



PLANNING COMMISSION STAFF REPORT

DATE: January 11, 2017

PUBLIC HEARING

SUBJECT: DTPS A-14, LLC FOR A CONDITIONAL USE PERMIT TO ALLOW A 4,492-SQUARE FOOT REAL ESTATE OFFICE ON THE GROUND FLOOR OF THE MULTI-TENANT BUILDING LOCATED ON BLOCK A OF THE DOWNTOWN PALM SPRINGS SPECIFIC PLAN AT 201 NORTH PALM CANYON DRIVE, ZONE CBD, SECTION 15 (CASE NO. 5.1403 CUP). (DN)

FROM: Department of Planning Services

SUMMARY

The Planning Commission will review a Conditional Use Permit (CUP) request to allow a real estate office occupied by Bennion Deville Homes, with ground floor frontage on Palm Canyon Drive.

RECOMMENDATION:

Deny the proposed office use fronting Palm Canyon Drive, as it does not meet criterion "b" of the required findings for a Conditional Use Permit.

ISSUES:

- The Downtown Palm Springs Specific Plan calls for primary retail uses on street frontages. The proposed use would occupy roughly one-third of the ground floor Palm Canyon Drive frontage.
- While the office is a desirable tenant in the downtown area, it might be more appropriate on a second story or secondary street instead of prime retail frontage on North Palm Canyon Drive.

BACKGROUND INFORMATION:

<i>Related Relevant City Actions by Planning, Fire, Building, etc...</i>	
06/24/14	Planning Commission approved three-story building on project site, commonly known as Block A of the Downtown Palm Spring Specific Plan.
09/10/14	Planning Commission approved revised design of three-story building.
04/27/15	Building permit issued for construction of the new three-story building.

Field Check

Dec. 2016 Staff has visited the site to observe existing conditions

DETAILS OF APPLICATION REQUEST:

Site Area

Total Building Area 54,030-square feet

Proposed Office 4,492-square feet

Figure 1: Aerial of Site and Surroundings



SUBJECT SITE

The applicant, DTPS A-14, LLC, has submitted a Conditional Use Permit to allow a ground floor office use fronting Palm Canyon Drive. Specifically, a real estate brokerage office is proposed within 4,492-square feet of the 17,120-square foot ground floor. The office space will have a window storefront of about 59-feet facing Palm Canyon and roughly 22-feet facing the rear parking lot.

The space will be occupied by Bennion Deville Homes, which has 16 offices throughout the Coachella Valley. They state about 50-75 real estate agents are expected to be working out of this proposed location, but anticipate only 20-30 working at the same time due to the nature of the realty profession. Most agents work from home offices, but may use this office to meet their clients and attend to administrative responsibilities. The hours of operation will be 8:30AM to 5:00PM during the week and 10:00AM to 4:00PM on the weekends.

PROJECT ANALYSIS:

General Plan

Element	Request	Compliance
<p><u>Land Use:</u> Central Business District (1.0 FAR; 21–30 dwelling units per acre). Bounded approximately by Ramon Road, Calle Encilia, Alejo Road and Belardo Road, the Central Business District designation allows for a mix of commercial, residential, and office uses at a higher concentration, density, and intensity than in other areas of the City. The CBD serves as the main activity center and cultural core of the community and, as such, theatres, museums, retail, and other entertainment venues are encouraged here. Uses such as grocery stores, hardware stores, and convenience or pharmacy stores that provide services to the Downtown’s residential population are also encouraged. The Central Business District is subdivided into zones or areas that provide for diversity in development standards and land use intensities. These subareas are defined in Appendix A, Downtown Urban Design Plan. Examples include the gateways into Downtown, Downtown Central Core, and the Downtown Outer Core.</p>	<p>The request is to operate a realty office within the CBD.</p>	<p>Yes</p>

Zoning

Permitted Uses:

The subject property is zoned CBD (Central Business District) by the Downtown Palm Springs Specific Plan. Pursuant to Section III.E.1 of the Specific Plan, ground floor office uses may be permitted when fronting Palm Canyon Drive, if approved by Conditional Use Permit.

Off-street Parking:

The building parking lot is located on the west end of the property and contains 70 off-street parking spaces. Pursuant to Section 92.26.00(C)(5) of the PSZC, retail requires one (1) space per 400-square feet of retail area equaling 70 spaces. Based on this calculation the parking lot conforms to the PSZC as set forth in the Downtown Parking Combining Zone.

