacent neighborhoods. The General Plan notes that the uses in the NCC land use area should be those that support the adjacent residential communities. The use is not detrimental to existing or proposed uses permitted in the zone and thus conforms to this finding.

- 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 Sossa's Center is a multi-tenant commercial center that was constructed at this location several decades ago. It has adequate parking as required by the zoning code. It is accessed from two major thoroughfares, Gene Autry Trail and Vista Chino Road, as well from Executive Drive, a local street on the east side of the center. The center is non-conforming in terms of landscaping and screening of parking areas, however pursuant to zoning code Section 94.05.03 (A), non-conforming structures/sites for which there are no additions or alterations, shall be permitted to continue. Thus, the proposed CUP does not trigger requirements for upgrade to the site landscaping at this time and the project is consistent with this finding.

- 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.*

As noted above, the site has vehicular access onto all three adjacent streets and is designed with adequate amounts of off-street parking. Sidewalks on all street-fronting sides are also existing which afford adequate pedestrian access to and from the site.

- 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.*

As set of draft conditions of approval are attached for Planning Commission consideration. .

CONCLUSION

The proposed Conditional Use Permit is consistent with the land use policies of the General

Plan and Zoning Code. Staff is recommending approval of the application.

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 mailed to all property owners within a 500-foot radius of the subject property. As of the writing of this report, staff has not received any public correspondence.



Ken Lyon, RA, Associate Planner



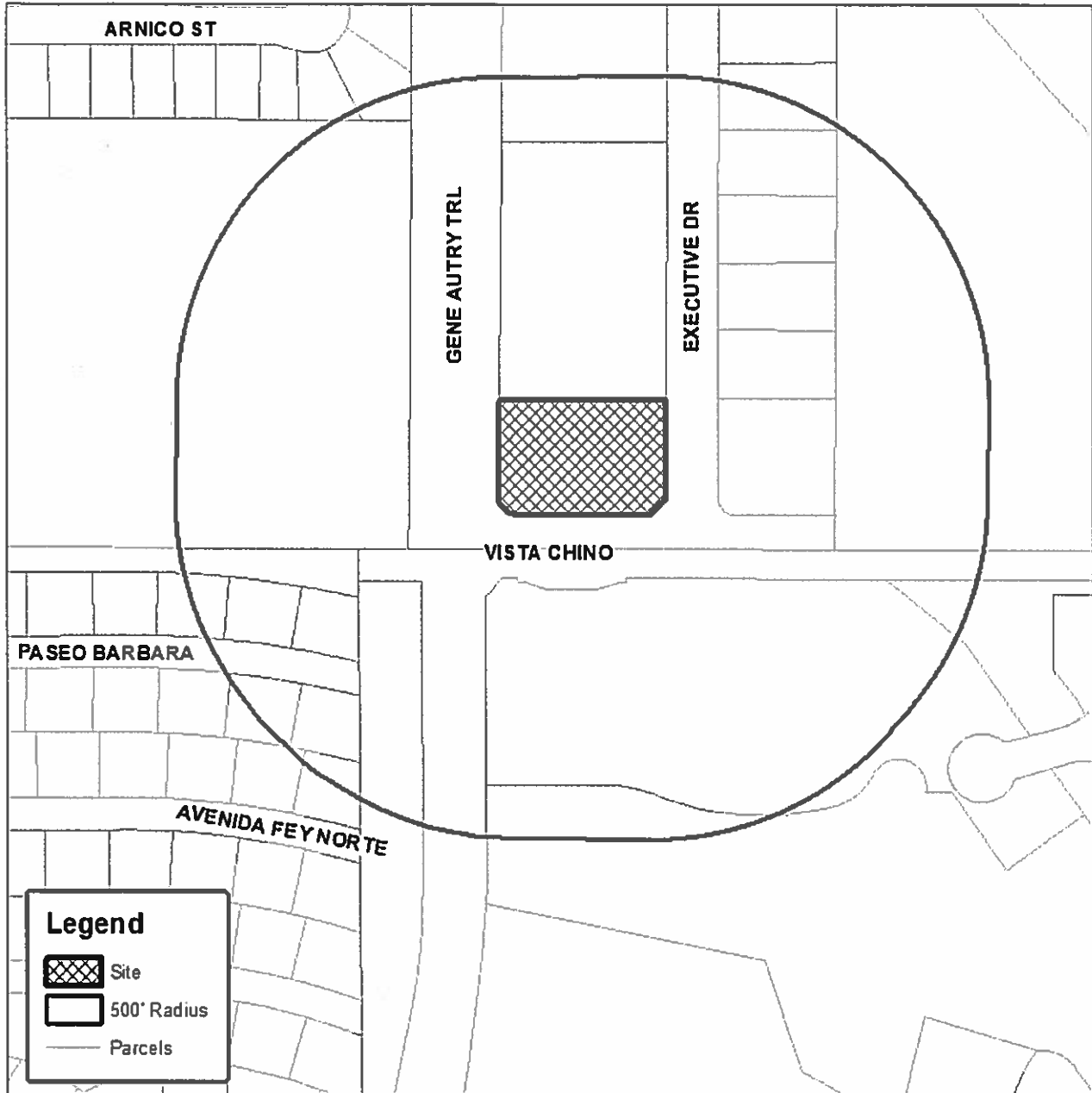
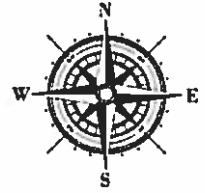
Flinn Fagg, AICP, Planning Director

