



CITY COUNCIL STAFF REPORT

DATE: June 15, 2016

PUBLIC HEARING

SUBJECT: AN APPEAL BY THE ATEF D. JABER TRUST, OWNER OF FIESTA MARKET, REQUESTING THAT THE CITY COUNCIL OVERTURN A CONDITION OF APPROVAL PROHIBITING THE SALE OF ALCOHOL IN SINGLE-SERVE CONTAINERS FOR A CONVENIENCE STORE USE; AND A REQUEST FOR A RESOLUTION OF PUBLIC CONVENIENCE OR NECESSITY (PCN) TO SELL BEER, WINE AND SPIRITS (TYPE 21 – “OFF-SALE ALCOHOLIC BEVERAGE CONTROL LICENSE) AT THE FIESTA MARKET, LOCATED A 3700 EAST VISTA CHINO ROAD, SUITE “G,” ZONE M-1-P (CASES 5.0691 CUP/APPEAL AND 5.0691 PCN).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

SUMMARY

On May 11, 2016, the Planning Commission approved a conditional use permit (CUP) for a convenience store use at 3700 East Vista Chino Road (“The Sossa Center”), at which time it imposed a condition prohibiting the sale of alcohol in single serve containers. The applicant has appealed the action of the Planning Commission requesting removal of this condition.

In addition, the applicant is requesting the City Council adopt a Resolution of Public Convenience or Necessity (PCN) to allow the sale of beer, wine and spirits (Alcoholic Beverage Control Type 21 Off-Sale License) for this convenience store. The resolution is needed as the store is located within a Census tract that is deemed to have an “overconcentration” of alcohol licenses by the Alcoholic Beverage Control Board (ABC), based on the population of the Census tract.

RECOMMENDATION:

- 1) Open the public hearing and receive testimony;
- 2) Adopt Resolution No. ____ “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS CALIFORNIA UPHOLDING THE APPEAL BY THE ATEF D. JABER TRUST, REMOVING CONDITION OF APPROVAL #“PLN 8” FROM THE CONDITIONS

ITEM NO. 18

RELATED TO APPROVAL OF CASE 5.0691 CUP, A CONDITIONAL USE PERMIT FOR A CONVENIENCE STORE USE FOR "FIESTA MARKET" LOCATED AT 3700 EAST VISTA CHINO ROAD, SUITE "G", ZONE M-1-P "; and

3) Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DETERMINING THAT PUBLIC CONVENIENCE WOULD BE SERVED BY THE ISSUANCE OF ALCOHOLIC BEVERAGE CONTROL LICENSE TYPE 21 AT 3700 EAST VISTA CHINO ROAD, SUITE "G," WITHIN CENSUS TRACT #9412.00."

BACKGROUND AND PROJECT DESCRIPTION:

Date	Prior Actions/Events
March 1995	The Planning Commission approved a Conditional Use Permit for full-service liquor sales at 3700 Vista Chino.
May 11, 2016	The Planning Commission approved Conditional Use Permit for a convenience store use at 3700 Vista Chino Suite "G," subject to conditions.
May 17, 2016	The applicant submitted a request for a City Council Resolution of Public Convenience or Necessity for a Type 21 – Off-site alcohol license for the sale of beer, wine and spirits at the convenience store.
May 26, 2016	Applicant filed an appeal of the Planning Commission action of May 11, 2016, requesting removal of Condition PLN 8.

The multi-tenant commercial strip center in which the convenience store is located is on a site that is approximately one acre in size, and is located at the northeast corner of North Gene Autry Trail and East Vista Chino Road. A convenience store with liquor sales called Sossa's Market previously occupied the tenant space, but closed in 2014.



Site Location Map

Surrounding Property	Existing Land Use	Existing General Plan Designation	Existing Zoning Designation
Subject Property	Multi-tenant commercial center	NCC (Neighborhood Community Commercial)	M-1-P
North	Public Utility Equipment	Public Utilities	M-1-P
South	High Density Residential (Escena)	High Density Residential	PD / Escena
East	Industrial	Industrial	M-1-P / M-1
West	Vacant	NCC	C-1

STAFF ANALYSIS – APPEAL:

On May 11, 2016, the Planning Commission considered an application for a conditional use permit (CUP) for a convenience store use at 3700 East Vista Chino Road, a multi-tenant retail center known as “The Sossa Center”. During public testimony, it was explained that the applicant had been awarded an alcohol license for the convenience store through the State’s lottery system for a Type 21 Off-sale license for the sale of beer, wine and spirits for off-site consumption. The applicant explained that the convenience store (“Fiesta Market”) was a specialty market emphasizing custom-cut meats, and a full array of food products including dairy, soft drinks, and dry goods. He explained that although alcohol sales were expected to be a small percentage of overall sales, they would be an important part of his inventory in providing a “full-service family market”.

In its deliberation on the CUP, the Planning Commission expressed concern that the sale of alcohol in single serve containers would exacerbate problems with homeless persons, persons with alcoholism, and unwanted loitering at the site. Certain members of the Planning Commission expressed interest in adding a condition of approval prohibiting the sale of alcohol in single serve containers at the convenience store.

During public testimony, the applicant expressed objection to such a condition, noting that other retail stores which sell alcohol in the vicinity of his store do not have similar restrictions. He asserted that such a prohibition would create an unfair disadvantage for his business and impair his ability to be competitive against other nearby retailers selling alcoholic beverages who had no such restriction imposed upon them.

In its approval of the CUP for the convenience store use, the Planning Commission added condition PLN 8, prohibiting the sale of alcohol products in single serve containers. On May 26, 2016, the applicant filed an appeal of the Planning Commission action requesting removal of the single serve container restriction.

Actions of the Planning Commission are subject to appeal pursuant to the procedures outlined in Municipal Code section 2.05. A person filing an appeal must identify the specific action being appealed, give the grounds for the appeal, and state the relief being sought. In the letter dated May 26, 2016, the appellant states the specific action being appealed is the Planning Commission’s imposition of Condition #PLN 8 related to approval of his application for a conditional use permit for a convenience store at 3700 East Vista Chino Road (Case 5.0691

CUP). Condition of approval #PLN 8 states:

Limits on sale of alcohol in single serving containers. If the operator of the convenience store obtains a license to sell alcohol of any kind, the sale of such product (for example: beer, wine, malt liquors, wine coolers, beer coolers, spirits, etc.) in single serving containers shall not be permitted. Alcoholic beverages must only be sold in multi-unit quantities pre-packaged by the manufacturer. Wine in containers of at least 750 ML, and spirits in containers of at least 375 ML (half pint) are exempt from this prohibition.

In the appeal letter, the applicant/appellant states the grounds for his appeal as follows:

The grounds for this appeal is that this condition imposes on my business an unfair prohibition on the sale of single size containers – which at least eight (8) other retailers within approximately 1 mile radius of my store have the right to sell. My store is not a liquor store -- it is a unique specialty market with full line of custom fresh cut meats, food, deli items, soft drinks, dairy products and fresh produce to both residents and tourists. Specialty beer brewers and micro-breweries now bottle high-end limited production beer in single serving containers – these type of premium products are important to the specialty-market ambiance and inventory that I seek to offer for sale to the public. Although the sale of alcoholic beverages represents a relatively small portion of the sale of all goods and services that I will provide, it nonetheless is an important part of my overall product offerings and allows my store to be more of a “full service” specialty neighborhood market.

The appellant included a list of retailers in the general vicinity of his business which have no regulations prohibiting the sale of alcohol in single serve containers. In his appeal letter, the appellant states that on Tuesday, May 24, 2016, he visited each of the eight stores and purchased single serve containers of alcohol, to provide evidence that such prohibition of single serve containers does not exist on other retailers selling alcoholic beverages for off-sale consumption.

In his appeal, the appellant states,

“Since my store has yet to open, there is no evidence that such a problem (homeless persons, vagrants, and persons with alcoholism purchasing singles, consuming them, and causing a nuisance) is, or will be, caused by my product sales.”

The appellant is currently in the process of installing fixtures, casework, and upgrading the finishes in the tenant space in which Fiesta Market will be located. His business is not open yet, and therefore there is no evidence that the sale of alcohol in single serve containers at this specialty market will exacerbate the homeless problem.

The relief that the appellant is seeking is that the City Council uphold his appeal and remove

Condition of Approval #PLN 8 on the CUP for his convenience store use at 3700 East Vista Chino Road (Case 5.0691 CUP) thereby allowing the sale of alcohol in single serve containers, consistent with the business practices of other retailers in the vicinity that also have licenses to sell alcohol for off-site consumption.