Specific Plan:

The Downtown Palm Springs Specific Plan gives guidance and direction on land uses, development standards and infrastructure for a portion of the City's downtown. Section II of the Specific Plan includes the vision and land use concept for this area. To ensure prosperity of the Central Business District and the contributions it makes to the economic base of the City, the document aims to facilitate the development of high quality commercial, retail, high density residential, open space/public space and resort development. The Specific Plan further states,

Retail uses result in lively frontages and ground floor activity. Street frontage space on North Palm Canyon Drive is designated for primary retail use. Office and other commercial uses are generally applicable to the ground floors of other street frontages when mixed with retail uses, and the upper floors of some buildings, as described in Section III, Development Standards... Appropriate and compatible accessory land uses that increase recreational opportunities and expand nighttime retail/commercial uses, thereby extending the hours of active use, will be encouraged.

As staff evaluated the proposed request, the above concepts were considered. The building has an overall storefront on Palm Canyon of 182 lineal feet. Of this frontage, a furniture retailer (West Elm) occupies 84-feet and a restaurant (Blaze Pizza) is currently making improvements to operate with 39-feet of storefront. These retailers have operating hours during both the daytime and nighttime, which result in a lively frontage and ground floor activity for this block of the downtown, as envisioned by the Specific Plan.

The remaining storefront space, to be occupied is the proposed office use with 59-feet or about one-third of the overall building frontage on the ground floor. While the proposal will result in daytime activity, there will be no activity during the nighttime, as offices are typically closed during the nighttime and have more restricted hours during the weekends. This is the case for the proposed realty office with the business closing at 5:00PM on weekdays and operating hours from 11:00 AM to 4:00 PM on the weekends. Furthermore, nighttime activity is even more important for this building's frontage with VillageFest operating every Thursday night on Palm Canyon directly in front of this space.

Based on the above analysis, staff has concerns with the office space as proposed.

REQUIRED FINDINGS:

The Planning Commission must make five findings in order to approve a Conditional Use Permit, pursuant to Section 94.02.00 of the Palm Springs Zoning Code. Staff has analyzed these findings and provided a response to each, noting conformance or not, below:

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

The subject property is zoned CBD (Central Business District) by the Downtown Palm Springs Specific Plan. Pursuant to Section III.E.1 of the Specific Plan, ground floor office uses may be permitted when fronting Palm Canyon Drive, if approved by Conditional Use Permit. Staff believes the project conforms to this finding.

- b. *That the use is necessary or desirable for the development of the community, is in harmony with the various elements of objectives of the general plan, and is not detrimental to existing uses or to future uses specifically permitted in the zone in which the proposed use is to be located.*

An office is not necessary or desirable at this location because:

1. The project is located within the CBD zone of the Downtown Palm Springs Specific Plan, which states:
 - a. *“Retail uses result in lively frontages and ground floor activity. Street frontage space on North Palm Canyon Drive is designated for primary retail use. Office and other commercial uses are generally applicable to the ground floors of other street frontages when mixed with retail uses...”* (Specific Plan Section II.B).
 - a. *“The Specific Plan is intended to support the development of a broad range of appropriate uses...Prime retail frontages are located at ground floor level on North Palm Canyon Drive. Commercial uses are generally applicable to the ground floors of other street frontages, and the upper floors of the proposed buildings”* (Specific Plan Section III.B).
2. The proposed office will occupy about a third of the building’s ground floor storefront on Palm Canyon Drive during the daytime, but not operate during the nighttime and have limited operating hours on the weekends. This reduces the site’s capacity to provide a retailer with ground floor storefront that generates a lively frontage, day and night, on North Palm Canyon Drive. This may be detrimental to existing uses or future uses specifically permitted in the CBD zone.
3. In addition, the second floor of the subject building includes space that could be utilized as office space, consistent with the Specific Plan.

Therefore, staff believes the project does not conform to this finding, because the proposed office use is not necessary or desirable for the development of the

community and may be detrimental to existing uses or to future uses specifically permitted in the CBD zone.

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

The project does not propose any exterior changes to the site with exception of exterior signage. The existing site is a large mixed-use building with adequate parking as required by the Specific Plan when approved in 2014. The proposed office will occupy a 4,492-square foot space within the ground floor and the site is adequate in size and shape to accommodate such use without requiring additional setbacks, yards walls or fences, landscaping, etc. Therefore, the project conforms to this finding.

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

The project site is located adjacent to North Palm Canyon Drive, which is designated as a Major Thoroughfare in the General Plan Circulation Element, and is improved with three vehicle lanes. Public transit is also available on Palm Canyon Drive. The new office will be 4,492-square feet in size and any traffic generated by the proposed use will be insignificant to the streets and highways. Therefore, the project conforms to this finding.