ATTACHMENTS

1. Vicinity Map
2. Draft Resolution with Conditions of Approval
3. Site plan and application materials.



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 CASE 5.0691 CUP; A CONDITIONAL USE PERMIT (CUP) FOR CONVENIENCE STORE USE AT THE SOSSA CENTER, AN EXISTING MULTI-TENANT COMMERCIAL CENTER LOCATED AT 3700 EAST VISTA CHINO ROAD, SUITE "G", ZONE M-1-P, (APN 677-040-027).

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

- A. On March 31, 2016, the applicant submitted an application pursuant to Palm Springs Zoning Code (PSZC) Section 94.02 (*conditional use permit*) for approval of a conditional use permit for a convenience store use.
- B. A notice of public hearing of the Planning Commission was posted in accordance with applicable law.
- C. On May 11, 2016, the Planning Commission held a public hearing on the subject case at which time it carefully reviewed and considered all of the evidence presented including but not limited to the staff report and all written and oral testimony.
- D. The proposed use is considered a "project" pursuant to the guidelines of the California Environmental Quality Act ("CEQA"). The City has evaluated the proposal and determined the project to be Categorical Exempt from further review under CEQA pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines.
- E. Findings in support of a Conditional Use Permit. Subject to the guidelines of PSZC Section 94.02.00(B)(6), the Planning Commission makes the following findings in support of approval of a CUP for a convenience store use:

- 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 M-1-P (Planned Development & Research Park zone). Pursuant to Section 92.16.01 (D),(13) (uses permitted in the M-1-P zone) the proposed convenience store use is permitted on the subject parcel subject to approval of a CUP.

- 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 convenience store use is desirable at this location, providing easy and convenient shopping for the residents of the surrounding adjacent neighborhoods. The General Plan notes that the uses in the NCC land use area should be those that support the adjacent residential communities. The use is not detrimental to existing or proposed uses permitted in the zone and thus conforms to this finding.

- 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 Sossa's Center is a multi-tenant commercial center that was constructed at this location several decades ago. It has adequate parking as required by the zoning code. It is accessed from two major thoroughfares, Gene Autry Trail and Vista Chino Road, as well from Executive Drive, a local street on the east side of the center. The center is non-conforming in terms of landscaping and screening of parking areas, however pursuant to zoning code Section 94.05.03 (A), non-conforming structures/sites for which there are no additions or alterations, shall be permitted to continue. Thus, the proposed CUP does not trigger requirements for upgrade to the site landscaping at this time and the project is consistent with this finding.

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

As noted above, the site has vehicular access onto all three adjacent streets and is designed with adequate amounts of off-street parking. Sidewalks on all street-fronting sides are also existing which afford adequate pedestrian access to and from the site.

- 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.*

Conditions of Approval, which are attached as Exhibit A, are proposed to assure compatible integration of the proposed convenience store use into the surrounding neighborhood and to ensure that the project does not impose any threat to public health, safety or general welfare.

THE PLANNING COMMISSION RESOLVES:

Based on the above, the Planning Commission determines that the proposed convenience store use is consistent with the required findings necessary for approval of a conditional use

permit. The Planning Commission therefore approves Case 5.0691 CUP; a Conditional Use Permit for a convenience store use at the Sossa's Center, located at 3700 East Vista Chino Road, Suite "G", subject to the conditions of approval outlined in Exhibit "A" attached hereto.