CONCLUSION – APPEAL:

The appellant has made a compelling argument in support of the appeal. The condition imposed, which prohibits the sale of alcohol in single serve containers represents an unfair restriction in his business activities compared to other retailers in the vicinity who have no such restriction imposed upon them. As asserted by the appellant, if the City wishes to impose a prohibition on the sale of alcohol in single serve containers, it should do so citywide, not by singling out a particular business owner upon which to impose such a condition.

STAFF ANALYSIS – RESOLUTION OF PUBLIC CONVENIENCE OR NECESSITY:

The applicant is requesting a Resolution of Public Convenience or Necessity to allow the sale of beer, wine and spirits within the convenience store. The Fiesta Market is a small neighborhood community market specializing in custom-cut meats, and a full variety of dairy, dry goods, and other food and household items. The applicant has applied for a "Type – 21 Off-sale" license through the State of California Department of Alcoholic Beverage Control (ABC) for the proposed alcohol sales. The ABC summarizes the "Type – 21 Off-sale" license as follows:

OFF-SALE GENERAL (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.

The proposed liquor license is located within a Census tract in which the current number of alcohol licenses exceeds the ratio of alcohol licenses-to-population for Riverside County. This is referred to as an "undue concentration" of alcohol licenses and is specifically defined by Section 23958.4 of the State of California Business and Professions Code:

As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

The subject property is located within Census Tract #9412.00, which is "+" shaped and bounded by Sunrise Way to the west, Ramon Road to the south, Landau Boulevard (Cathedral City) to the east and the Whitewater Wash to the north. According to the Alcoholic Beverage Control Board (ABC), this tract currently has six (6) active off-sale alcohol licenses. One (1) license is authorized for the tract based on its population. The ABC will only issue the

proposed liquor license if the Council determines that the public convenience or necessity would be served by its issuance.

The subject property is designated "NCC" (Neighborhood Community Commercial) in the General Plan Land Use Element. This designation encourages *"convenience commercial uses that serve adjacent residential neighborhoods such as dry cleaners, grocery stores, bakeries, bank and post office branches, bookstores, drugstores and smaller-scale restaurants"*. The Fiesta Market that is the location of the proposed alcohol license is consistent with the land use designation within which it is located.

A list of the liquor licenses within this tract is attached to this report with the respective license types and current status. The nearest liquor license holders within the Census tract are over one mile to the west at the Palm Springs Marketplace shopping center (Stater Brothers, AM/PM, Dollar Tree); the other two license holders in the tract are in the vicinity of Ramon Road and El Cielo Road (Palm Liquor & Deli, Ramon Gas). Based on the physical distance between this site and the other license holders in the Census tract, approval of a license in this location is unlikely to result in an oversaturation of alcohol-related uses.

CONCLUSION – RESOLUTION OF PUBLIC CONVENIENCE OR NECESSITY:

As the site is a commercial property in the Census tract and located at the intersection of two major thoroughfares, staff believes that the additional alcohol license will not be inconsistent with the desired mix of commercial uses in the tract and will serve the public convenience.

FISCAL IMPACT:


No fiscal impact.

ENVIRONMENTAL ANALYSIS:

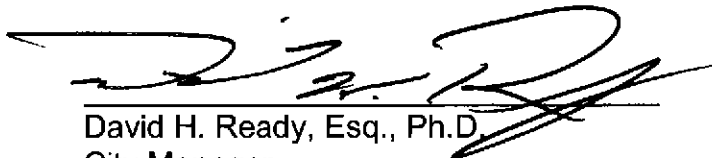
Neither the requested removal of the condition prohibiting the sale of alcohol in single-serve containers nor the PCN request is subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical changes to the environment, directly or indirectly.



Flinn Fagg, AICP
Director of Planning Services



Marcus Fuller, P.E., M.P.A., P.L.S.
Assistant City Manager/City Engineer



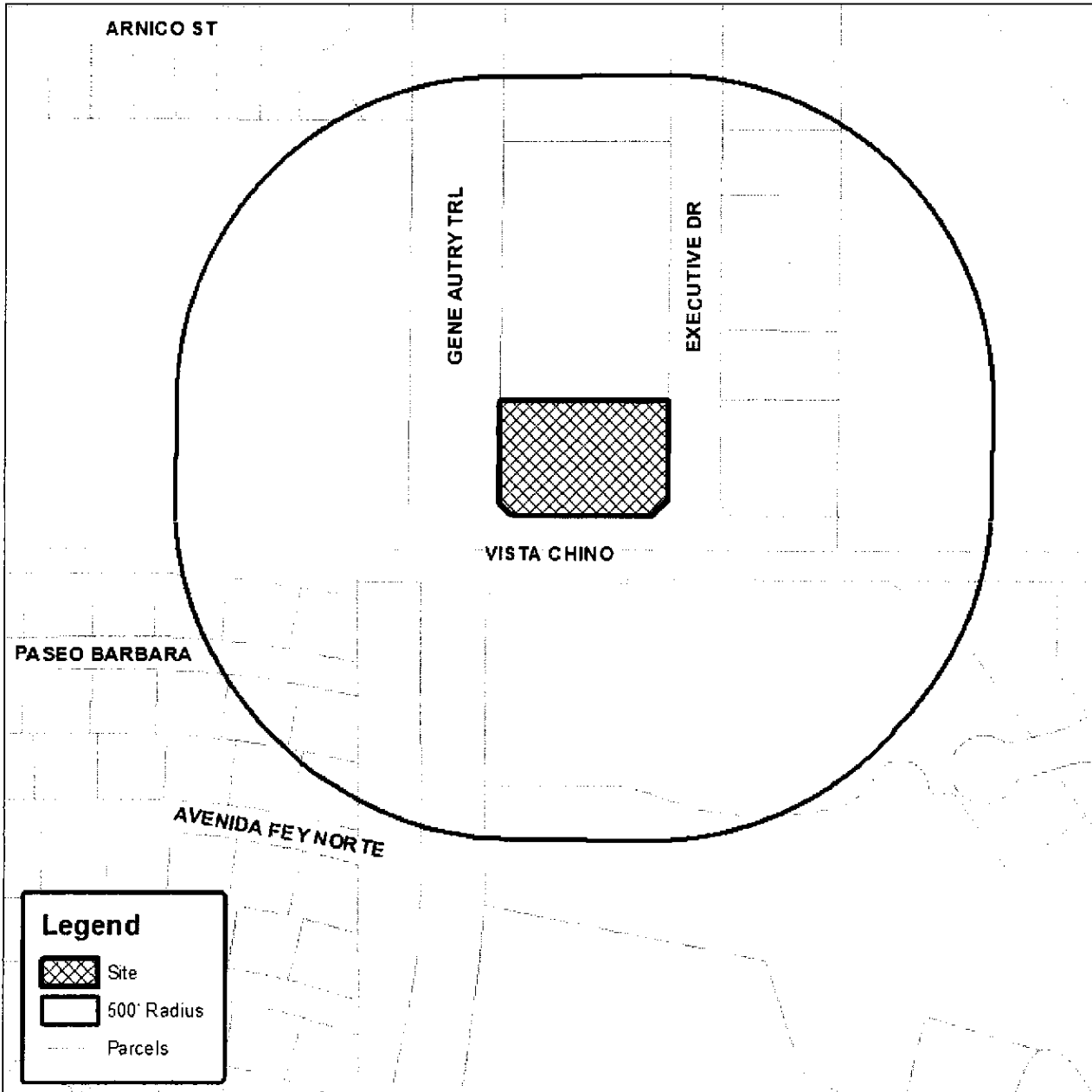
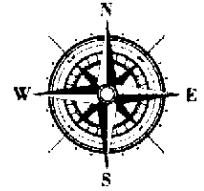
David H. Ready, Esq., Ph.D.
City Manager

Attachments:

1. Vicinity Map.
2. Draft City Council Resolution – Appeal
3. Draft City Council Resolution – PCN
4. Appeal letter from the applicant date May 26, 2016 (with attachments)
5. Planning Commission Staff Report, resolution, and conditions of approval and minutes (May 11, 2016)
6. PCN letter of request
7. List of authorized alcohol license types in the subject Census tract
8. Census tract map



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS CALIFORNIA UPHOLDING THE APPEAL BY THE ATEF D. JABER TRUST, REMOVING CONDITION OF APPROVAL #“PLN 8” FROM THE CONDITIONS RELATED TO APPROVAL OF CASE 5.0691 CUP, A CONDITIONAL USE PERMIT FOR A CONVENIENCE STORE USE FOR “FIESTA MARKET” LOCATED AT 3700 EAST VISTA CHINO ROAD, SUITE “G”, ZONE M-1-P (APN 677-040-027).

THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

1. On March 31, 2016, Atef D. Jaber, representing The Atef D. Jaber Trust, (applicant / appellant) submitted an application for approval of a Conditional Use Permit (CUP) for a convenience store use at a multi-tenant commercial center located at 3700 East Vista Chino Road, Suite “G”; (Zone M-1-P) and paid the applicable fees.
2. On May 11, 2016, the Planning Commission of the City of Palm Springs, California held a public hearing that was noticed in accordance with applicable law, to consider the CUP application. At said hearing the Planning Commission considered all the evidence associated with the application including the staff report and all written and oral testimony and voted to approve the CUP with conditions. Among the conditions of approval was Condition PLN 8 in which the Planning Commission imposed a prohibition on the sale of alcohol in single service containers at the subject convenience store.
3. On May 26, 2016, pursuant to Municipal Code 2.05 (“*appeal to the City Council*”), the applicant paid the applicable fees and filed an appeal of the Planning Commission’s actions of May 11, 2016, specifically requesting Condition of Approval PLN 8 be removed.
4. On June 15, 2016 the City Council of the City of Palm Springs, California held a public hearing that was noticed in accordance with applicable law, to consider the appeal. At said hearing the City Council considered the staff report and all written and oral testimony given in association with the hearing.
5. In the appeal letter dated May 26, 2016, the appellant states the specific action being appealed is the Planning Commission’s imposition of Condition #PLN 8.

Condition of approval #PLN 8 states:

Limits on sale of alcohol in single serving containers. If the operator of the convenience store obtains a license to sell alcohol of any kind, the sale of such product (for example: beer, wine, malt liquors, wine coolers, beer coolers, spirits, etc.) in single serving containers shall not be permitted. Alcoholic beverages must only be sold in multi-unit

quantities pre-packaged by the manufacturer. Wine in containers of at least 750 ML, and spirits in containers of at least 375 ML (half pint) are exempt from this prohibition.

6. In the appeal letter, the appellant states the grounds for his appeal as follows:

The grounds for this appeal is that this condition imposes on my business an unfair prohibition on the sale of single size containers – which at least eight (8) other retailers within approximately 1 mile radius of my store have the right to sell. My store is not a liquor store -- it is a unique specialty market with full line of custom fresh cut meats, food, deli items, soft drinks, dairy products and fresh produce to both residents and tourists. Specialty beer brewers and micro-breweries now bottle high-end limited production beer in single serving containers – these type of premium products are important to the specialty-market ambiance and inventory that I seek to offer for sale to the public. Although the sale of alcoholic beverages represents a relatively small portion of the sale of all goods and services that I will provide, it nonetheless is an important part of my overall product offerings and allows my store to be more of a “full service” specialty neighborhood market.

The appellant included a list of retailers in the general vicinity of his business which have no regulations prohibiting the sale of alcohol in single serve containers. In his appeal letter, the appellant states that on Tuesday, May 24, 2016, he visited each of the eight stores and purchased single serve containers of alcohol, to provide evidence that such prohibition of single serve containers does not exist on other retailers selling alcoholic beverages for off-sale consumption.

7. In his appeal, the appellant states,

“Since my store has yet to open, there is no evidence that such a problem (homeless persons, vagrants, and persons with alcoholism purchasing singles, consuming them, and causing a nuisance) is, or will be, caused by my product sales.”

The appellant is currently in the process of installing fixtures, casework, and upgrading the finishes in the tenant space in which the convenience store use will be located. His business is not open yet, and therefore there is no evidence that the sale of alcohol in single serve containers at this specialty market will exacerbate the homeless problem.

8. The relief that the appellant is seeking is that the City Council uphold his appeal and remove Condition of Approval #PLN 8 on the Planning Commissions' approval of the CUP for his convenience store use at 3700 East Vista Chino Road (Case 5.0691 CUP) thereby allowing the sale of alcohol in single serve containers, consistent with the business practices of other retailers in the vicinity that also have licenses to sell

alcohol for off-site consumption.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS RESOLVES:

Section 1: That the condition imposed, which prohibits the sale of alcohol in single serve containers represents an unfair restriction in his business activities compared to other retailers in the vicinity who have no such restriction imposed upon them. As asserted by the appellant, if the City wishes to impose a prohibition on the sale of alcohol in single serve containers, it should do so citywide, not by singling out a particular business owner upon which to impose such a condition.

Section 2: The City Council hereby upholds the appeal and overturns the action of the Planning Commission's imposition of Condition of Approval PLN 8, a prohibition on the sale of alcohol in single serve containers from the approval of Case 5.0691 CUP, a Conditional Use Permit for a convenience store use located at 3700 East Vista Chino Road Suite "G" and retains all other conditions imposed by the Planning Commission on its approval of the CUP.

ADOPTED THIS 15th DAY OF JUNE, 2016.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. ____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DETERMINING THAT PUBLIC CONVENIENCE WOULD BE SERVED BY THE ISSUANCE OF ALCOHOLIC BEVERAGE CONTROL LICENSE TYPE 21 (GENERAL OFF-SALE) AT 3700 EAST VISTA CHINO ROAD, SUITE "G," WITHIN CENSUS TRACT #9412.00.

THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

A. Atef D. Jaber, representing the Atef D. Jaber Trust, has applied for a Type 21 Off-Sale license from the State of California Department of Alcoholic Beverage Control (ABC) for the sale of beer, wine and spirits at "Fiesta Market," a convenience store located at 3700 East Vista Chino Road, Suite "G"; Census Tract #9412.00, zone M-1-P, APN 677-040-027.

B. The ABC has determined that one (1) alcohol license issued to serve citizens in census tract 9412.00 is authorized based on the ratio of licenses-to-population in this census tract relative to that of the County of Riverside.

C. The ABC has identified that six (6) alcohol licenses are presently issued to businesses in census tract 9412.00 and that this represents an over-concentration of alcohol licenses and that Sections 23958 and 23958.4 of the State of California Business and Professions Code requires that under these circumstances, the ABC must deny the issuance of an additional alcoholic beverage license in this census tract unless the local governing body determines that public convenience or necessity would be served by the issuance of such license.

D. The Fiesta Market convenience store at 3700 East Vista Chino Road Suite "G" is located in the Neighborhood Community Commercial (NCC) land use designation of the Palm Springs General Plan. This land use designation encourages commercial uses that serve adjacent residential neighborhoods, and as such the Fiesta Market Convenience store is consistent with this land use designation.

E. The Fiesta Market convenience store at 3700 East Vista Chino Road Suite "G" is located in the M-1-P zone and pursuant to Palm Springs Zoning Code Section 92.16.01(D,13) convenience store uses are permitted subject to approval of a Conditional Use Permit (CUP) and on May 11, 2016 the Palm Springs Planning Commission approved Case #5.0691 CUP, a CUP for the Fiesta Market convenience store at 3700 East Vista Chino Road, Suite "G".

F. The Fiesta Market convenience store is located at the intersection of two major thoroughfares; East Vista Chino Road and North Gene Autry Trail and that this site is provided with adequate off-street parking and has adequate access to public streets and thoroughfares. The site is well-located to provide convenient retail services to several adjacent residential neighborhoods and to citizens and tourists in the greater

area of the City of Palm Springs.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS RESOLVES:

That the public convenience would be served by the issuance of a Type 21 – Off-sale alcoholic beverage license for the sale of beer, wine and spirits at the Fiesta Market convenience store located at 3700 East Vista Chino Road, Suite "G", zone M-1-P, general plan land use designation "NCC", Census Tract #9412.00, APN 677-040-027.

ADOPTED THIS 15th DAY OF JUNE, 2016.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. ____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

05/26/16
Atef D. Jaber
72-711 Ramon Road
Thousand Palms, CA 92276

REVISED
ON
RECEIVED

FIRST
SUBMITTED:
RECEIVED

MAY 01 2016

PLANNING SERVICES DEPARTMENT
PLANNING SERVICES DEPARTMENT

Dear City Council,

RE: Appeal of Planning Commission Condition PLN 8 on Planning Case 5.0619 CUP Convenience store use for Fiesta Market at 3700 East Vista Chino Road.

As the owner of Fiesta Market at 3700 East Vista Chino Road, I am writing to appeal one of the Conditions of Approval imposed by the Planning Commission at their meeting of May 11 2016 regarding Case 5.0691CUP. This CUP case was approved for my convenience store business (Fiesta Market) to operate. Specifically I am appealing condition number PLN.8 which prohibits the sale of single serving containers of alcoholic beverages.

I am respectfully requesting that the City Council remove this condition on the basis that it unfairly restricts my sale of these products while my competitors at eight other retail stores in the same vicinity have no such restriction.