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

An office use has minimal impact on public health, safety and general welfare. However, any improvement to the existing building would require a building permit, which would ensure protection of the public health and safety. Therefore, the project conforms to this finding.

CONCLUSION:

The Downtown Palm Springs Specific Plan envisions ground floor retail and restaurant uses along Palm Canyon Drive for an active and lively corridor. The proposed office use, with limited weekend hours and no evening operations is inconsistent with this vision. As a result, staff was unable to make the necessary findings for approval of this CUP, as all five CUP findings are required. On this basis, staff is recommending denial by the Planning Commission

ENVIRONMENTAL:

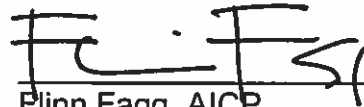
Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which are disapproved or rejected are not subject to CEQA. Should the Commission approve the project, the project would be a Class I exemption and categorically exempt per Section 15301(a) (Existing Facilities) of the CEQA Guidelines.

NOTIFICATION:

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



David A. Newell
Associate Planner



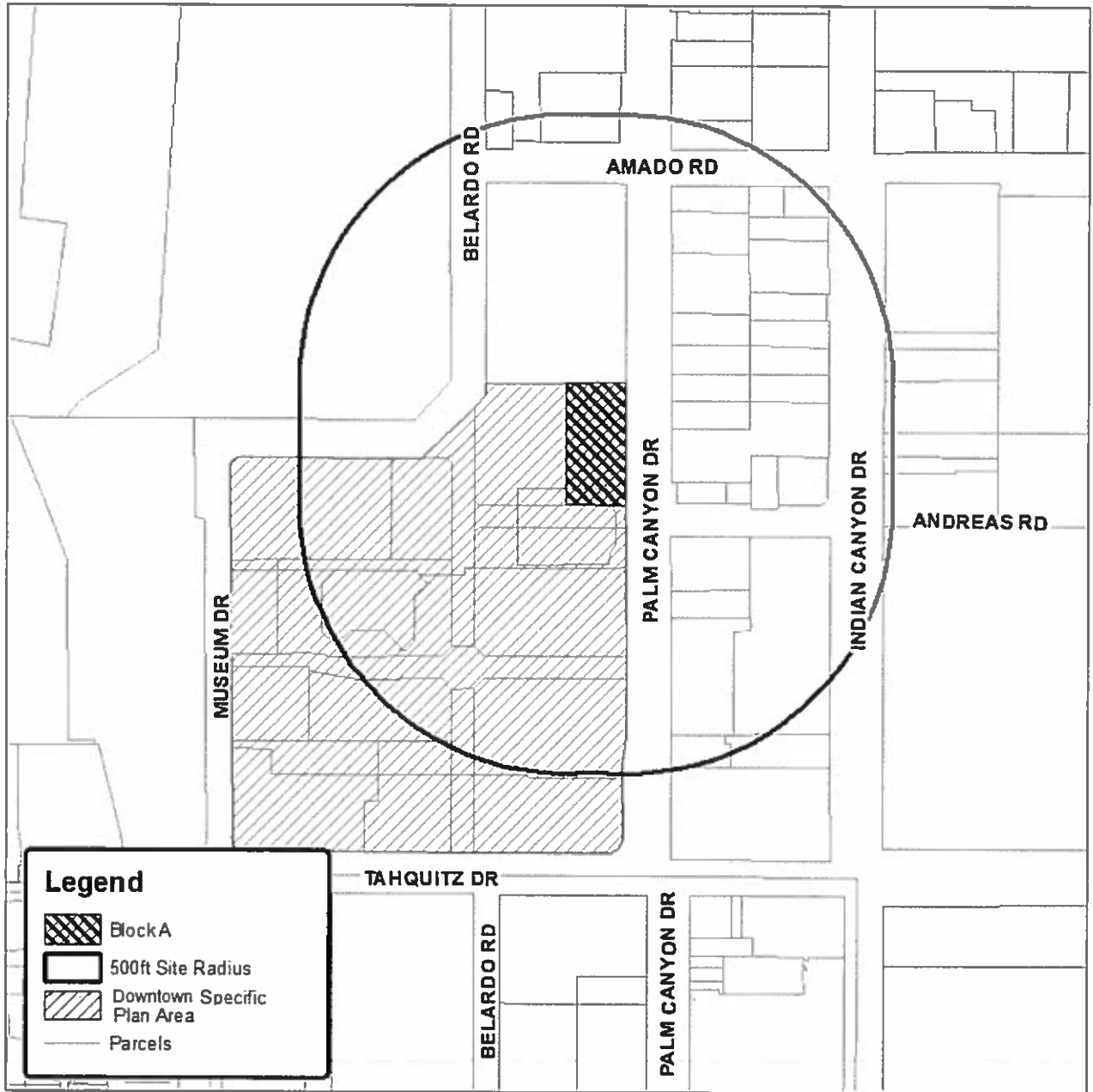
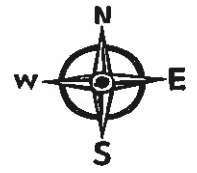
Plinn Fagg, AICP
Director of Planning Services