ADOPTED this eleventh day of May, 2016.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Flinn Fagg, AICP
Director of Planning Services

RESOLUTION NO. _____

EXHIBIT A

Case 5.0691 CUP

Fiesta Market 3700 East Vista Chino Road Suite "G"

May 11, 2016

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 5.0691 CUP; except as modified with the approved conditions below;
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans, date stamped March 31, 2016, including site plans, architectural elevations, exterior materials and colors, landscaping, and grading on file in the Planning Division except as modified by the approved Mitigation Measures and 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 5.0691 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, parking areas, lighting, signs, walls, and fences 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 Approval. Approval of this Conditional Use Permit shall be valid for a period of two (2) years from the effective date of the approval. Once constructed, the Conditional Use Permit, provided the project has remained in compliance with all conditions of approval, does not have a time limit.
- 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 2.05.00. Permits will not be issued until the appeal period has concluded.
- ADM 9. 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 Policy 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 law.
- ADM 10. Comply with City Noise Ordinance. This use 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 11. Conditional Use Permit Availability. The applicant shall provide a copy of this Conditional Use Permit to all buyers and potential buyers (conditional use permits only)
- ADM 12. Avigation Agreement Requirement. Prior to issuance of a building permit, the applicant must provide a standard avigation easement and non-suit covenant in a form prescribed and approved by the City Attorney, with reference to present and future owners of the parcel (N zone only)

ENVIRONMENTAL ASSESSMENT CONDITIONS

- ENV 1. Coachella Valley Multiple-Species Habitat Conservation Plan (CVMSHCP) Local Development Mitigation Fee (LDMF) NOT required.
- ENV 2. Notice of Exemption. The project is exempt from the California Environmental Quality Act (CEQA); therefore, an administrative fee of \$50 shall be submitted by the applicant in the form of a money order or a cashier's check payable to the Riverside County Clerk within two business days of the Commission's final action on the project. This fee shall be submitted by the City to the County Clerk with the Notice of Exemption. Action on this application shall not be considered final until such fee is paid (projects that are Categorically Exempt from CEQA).

PLANNING DEPARTMENT CONDITIONS

- PLN 1. 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. The applicant shall submit a sign program to the Department of Planning Services prior to the issuance of building permits.
- PLN 2. Maintenance of Awnings & Projections. All awnings shall be maintained and periodically cleaned.
- PLN 3. Screen Roof-mounted Equipment. All roof mounted mechanical equipment shall be screened per the requirements of Section 93.03.00 of the Zoning Ordinance.
- 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. No off-site Parking. Vehicles associated with the operation of the proposed development including company vehicles or employees vehicles shall not be

permitted to park off the proposed building site unless a parking management plan has been approved.

PLN 7. (add any additional conditions imposed by the Planning Commission or City Council here)

POLICE DEPARTMENT CONDITIONS

POL 1. Developer shall comply with Section II of Chapter 8.04 “Building Security Codes” of the Palm Springs Municipal Code.

BUILDING DEPARTMENT CONDITIONS

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

ENGINEERING DEPARTMENT CONDITIONS

(none)

FIRE DEPARTMENT CONDITIONS

(none)