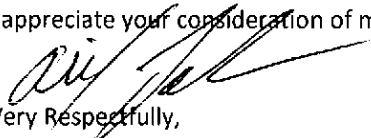
The grounds for this appeal is that this condition imposes on my business an unfair prohibition on the sale of single size containers – which at least eight (8) other retailers within approximately 1 mile radius of my store have the right to sell.¹ My store is not a liquor store -- it is a unique specialty market with full line of custom fresh cut meats, food, deli items, soft drinks, dairy products and fresh produce to both residents and tourists. Our hours of operation are expected to be 7am to 10pm. Specialty beer brewers and micro-breweries now bottle high-end limited production beer in single serving containers – these type of premium products are important to the specialty-market ambiance and inventory that I seek to offer for sale to the public. Although the sale of alcoholic beverages represents a relatively small portion of the sale of all goods and services that I will provide, it nonetheless is an important part of my overall product offerings and allows my store to be more of a “full service” specialty neighborhood market.

It was my impression that the Planning Commissioners imposed this condition in reaction to the citywide problem of homeless persons and persons who have problems with alcoholism buying singles and then consuming them on the streets, loitering and causing a nuisance. Since my store has yet to open, there is no evidence that such a problem is, or will be, caused by my product sales.

If clear empirical evidence shows that there is a city-wide problem with homeless persons, vagrants or alcoholics causing a public nuisance because of access to alcohol in single serving containers, then the council should impose a citywide prohibition on the sale of alcohol in single serving containers, and not unfairly target one small business owner such as myself with a restriction that is not equally imposed on other businesses in the vicinity selling the same products.

I have made a significant investment in tenant space improvement for my store including security cameras to create a safe, pleasant, and attractive family-oriented specialty market. While I cannot speak to previous businesses that have been in this location or any of the other retailers whose sales include alcoholic beverages, I intend to operate a clean, professional, well-managed market that will be an asset to the City of Palm Springs.

I appreciate your consideration of my request.


Very Respectfully,
Atef Jaber for The Atef D. Jaber Trust

Attachments – other nearby markets and stores that sell alcohol in single serve containers.

¹ On May 24, 2016, I personally visited each of the eight stores and purchased singles from each (the 8 stores are listed on a separate page attached to this letter.) No restrictions on size or quantity of these items were imposed.

1. Mobil Station
3600 E Ramon Road Palm Springs
2. Ramon Liquor
4645 Ramon Road Palm Springs
3. 7 Eleven
1798 Sunrise Vista Chino Palm Springs
4. Baja Riseway
1800 Sunrise Way Palm Springs
5. Arco Ampm
1717 Vista Chino Palm Springs
6. Stater Brothers
1720 Vista Chino
7. Palm Liquor 2
17 Sunrise Way Palm Springs
8. Palm Liquor 1
440 El Cielo Road Palm Springs

RECEIPTS SHOWING
PURCHASE OF
ALLOTAL IN SINGLE
SERVE SIZE
CONTAINERS FROM
EACH OF THESE
STORES ARE ATTACHED

1

Header

Simon Gas. 001
300 Ramon
Palm Springs, ca 92264

05/24/2016 6:39:29 PM

Register: 2 Trans #: 754 Op ID: 40
Your cashier: jennifer

6oz corsss light ←	\$1.89	101
rv	\$0.05	99
6oz mikas hdr ←	\$2.49	101
rv	\$0.05	99
bottlers vodka 200ml ←	\$2.29	101

Subtotal =	\$6.77	
Tax =	\$0.50	

Total =	\$7.37	
Change Due =	\$-0.13	
Cash	\$7.50	

16

Footer

6.



Where You Always GET MORE...FOR LESS!.

Palm Springs
(760) 416-2551
***** MANAGER *****
Acam Brown
Store # 126

Cashier: Jose F

05/24/16 17:07:18

BEER & WINE ←	1.75	T
BEER & WINE ←	1.12	T
NO BAGS	.00	
	SLBTOTAL	2.87
	TOTAL TAX	.26
	TOTAL DUE	3.13
CASH	TENDER	5.00
CASH CHANGE		1.87
	Number OF ITEMS	3

05/24/16 Oper # 31908 Trx # 482
17:07:46 Term # 1 Store #126

PLEASE RETAIN RECEIPT FOR ALL REFUNDS

THANK YOU FOR SHOPPING AT STATER BROS

4.

BAJA SPRINGS MEAT MKT
1800 N. SUNRISE WAY
PALM SPRINGS, CA
760 322-9988

DATE 05/31/2016 TUE
BEER TT \$1.69
ITEMS 1.00
TAXABLE 1 \$1.69
TAX AMT \$0.15
TOTAL \$1.84
CASH \$10.00
CHANGE \$8.16
* ORDER# 0131 *
NO. 052531 REG01 SHIFT 1 TIME 15:57

THANK YOU

5.

ARCO GASOLINE
ARCO AM/PM 42620
1717 E. VISTA CHINO
PALM SPRINGS CA
ARCO42620001

TAX 1 Reg#
Description Qty Amount
1 BUDLTLMAR 80Z 1 1.29
0.05 CRV TXBL 0.05
CUSTOMER ID VERIFIED
Subtotal 1.34
Amount TAX 1 Taxable 1.34
9.000% Tax 0.12
TOTAL 1.46
CASH \$ 1.46
Tax Type Purchase Rebate Taxable Tax
1(9.000%) 1.34 0.00 1.34 0.12

THANK YOU
FOR CHOOSING ARCO
COMMENTS?
CALL 1 800-322-2726
ST# 42620 TILL XXXX DR# 1 TRAN# 1032135
CSH# 2 05/31/16 17:07:37

3.

7-ELEVEN
1798 N. SUNRISE WAY
PALM SPRINGS CA 922623444
7603232814
STORE#: 16690

Samuel Espk0n1g1520n 1.99
CRV 0.05
Christi TALun90x1628t 1.99
CRV 0.05
TOTAL CRV 0.10
SUBTOTAL 4.08
SALES TAX ON 4.08 0.27
TOTAL DUE 4.35
CASH 5.00
CHANGE 0.65

*** REPRINT ***
PAGE 02 OF 18 TRN1273 05/31/2016 04:55 PM

2

Ramon Liguer

REG 05-24-2016 05:47 PM
MANAGER MC #01 161325

1 DON JULIO 8LA 50	T1	\$5.99
1 COORS 12OZ	T1	\$1.16
CRV		\$0.05
CA SALES TAX	T1	\$0.65
TOTAL		\$7.85
CASH		\$20.00
CHANGE		\$12.15



7.

PALM LIQUOR II
176 S. SUNRISE WAY
PALM SPRINGS, CA. 92262
7663274444

DATE 05/24/2016 TUE TIME 17:21

MICHELOB UL 16OZ C T1	\$1.31
CRV .05	\$0.05
TAX1	\$0.16
TOTAL	\$2.02
CASH	\$2.02



THANK YOU
CLERK 1 448277 00111

8.

PALM LIQUOR & DELI
440 S EL CIELO RD
PALM SPRINGS CA 92262
760 325-6695

DATE 05/24/2016 TUE	TIME 18:16
1 SMRIN ICE SWORDT k1	\$2.24
1 O4 k1	\$0.05
1 GROC NO TAX	\$1.75
1 99 CHERRY k1	\$1.69
TAX1 AMT	\$0.36
TOTAL	\$6.09
CASH	\$6.09
EMPLOYEE2	NO.404543
REG 01	





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.