Attachments:

1. Vicinity map
2. Draft resolution with Exhibit A: Conditions of Approval
3. Applicant's justification letter
4. Plan exhibit



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.1403 CUP

ADDRESS: 201 N. Palm Canyon Drive / Block A of Downtown Palm Springs Specific Plan

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM SPRINGS, CALIFORNIA DENYING CASE 5.1403 CUP; A CONDITIONAL USE PERMIT FOR THE ESTABLISHMENT OF AN OFFICE ON THE GROUND FLOOR FRONTING PALM CANYON DRIVE AT 201 NORTH PALM CANYON DRIVE.

THE PLANNING COMMISSION FINDS AND DETERMINES AS FOLLOWS:

A. DTPS A-14, LLC has filed an application with the City, Case 5.1403 CUP, pursuant to Section 94.02.00 (Conditional Use Permit) of the Zoning Code seeking a CUP to establish a 4,492-square foot office on the ground floor of the three-story building located at 201 North Palm Canyon Drive, Zone CBD of Downtown Palm Springs Specific Plan, Section 15.

B. A notice of public hearing of the Planning Commission of the City of Palm Springs to consider Case 5.1403 CUP was given in accordance with applicable law.

C. On January 11, 2017, a public hearing on Case 5.1403 CUP was held by the Planning Commission in accordance with applicable law.

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

E. Pursuant to Section 94.02.00(B)(6) of the Palm Springs Zoning Code, the Planning Commission shall not approve a conditional use permit unless it makes five findings. Of these findings, the following finding cannot be made for the request:

b. 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;

An office is not necessary or desirable at this location because:

1. The project is located within the CBD zone of the Downtown Palm Springs Specific Plan, which states:

a. *"Retail uses result in lively frontages and ground floor activity. Street frontage space on North Palm Canyon Drive is designated for primary retail use. Office and other commercial uses are generally applicable to the ground floors of other street frontages when mixed with retail uses..."* (Specific Plan Section II.B).

b. *"The Specific Plan is intended to support the development of a broad range of appropriate uses...Prime retail frontages are located at*

ground floor level on North Palm Canyon Drive. Commercial uses are generally applicable to the ground floors of other street frontages, and the upper floors of the proposed buildings” (Specific Plan Section III.B).

2. The proposed office will occupy about a third of the building's ground floor storefront on Palm Canyon Drive during the daytime, but not operate during the nighttime and have limited operating hours on the weekends. This reduces the site's capacity to provide a retailer with ground floor storefront that generates a lively frontage, day and night, on North Palm Canyon Drive. This may be detrimental to existing uses or future uses specifically permitted in the CBD zone.
3. In addition, the second floor of the subject building includes space that could be utilized as office space, consistent with the Downtown Specific Plan.

Therefore, the Planning Commission cannot find that the proposed office use is necessary or desirable for the development of the community or that it is not detrimental to existing uses or to future uses specifically permitted in the CBD Zone.

NOW, THEREFORE, BE IT RESOLVED that, based upon the foregoing, the Planning Commission hereby denies Case 5.1403 CUP; a Conditional Use Permit request to establish and operate a ground floor office fronting Palm Canyon Drive within the mixed-use building located on Block A of the Downtown Palm Springs Specific Plan, 201 North Palm Canyon Drive.

ADOPTED this 11th day of January, 2017.

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

CITY OF PALM SPRINGS, CALIFORNIA

Flinn Fagg, AICP
Director of Planning Services



October 25, 2016

City of Palm Springs
Department of Planning Services
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
760.323.8245

**RE: Justification Letter for Bennion Deville Homes Conditional Use Permit Application
201 N. Palm Canyon Drive, Palm Springs, CA 92262**

Ladies & Gentlemen:

This Justification Letter accompanies the Bennion Deville Conditional Use Permit Application and provides details of the proposed project and operator.

Project Description

Bennion Deville Homes proposes a 4492 square foot real estate brokerage office in the newly constructed "Downtown Project" located in between West Elm and Blaze Pizza at 201 N. Palm Canyon Drive in Palm Springs. Ironically, we occupied virtually the same location until 2008 when the building was demolished and we were forced to move to another location in Palm Springs. Ample subterranean parking exists in addition to a lot directly behind the building and a multi-level parking structure to the west. No environmental impacts or architectural changes are anticipated. Attached as Exhibit A are photos of our exterior signage and one of our newly remodeled offices. Any modifications to project site shall be internal. The only exterior modification will be approved signage.