END OF CONDITIONS

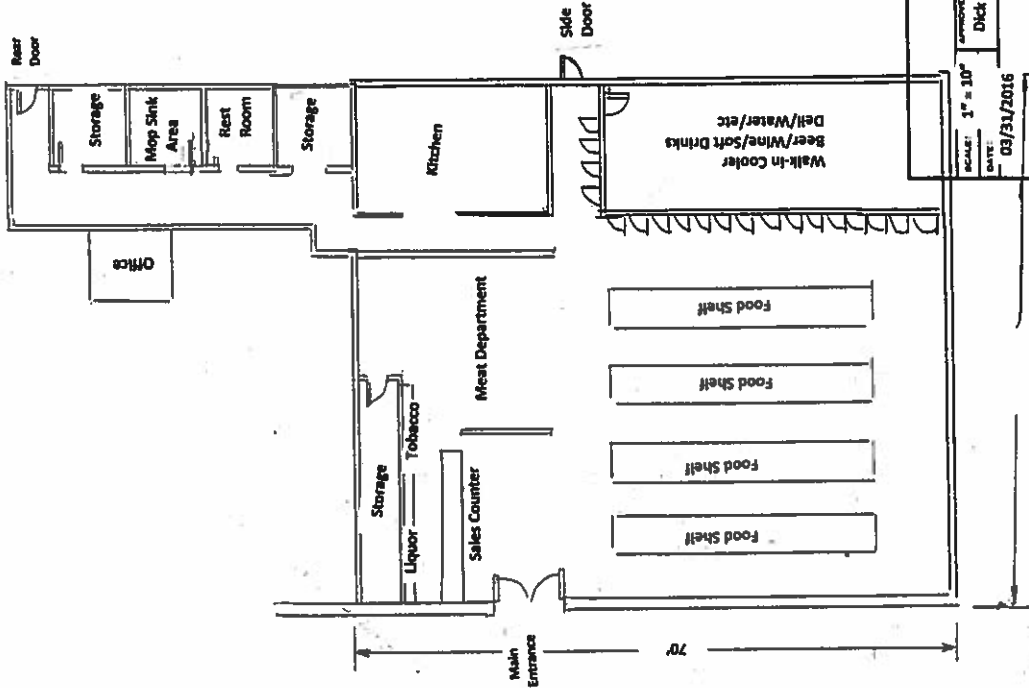
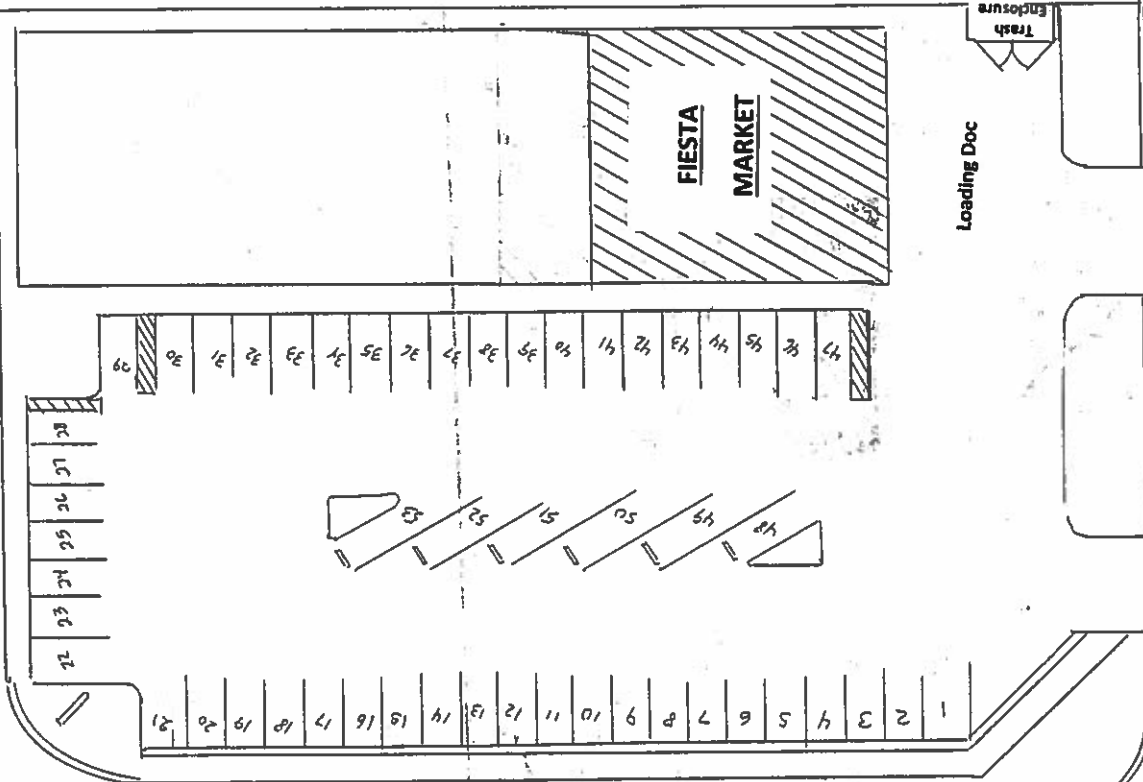
Palm Drive

Z

PROPERTY OWNER

U.S. SOSSA TRUST
(760) 880-6629

SOSSA PLAZA
3700 E. VISTA CHINO
PALM SPRINGS, CA. 92262



APPROVED BY: **Dick Ewert**
 SCALE: 1" = 10'
 DATE: 03/31/2016

CONSULTANT:

DICK EWITT
ALL STAR REALTY
5905 WINNCLIFF DRIVE
RIVERSIDE, CA. 92509
(909) 821-6426 (cell)
dickewitt@earthlink.net

APPLICANT:

THE ATIF D. JABER TRUST
DATED: JULY 24, 2001
83389 MATADOR CT.
INDIO, CA. 92201
(760) 285-1128
etefabwane@yahoo.com

For a Conditional Use
Permit for a Convenience
Store Use, located at:
**3700 E. VISTA CHINO,
UNIT G, PALM SPRINGS,
CA. 92262**

EXECUTIVE DRIVE

VISTA CHINO