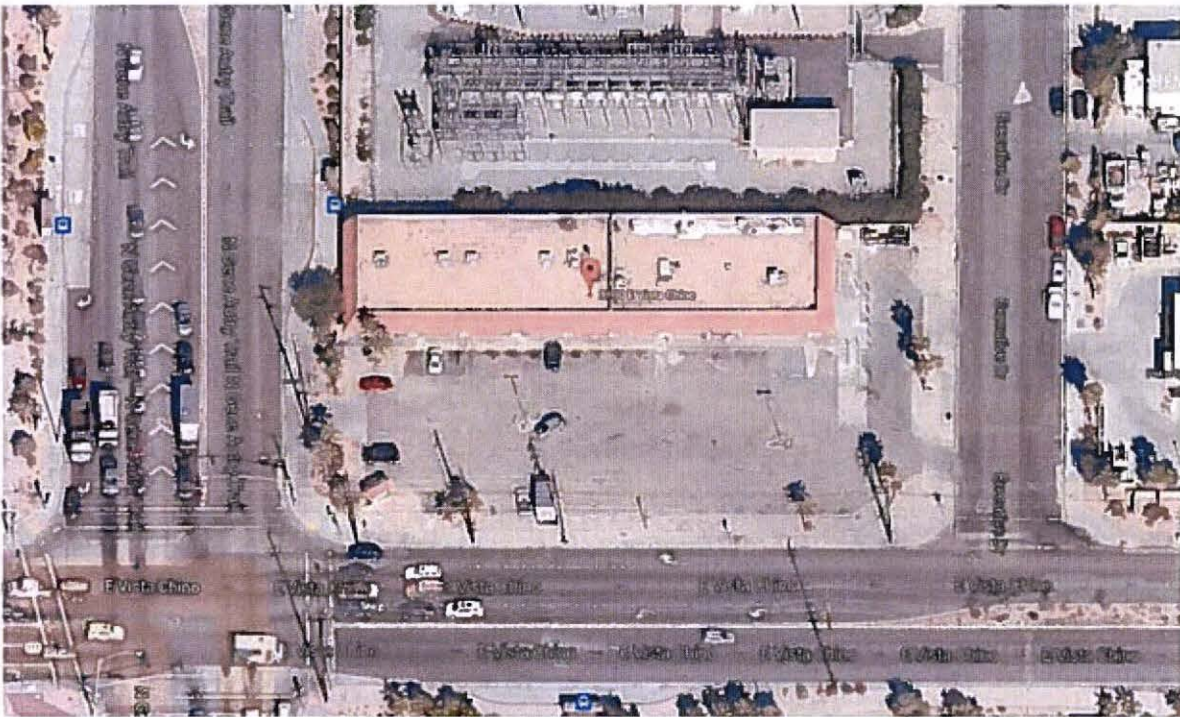
BACKGROUND:

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

	General Plan Land Use Designations	Existing Land Use	Existing Zoning Designations
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 EASTERMOST 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.

RESOLUTION NO. 6567

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: 6, Commissioner Lowe, Commissioner Weremiuk, Commissioner Donenfeld,
Commissioner Hirschbein, Commissioner Middleton, Chair Klatchko
NOES: None
ABSENT: 1, Vice-Chair Calderine
ABSTAIN: None

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA



Flinn Fagg, AICP
Director of Planning Services

RESOLUTION NO. 6567

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. Hours. The proposed convenience store is to be open for business to the public typically from 6:00 a.m. to 12:00 a.m. seven days per week.

PLN 8. Limits on sale of alcohol in single serving containers. If the operator of the convenience store obtains a license to sell alcohol of any kind, the sale of such product (for example: beer, wine, malt liquors, wine coolers, beer coolers, spirits, etc.) in single serving containers shall not be permitted. Alcoholic beverages must only be sold in multi-unit quantities pre-packaged by the manufacturer. Wine in containers of at least 750 ML, and spirits in containers of at least 375 ML (half pint) are exempt from this prohibition.

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

CONSULTANTS:

DICK EVITT
 ALL STAR REALTY
 5905 WINDCLIFF DRIVE
 RIVERSIDE, CA. 92509
 (909) 821-6438 (CAR)
 dick.evitt@earthlink.net

APPLICANT:

THE ATEF D. JAMER TRUST
 DATED JAY 24, 2001
 8389 MATADOR CT.
 IRVING, CA. 92281
 (760) 285-1128
 atef@jamea@yahoo.com

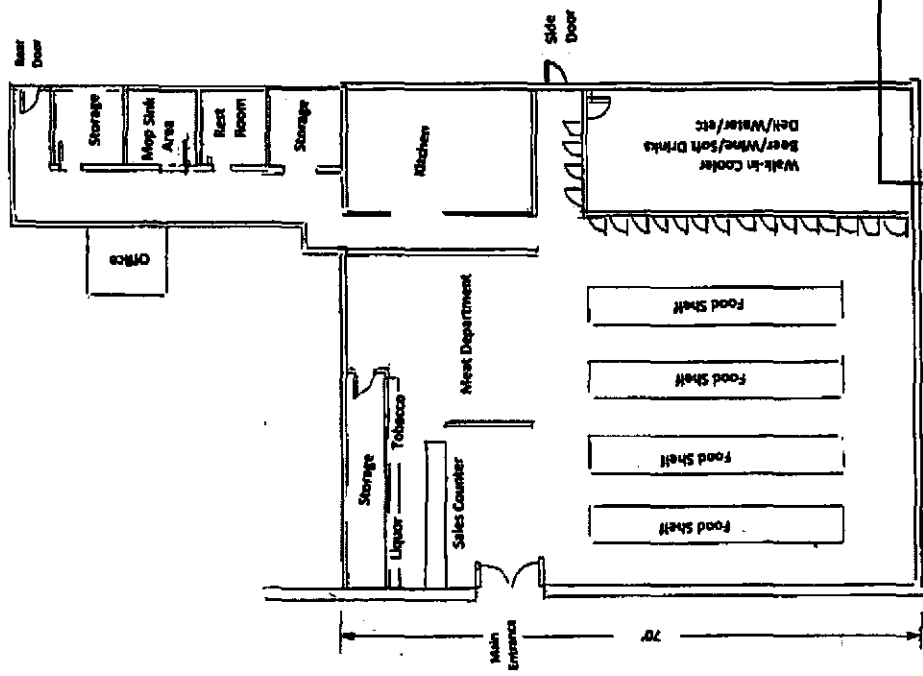
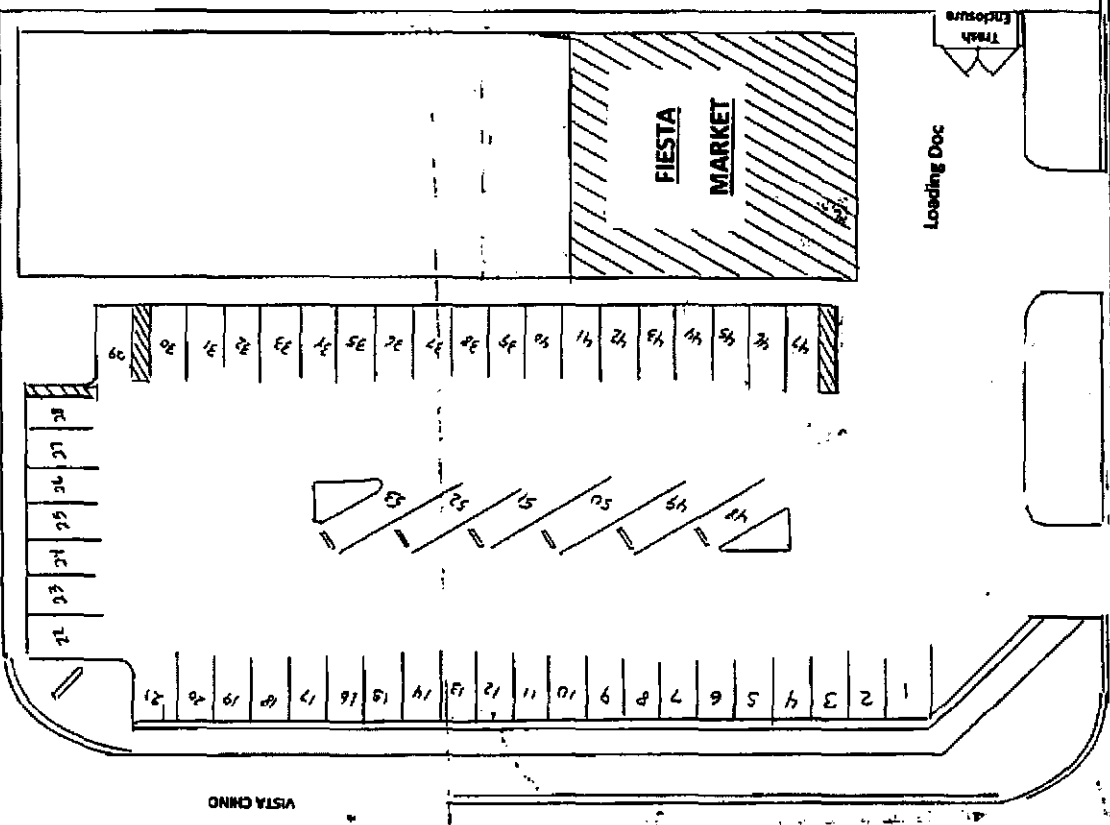
APPLICANT:

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

PROPERTY OWNER:

ULS SOCCA TRUST
 (760) 880-9029

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



DATE: 03/31/2016	SCALE: 1" = 30'	DESIGNED BY: Dick Evitt	REVISIONS BY: [blank]
PROJECT NO: [blank]		DRAWING NO: [blank]	

EXECUTIVE DRIVE

EXCERPTS OF MINUTES

At the Planning Commission meeting of the City of Palm Springs, held May 11, 2016, the Planning Commission took the following action:

2.A. ATEF D. JABER, OWNER OF FIESTA MARKET, FOR A CONDITIONAL USE PERMIT FOR A CONVENIENCE STORE USE AT THE SOSSA'S CENTER, LOCATED AT 3700 EAST VISTA CHINO, SUITE "G", APN 6770-040-027, ZONE M-1-P (CASE 5.0691 CUP).