Information

We opened our first office in Palm Springs in 2001 at 850 N. Palm Canyon Drive, and we have just celebrated our 15th anniversary in the desert. During the past fifteen years, we have grown to 16 offices throughout the Coachella Valley with nearly 800 licensed sales associates. We are not franchised, but locally owned and operated by Bob Bennion and Bob Deville. We are proud to enjoy the majority market share in each city we serve in the Coachella Valley. As of this writing, our YTD market share for Palm Springs is 23%, with our closest competitor at 8%. While we expect to assign 50-75 agents to work from this office location, we anticipate only 20-30 working at the same time due to the nature of our profession. A majority of our agents work remotely from home offices, or use our offices to meet clients and attend to administrative responsibilities. Our hours of operation will be 8:30 am to 5:00 pm, Monday through Friday. 10:00 am to 4:00 pm on weekends.



Findings

Palm Springs Zoning Code (PSZC) 94.02.00(B)(6) imposes a number of requirements for a Conditional Use Permit which this project meets.

- a. The use applied for at the location set forth in the application is properly one for which a conditional use permit is authorized by the PSZC in 92.09.01(D)(15).
- b. 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 for the following reasons: Bennion Deville Homes (BDH) is the largest independent real estate brokerage in the Coachella Valley with annual sales volume exceeding 2 billion dollars. Our offices in Palm Springs account for nearly 20% of our total sales volume. In a community highly dependent on tourism and the exchange of real estate, BDH sales associates are true ambassadors for the community, not only in facilitating the marketing and sales of real property, but are often the first point of contact for many individuals visiting the area for the first time. They introduce clients to new restaurants, bars, coffee shops and other retailers in the course of a purchase or sale transaction.
- c. 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. Other than signage, this project proposes no exterior changes to the site.
- d. The site for the proposed use relates to streets and highways properly designed and improved to carry the type and quantity of traffic to be generated by the proposed use. The project is located along North Palm Canyon Drive, which is designated as a "major thoroughfare" in the General Plan's Circulation Element. The existing streets will be able to accommodate the proposed use as proven by previous use. Additionally, we anticipate most traffic travelling to and from our office will utilize Belardo and the parking structure to the west of the project.
- e. The applicant understands that conditions may be imposed and required to be shown on the approved site plan in the event the same are deemed necessary to protect the public health, safety and general welfare and may include minor modification of the zone's property development standards.



Public Benefit

As we have experienced with our office at 850 N. Palm Canyon Drive, new home buyers bring additional and significant discretionary spending to the PS Uptown Design district. We are confident the same behavior will continue at this proposed downtown location. Not only will retailers like West Elm benefit from the customer traffic to and from our office, other local business from coffee shops, restaurants and clothing stores will experience an increase in "regular" shoppers in the form of our agents. We envision assigning our highest producing agents to this office location and this group represents some of the highest income earners at our firm. Having the convenience of shops and restaurants within a short distance, will ensure steady business during "off peak" hours.

I'm hopeful I have clearly articulated my points and have provided you all the necessary information for this application and review process and I respectfully request your approval for this Conditional Use Permit.

Should you have additional questions, I invite you to contact me directly at 760.408.5349.