Associate Planner Lyon presented the proposed project as outlined in the staff report.

Commissioner Weremiuk questioned if a single serving of alcohol (beer or wine mix) is regulated on this type of use.

Deputy City Attorney noted that typically these conditions are imposed by the Alcohol Beverage Commission (ABC).

Director Fagg pointed-out that ABC regulates certain types of alcohol licenses within census tracts.

Chair Klatchko opened the public hearing portion of the meeting:

ATEF JABER, applicant, said he's lived in the valley for 20 years and has owned grocery stores that had liquor licenses and has had no violations.

There being no further appearances the public hearing was closed.

Commissioner Weremiuk commented that she lives adjacent to this site and this vacant site is not a good thing. She said people in the neighborhood would like to see this project succeed. She prefers imposing a condition to restrict selling individual sizes given the heavy and fast traffic on Vista Chino Road.

Commissioner Middleton asked the applicant if he will sell small bottles of hard liquor (1 to 2 oz.) similar to what are served on flights.

The applicant responded no that he will only sell one-pint and larger and does not have a problem restricting the small bottles of alcohol.

ACTION: Approve subject to Conditions, as amended:

- Restrict single sales of beer and wine coolers.
- Restrict individual sizes of less than one pint of hard liquor.

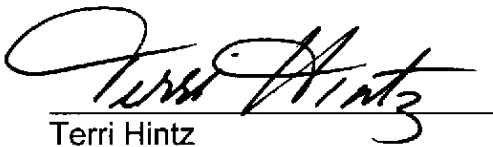
Motion: Commissioner Lowe, seconded by Commissioner Weremiuk and unanimously carried 6-0-1 on a roll call vote.

I, TERRI HINTZ, Planning Administrative Coordinator for the City of Palm Springs, hereby certify that the above action was taken by Planning Commission of the City of Palm Springs on the 11th day of May, 2016, by the following vote:

AYES: Commissioner Donenfeld, Commissioner Hirschbein,
Commissioner Lowe, Commissioner Middleton, Commissioner
Weremiuk, Chair Klatchko

NOES: None

ABSENT: Vice-Chair Calerdine



Terri Hintz
Planning Administrative Coordinator

May 17, 2016

5.0691 PCN

Planning Department
City of Palm Springs, CA.

Attn: Ken Lyon

To Whom It May Concern:

I respectfully request a RESOLUTION for a Public Convenience and/or Necessity (PCN) letter to allow for the sale of beer, wine and Distilled Spirits at the business locater as FIESTA MARKET to be located at 3700 Vista Camino, Unit G, Palm Springs, CA.

Enclosed is my check # 155 in the amount of \$877.00.

I can be contacted at (760) 285-1125, email atefdwine@yahoo.com or you may contact my Agent DICK EVITT (909) 821-6426, email – dickevitt@earthlink.net.

Sincerely,



ATEF D. JABER
By Dick Witt.

INFORMATION AND INSTRUCTIONS -

SECTION 23958.4 B&P

- Instructions
- This form is to be used for all applications for original issuance or premises to premises transfer of licenses.
 - Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
 - Part 2 is to be completed by the applicant, and returned to ABC.
 - Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME
THE ATEF D JABER TRUST DATED MAY 24, 2001

2. PREMISES ADDRESS (Street number and name, city, zip code)
3700 E VISTA CHINO, UNIT G, PALM SPRINGS, CA 92262

3. LICENSE TYPE
21

4. TYPE OF BUSINESS

<input type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Hofbrau/Cafeteria	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern: Beer	<input type="checkbox"/> Fraternal Club
<input type="checkbox"/> Bed & Breakfast:	<input type="checkbox"/> Theater	<input type="checkbox"/> Tavern: Beer & Wine	<input type="checkbox"/> Wine Tasting Room
<input type="checkbox"/> Wine only <input type="checkbox"/> All			
<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input checked="" type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-in Dairy
<input type="checkbox"/> Drug/Variety Store	<input type="checkbox"/> Florist/Gift Shop	<input type="checkbox"/> Convenience Market w/Gasoline	
<input type="checkbox"/> Other - describe:			

5. COUNTY POPULATION
N/A

6. TOTAL NUMBER OF LICENSES IN COUNTY
N/A

7. RATIO OF LICENSES TO POPULATION IN COUNTY
N/A

8. CENSUS TRACT NUMBER
9412

9. NO. OF LICENSES ALLOWED IN CENSUS TRACT
1

10. NO. OF LICENSES EXISTING IN CENSUS TRACT
6

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)
 Yes, the number of existing licenses exceeds the number allowed
 No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?
 Yes (Go to Item #13) No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER
N/A

14. TOTAL NUMBER OF REPORTING DISTRICTS
N/A

15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS
N/A

16. AVERAGE NO. OF OFFENSES PER DISTRICT
N/A

17. 120% OF AVERAGE NUMBER OF OFFENSES
N/A

18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT
N/A

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all reporting districts within the jurisdiction of the local law enforcement agency)
 Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17
 No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.

b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.

c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The

Governing Body/Designated Subordinate Name:

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

DONNA M HOGAN

ABC-245 (rev. 01-11)

PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is

22. APPLICANT SIGNATURE

23. DATE SIGNED

PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance.

Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

Yes No See Attached (i.e., letter, resolution, etc.)

25. ADDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity):

26. CITY/COUNTY OFFICIAL NAME

27. CITY/COUNTY OFFICIAL TITLE

28. CITY/COUNTY OFFICIAL PHONE NUMBER

29. CITY/COUNTY OFFICIAL SIGNATURE

30. DATE SIGNED



**California Department of Alcoholic Beverage
Control
For the County of RIVERSIDE - (Off-Sale
Licenses)
and Census Tract = 9412**

Report as of 1/12/2016

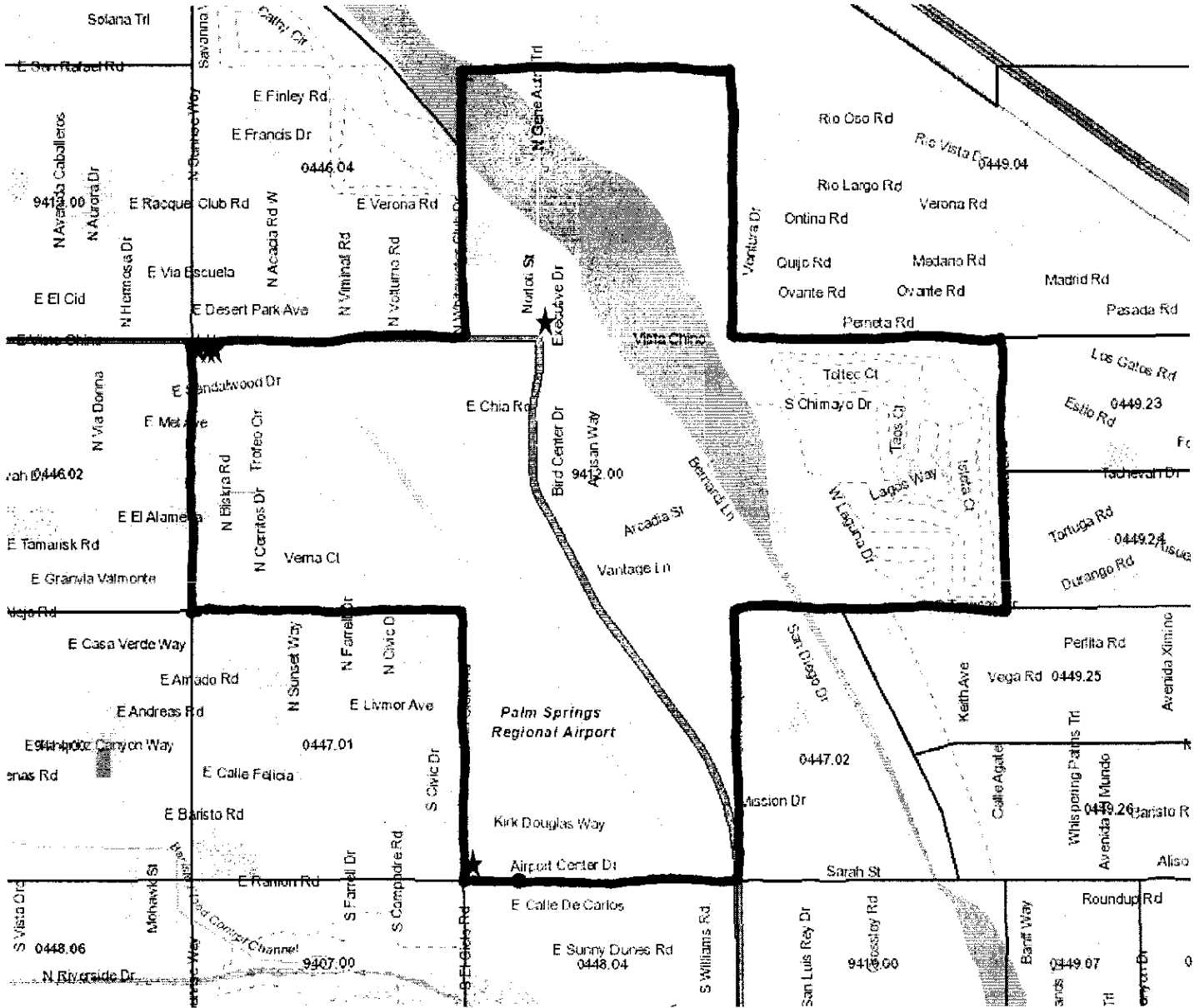
License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 355503	ACTIVE	21	10/14/1999	9/30/2016	STATER BROS MARKETS 1717 E VISTA CHINO, STE A PALM SPRINGS, CA 92262 Census Tract: 9412.00	STATER BROS MARKETS 126	PO BOX 150 SAN BERNARDINO, CA 92402-0150	3310
2) 473487	ACTIVE	20	12/10/2008	11/30/2016	A S PETROLEUM INC 1717 E VISTA CHINO, STE C PALM SPRINGS, CA 92262-3596 Census Tract: 9412.00	ARCO AM PM 82961	PO BOX 2817 INDIO, CA 92202-3517	3310
3) 479278	ACTIVE	20	7/10/2012 9:15:45 AM	6/30/2016	DOLLAR TREE STORES INC 1717 E VISTA CHINO, STE J PALM SPRINGS, CA 92262-3595 Census Tract: 9412.00	DOLLAR TREE STORE 3598	500 VOLVO PKWY CHESAPEAKE, VA 23320-1604	3310
4) 503197	ACTIVE	21	10/27/2010 12:44:02 PM	9/30/2016	ABDULNOUR, RAKAN GEORGES 440 S EL CIELO RD, # B1 & B2 PALM SPRINGS, CA 92262-7929 Census Tract: 9412.00	PALM LIQUOR & DELI		3310
5) 550985	ACTIVE	20	12/8/2014 4:29:40 PM	1/31/2016	DIAB, AHMAD HUSSEIN 3600 E RAMON RD PALM SPRINGS, CA 92264-1151	RAMON GAS	PO BOX 1031 PALM SPRINGS, CA 92263-1031	3310

						Census Tract: 9412.00			
6)	99974	SUREND	21	3/11/1981	4/30/2016	SOSSA ENTERPRISES INC 3700 E VISTA CHINO, STE G PALM SPRINGS, CA 92262-4021 Census Tract: 9412.00	SOSSAS		3310

--- End of Report ---

For a definition of codes, view our [glossary](#).

Census Tracts



★ = Existing Businesses that are Issued Liquor Licenses within Census Tract

05/26/16
Atef D. Jaber
72-711 Ramon Road
Thousand Palms, CA 92276

REVISED
ONS
RECEIVED

PLN 01 2016

PLANNING SERVICES DEPARTMENT

FIRST
SUBMITTED:
RECEIVED

MAY 26 2016

Dear City Council,

RE: Appeal of Planning Commission Condition PLN 8 on Planning Case 5.0619 CUP Convenience store use for Fiesta Market at 3700 East Vista Chino Road.

As the owner of Fiesta Market at 3700 East Vista Chino Road, I am writing to appeal one of the Conditions of Approval imposed by the Planning Commission at their meeting of May 11 2016 regarding Case 5.0691CUP. This CUP case was approved for my convenience store business (Fiesta Market) to operate. Specifically I am appealing condition number PLN.8 which prohibits the sale of single serving containers of alcoholic beverages.

I am respectfully requesting that the City Council remove this condition on the basis that it unfairly restricts my sale of these products while my competitors at eight other retail stores in the same vicinity have no such restriction.

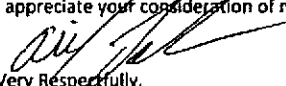
The grounds for this appeal is that this condition imposes on my business an unfair prohibition on the sale of single size containers - which at least eight (8) other retailers within approximately 1 mile radius of my store have the right to sell.¹ My store is not a liquor store -- it is a unique specialty market with full line of custom fresh cut meats, food, deli items, soft drinks, dairy products and fresh produce to both residents and tourists. Our hours of operation are expected to be 7am to 10pm. Specialty beer brewers and micro-breweries now bottle high-end limited production beer in single serving containers - these type of premium products are important to the specialty-market ambiance and inventory that I seek to offer for sale to the public. Although the sale of alcoholic beverages represents a relatively small portion of the sale of all goods and services that I will provide, it nonetheless is an important part of my overall product offerings and allows my store to be more of a "full service" specialty neighborhood market.

It was my impression that the Planning Commissioners imposed this condition in reaction to the citywide problem of homeless persons and persons who have problems with alcoholism buying singles and then consuming them on the streets, loitering and causing a nuisance. Since my store has yet to open, there is no evidence that such a problem is, or will be, caused by my product sales.

If clear empirical evidence shows that there is a city-wide problem with homeless persons, vagrants or alcoholics causing a public nuisance because of access to alcohol in single serving containers, then the council should impose a citywide prohibition on the sale of alcohol in single serving containers, and not unfairly target one small business owner such as myself with a restriction that is not equally imposed on other businesses in the vicinity selling the same products.

I have made a significant investment in tenant space improvement for my store including security cameras to create a safe, pleasant, and attractive family-oriented specialty market. While I cannot speak to previous businesses that have been in this location or any of the other retailers whose sales include alcoholic beverages, I intend to operate a clean, professional, well-managed market that will be an asset to the City of Palm Springs.

I appreciate your consideration of my request.


Very Respectfully,
Atef Jaber for The Atef D. Jaber Trust

Attachments - other nearby markets and stores that sell alcohol in single serve containers.

¹ On May 24, 2016, I personally visited each of the eight stores and purchased singles from each (the 8 stores are listed on a separate page attached to this letter.) No restrictions on size or quantity of these items were imposed.



**PERMIT CENTER
CITY OF PALM SPRINGS**

CASE#:	TYPE:	PROJECT NAME	APN1	ADDRESS
5.0691	Appeal PC	Fiesta Market	680-412-010	3700 Vista Chino Road East

ZONING FEES ACCT #001-32212

CHANGE OF ZONE APPLICATION	\$0.00
PRE APP FEE	\$0.00
CONDITIONAL USE PERMIT	\$1,317.00
<i>APPEAL</i> PLANNED DEVELOPMENT DISTRICT APPLICATION FEE	\$0.00
FINAL DEVELOPMENT PLAN FEE	\$0.00
VARIANCE APPLICATION FEE INCLUDES SIGN VARIANCE	\$0.00
TIME EXTENSION FEES	\$0.00
MISCELLANEOUS / LAND US	\$0.00

ENVIRONMENTAL ASSESSMENT FEES - #001-32212

NEGATIVE DECLARATION	\$0.00
MITIGATED NEG DECLARATION	\$0.00
CATEGORICAL EXEMPTION / EIR	\$0.00

MISCELLANEOUS FILING FEES ACCT #001-34303

ARCHITECTURAL APPROVAL FEE	\$0.00
ADMINISTRATIVE MINOR MODIFICATION FEES	\$0.00
PLAN CHECKS PLANNING FEE	\$0.00
PLANNING CC AND R	\$0.00
MISCELLANEOUS /HSPB FEES	\$0.00

MISCELLANEOUS FEES

SIGN #001 - 32205	\$0.00
IN LIEU OF - #131-34359	\$0.00
R V - #001-32210	\$0.00
MISCELLANEOUS - #001-34106	\$0.00
MISCELLANEOUS - #001-34308 / SPECIAL EVENT - #001-34303	\$0.00

SUBDIVISION FEES ACCT #001-32213

TENTATIVE MAPS FEES	\$0.00
FINAL MAPS FEES	\$0.00
LOT LINE ADJ/CERT OF COMPLIANCE FEE	\$0.00
ENVIRONMENTAL ASSESSMENT FEE	\$0.00
MISCELLANEOUS FEE	\$0.00

TOTAL FEE(S) \$1,317.00

The acceptance of an application or of a fee is not an entitlement or a permit to construct, change or alter any portion of the property described in the application.