Sincerely,

Joseph R. Deville, President
Bennion Deville Homes

EXHIBIT A
Exterior Signage Example



EXHIBIT A

Interior Finishes Examples

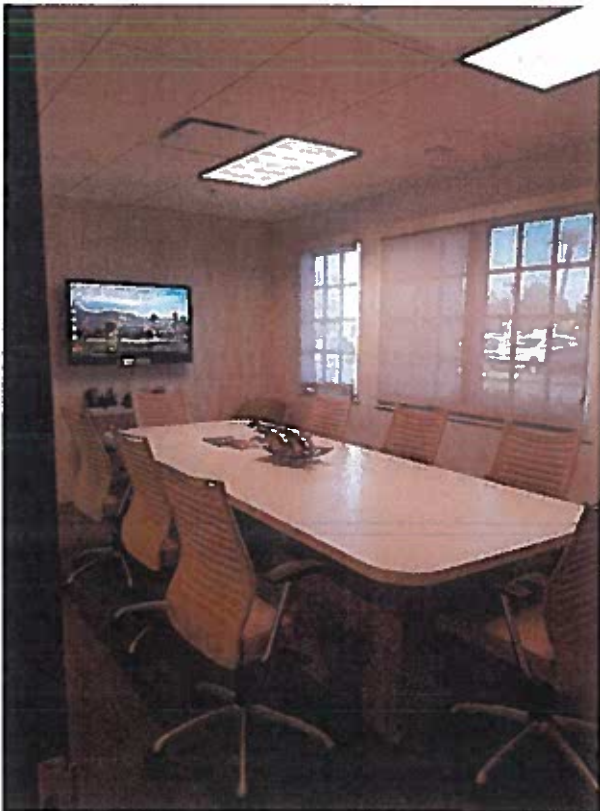