RECEIVED FROM <i>[Signature]</i>	RECEIVED BY <i>[Signature]</i>	DATE 5/26/16
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Customer Cashier Planning File Planning Copy 8156

ATEF D JABER TRUST		157
72-711 RAMON RD THOUSAND PALMS, CA 92278		34-827/1251 1084
Date <u>5/26/16</u>		
Pay to the Order of <u>City of Palm Springs</u>	\$ <u>1317</u>	
<u>one thousand three hundred seventeen</u>		
For <u>[Signature]</u>		

**CITY OF PALM SPRINGS
PUBLIC NOTIFICATION**



Date: June 15, 2016

Subject: Fiesta Market

AFFIDAVIT OF PUBLICATION

I, Kathie Hart, MMC, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun on June 4 and June 5, 2016.

I declare under penalty of perjury that the foregoing is true and correct.

KHart
Kathie Hart, MMC
Chief Deputy City Clerk

AFFIDAVIT OF POSTING

I, Kathie Hart, MMC, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board, and in the Office of the City Clerk on June 2, 2016.

I declare under penalty of perjury that the foregoing is true and correct.

KHart
Kathie Hart, MMC
Chief Deputy City Clerk

AFFIDAVIT OF MAILING

I, Kathie Hart, MMC, Chief Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on June 2, 2016, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California.
(38 notices)

I declare under penalty of perjury that the foregoing is true and correct.

KHart
Kathie Hart, MMC
Chief Deputy City Clerk

NOTICE OF PUBLIC HEARING
CITY COUNCIL
CITY OF PALM SPRINGS

CASE 5.0691 APPEAL
"FIESTA MARKET CONDITIONAL USE PERMIT"
3700 EAST VISTA CHINO ROAD

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of June 15, 2016. The City Council meeting begins at 6:00 p.m., in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs, California.

The purpose of the hearing is to consider an appeal by Atef Jaber, owner of Fiesta Market, requesting that the City Council overturn a condition of approval prohibiting the sale of alcohol in single serve containers related to a Conditional Use Permit for a convenience store use for "The Fiesta Market", located at 3700 East Vista Chino Road Suite "G", Zone M-1-P.

ENVIRONMENTAL DETERMINATION: This action is deemed a project under the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Section 15301 (Class 1 – Existing Facilities) of the CEQA Guidelines.

REVIEW OF PROJECT INFORMATION: The staff report and other supporting documents regarding this project are available for public review at City Hall between the hours of 8:00 a.m. and 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

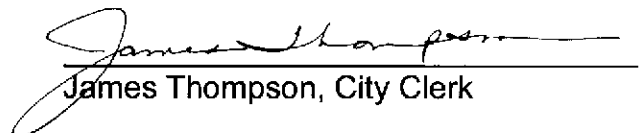
COMMENT ON THIS APPLICATION: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

James Thompson, City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior, to the public hearing. (Government Code Section 65009[b][2]).

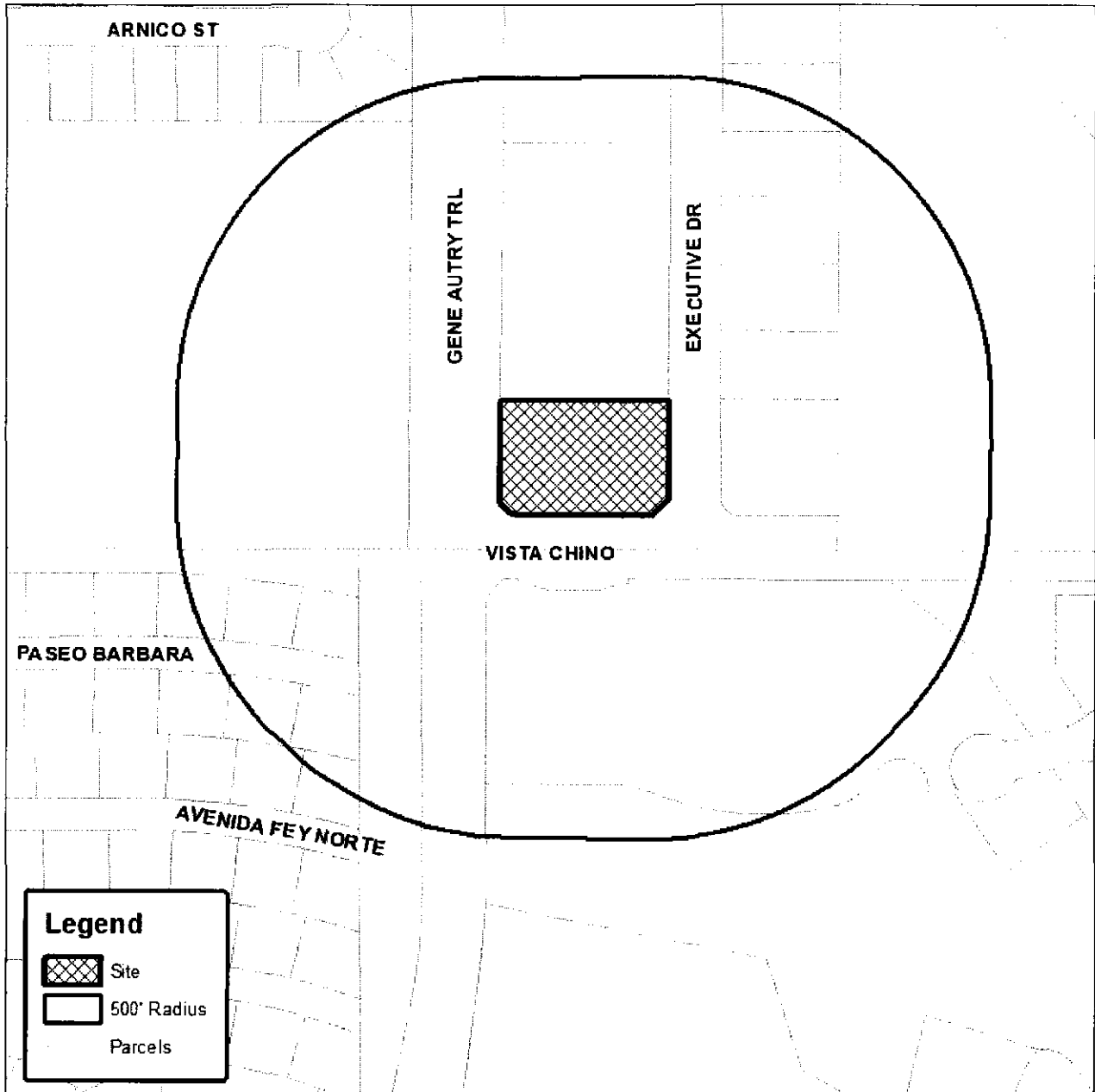
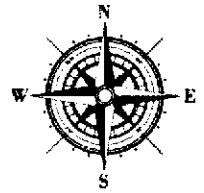
An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to Ken Lyon, RA, Associate Planner, at (760) 323-8245.

Si necesita ayuda con esta carta, porfavor llame a la Ciudad de Palm Springs y puede hablar con Felipe Primera telefono (760) 323-8253.


James Thompson, City Clerk



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

Kathie Hart

From: Joanne Bruggemans
Sent: Thursday, June 02, 2016 1:59 PM
To: El Rancho Vista Estates; Escena NO; Gene Autry
Cc: Ken Lyon; Kathie Hart
Subject: Case 5.0691 Appeal - Fiesta Market
Attachments: 06 15 16 5.0691 Appeal PHN CC.pdf

To All –

Please find the attached Public Hearing Notice of the City Council meeting for Wednesday, June 15, 2016 of the proposed project within a ½ mile of your neighborhood organization.

Thank you,

Joanne

Joanne H Bruggemans
City of Palm Springs
Planning Services Department
3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262
Tel: (760) 323-8245 Fax: (760) 322-8360
Email: joanne.bruggemans@palmspringsca.gov

Neighborhood Map-1/2 Mile Radius

Case # 5.0691 CUP – Conditional Use Permit application for Convenience Market located at 3700 E Vista Chino

El Rancho Vista Estates jgross910@gmail.com

Escena Neighborhood Organization equinerobert@gmail.com

Gene Autry tony@outdoorvideopro.com