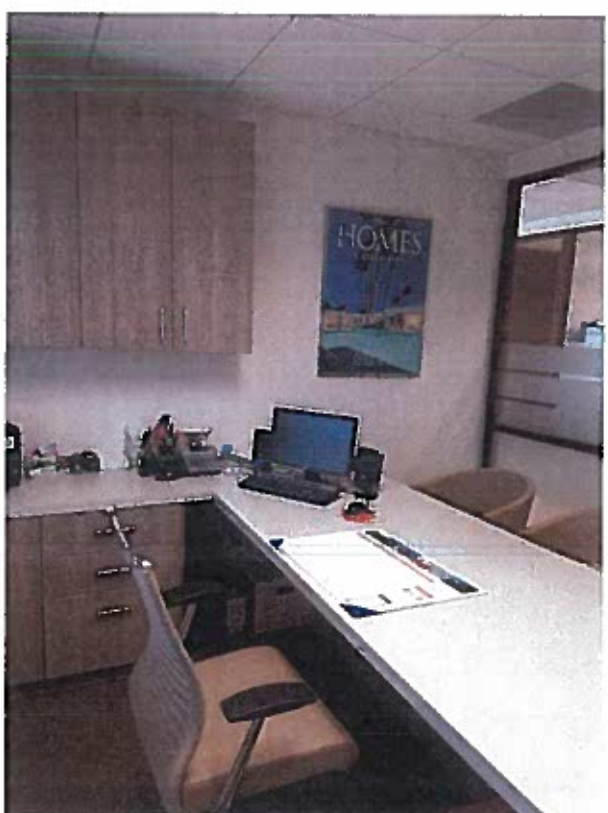
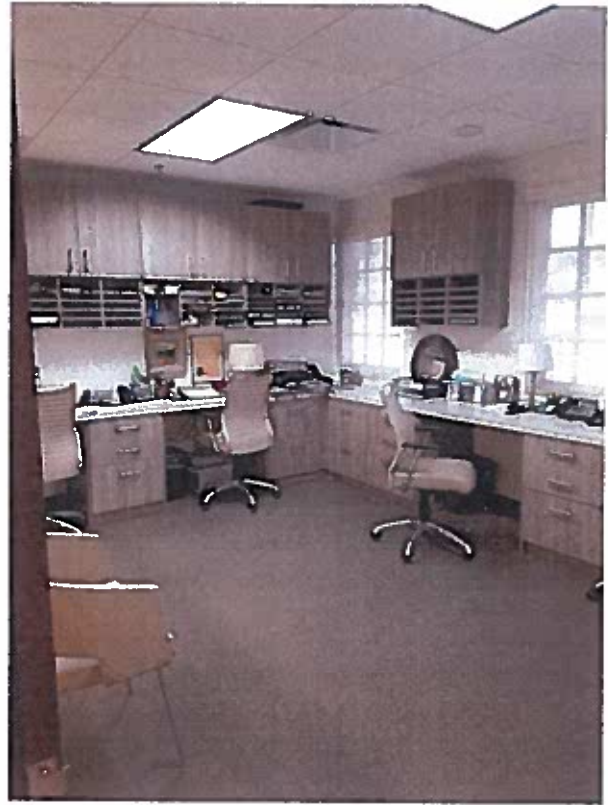
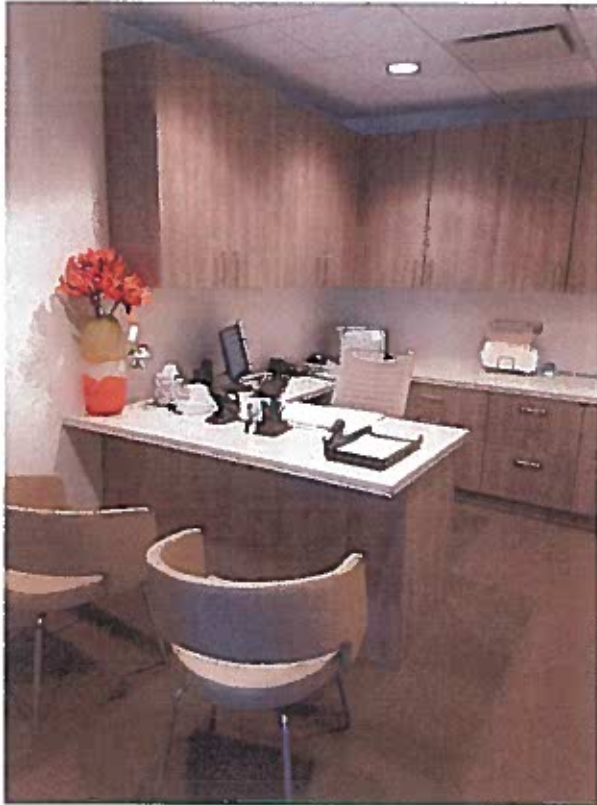
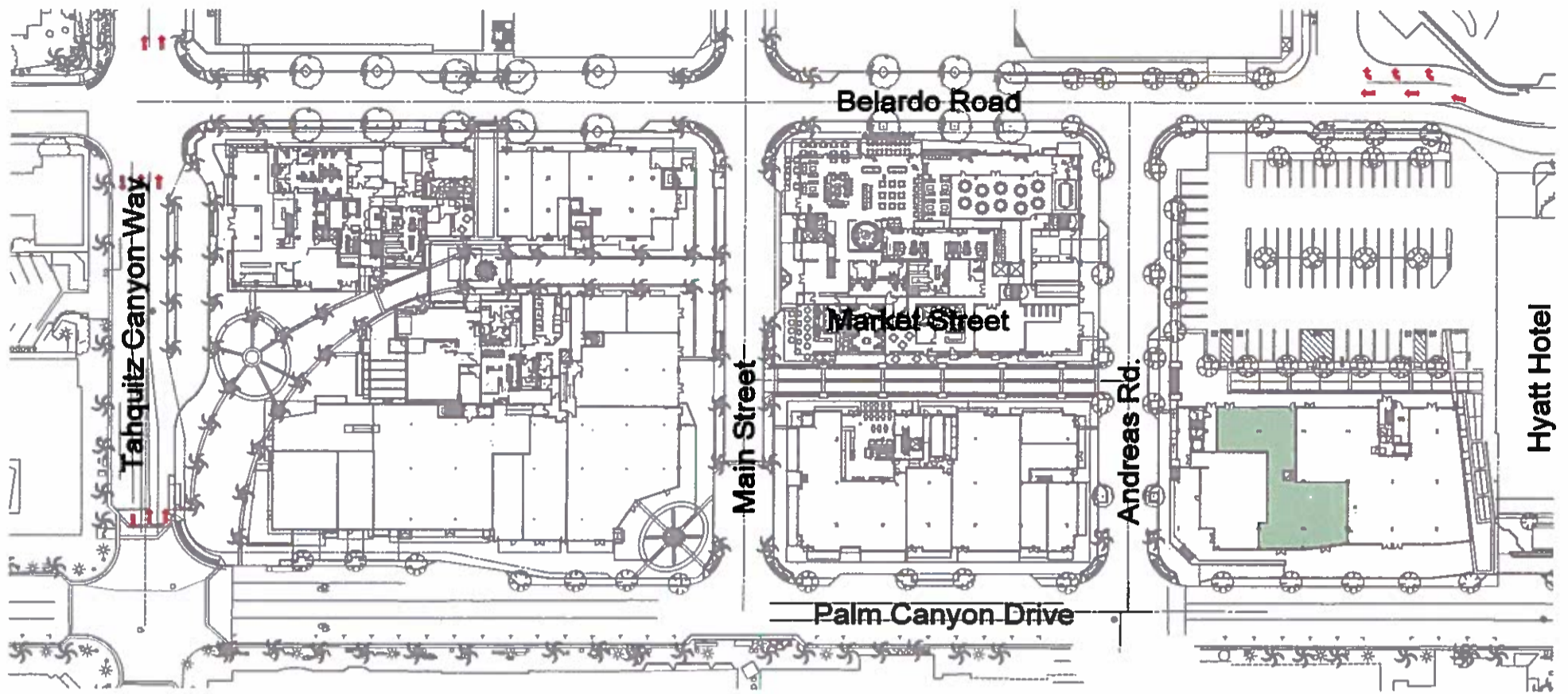


EXHIBIT A

Interior Finishes Examples

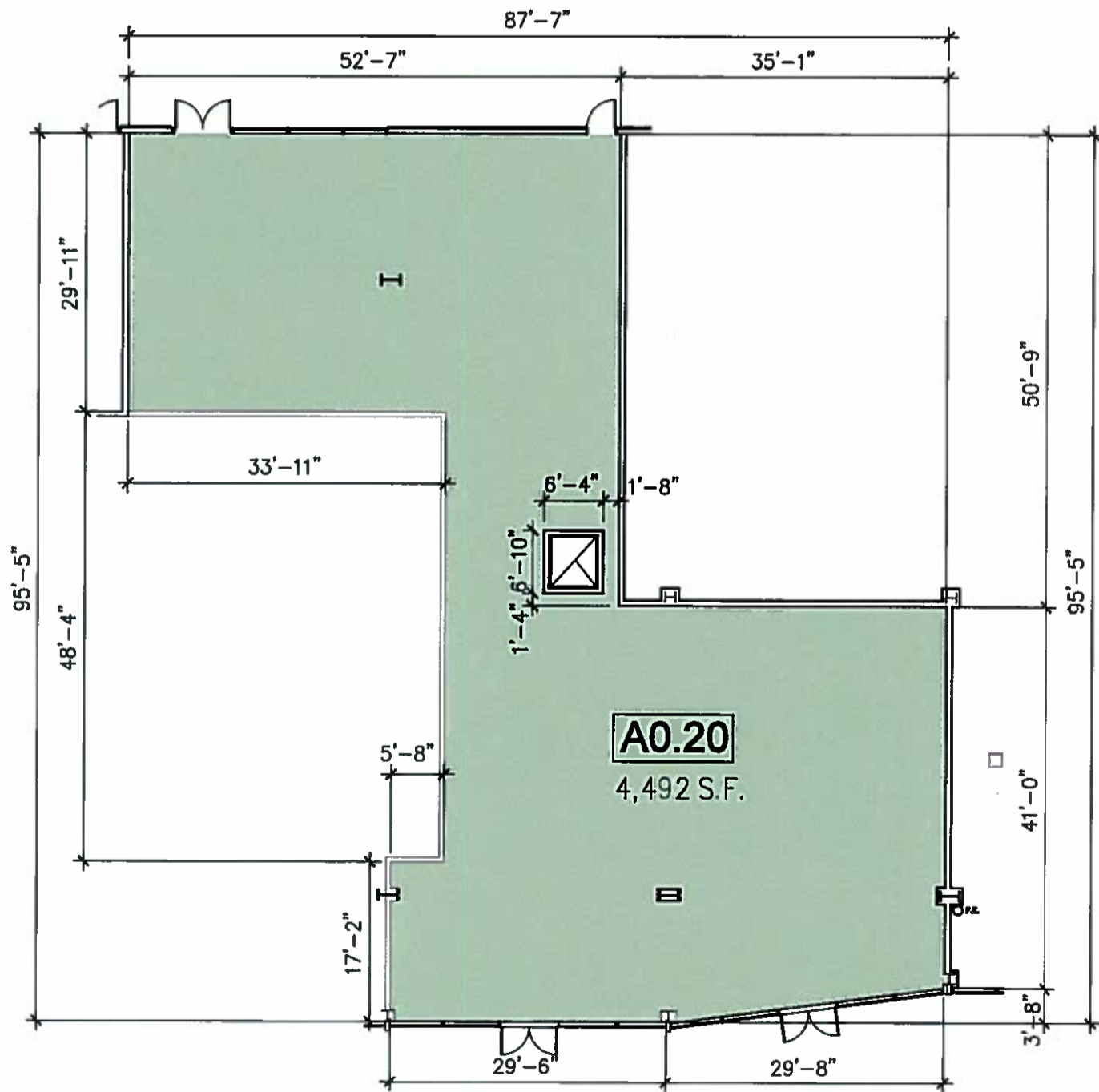
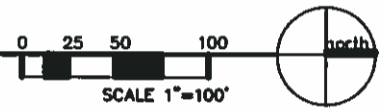




LOD - Suite A0.20 - Key Plan

Information herein is subject to modification:

This drawing reflects the information available at this time; however, in mixed-use developments some changes may occur when integrating structural and mechanical systems of co-tenancies. Efforts will be made to ensure that changes, should they occur, reasonably adhere to the intent of this Lease Outline Document.

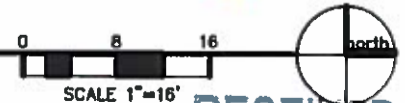


LOD - Suite A0.20

5.1403



DOWNTOWN PALM SPRINGS
PALM CANYON DRIVE., PALM SPRINGS, CALIFORNIA
6/2/2016



RECEIVED

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DIANNING SERVICES