



CITY COUNCIL STAFF REPORT

DATE: June 7, 2017

CONSENT AGENDA

SUBJECT: REQUEST BY ELEVATED EXPERIENCES LLC FOR A RESOLUTION OF PUBLIC CONVIENENCE OR NECESSITY (PCN) TO SELL BEER (TYPE 40 ALCOHOLIC BEVERAGE CONTROL LICENSE) AT THE EXISTING CAFÉ/COFFEE SHOP LOCATED AT AERIAL TRAM VALLEY STATION, 1 TRAM WAY (CASE 5.1412 PCN).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

SUMMARY

The City Council will consider a request to adopt a Resolution of Public Convenience or Necessity (PCN) for the sale of beer for consumption on or off premises (Alcoholic Beverage Control Type 40 license) at a café/coffee shop located within the Valley Station of the Palm Springs Aerial Tramway. The Valley Station is located within a Census Tract that is identified by the ABC as an area with over concentration of liquor licenses.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DETERMINING THE PUBLIC CONVENIENCE WILL BE SERVED BY THE SALE OF BEER FOR CONSUMPTION ON OR OFF PREMISES (TYPE 40 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) AT A CAFÉ/COFFEE SHOP LOCATED WITHIN THE AERIAL TRAMWAY VALLEY STATION, 1 TRAM WAY AND WITHIN CENSUS TRACT #9405."

BACKGROUND:

<i>Related Relevant City Actions by Planning, Fire, Building, etc...</i>	
June 15, 1962	Building permit issued for construction of the Valley Station of the Palm Springs Aerial Tramway.
Oct. 2, 1996	City Council designated the Valley Station of the Palm Springs Aerial Tramway, as a Class 1 Historic Site.

ITEM NO. 1.J.

The current food and beverage operator for the Aerial Tramway – Elevated Experiences, LLC. – is replacing their liquor license for the café that is currently in operation within the Valley Station. Presently, they are operating under a full liquor license, allowing the sale of beer, wine and distilled spirits as a part of a bona fide eating establishment. This liquor license (Type 47) is inconsistent with the current operation as a café offering packaged foods and beer. Thus, they are seeking the requested the Type 40 liquor license to allow the sale of beer only. With this change in liquor licenses, it was determined a Resolution of Public Convenience or Necessity (PCN) would be required from the City.

The proposed request would not affect the existing liquor license and food service at the Mountain Station.

ANALYSIS:

The applicant has applied for a “Type 40” liquor license through the State of California Department of Alcoholic Beverage Control (ABC) for the proposed beer sales. The ABC summarizes the “Type 40” license as follows:

ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.

The proposed liquor license is located within a Census tract that exceeds the amount of on-sale licenses normally permitted; this is known as an “undue concentration” and is specifically defined by Section 23958.4 of the 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.

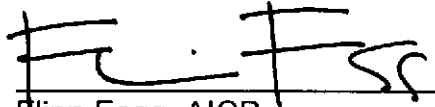
The subject property is located within Census Tract #9405, which encompasses much of the mountainous areas and some developed areas on the westerly edge of the city (see attached census map). This tract currently has nine (9) active on-sale liquor licenses (see attached list). Two licenses are authorized for the tract based on its population. The ABC can only issue the proposed liquor license if the Council determines that the public convenience or necessity would be served.

As a commercial recreation attraction, food and beverage services are often viewed as a necessity for the convenience of tourists and visitors. The Valley Station café would continue to offer beer and packaged foods under the proposed request. In addition, there isn't any other nearby business/use that would be impacted by the issuance of this Resolution of Convenience or Necessity, because the site is an isolated attraction.

Therefore, staff believes the proposed request serves the public convenience and has prepared a draft resolution for Council consideration.

FISCAL IMPACT:

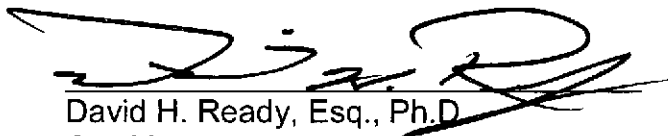
No fiscal impact.



Plinn Fagg, AICP
Director of Planning Services



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



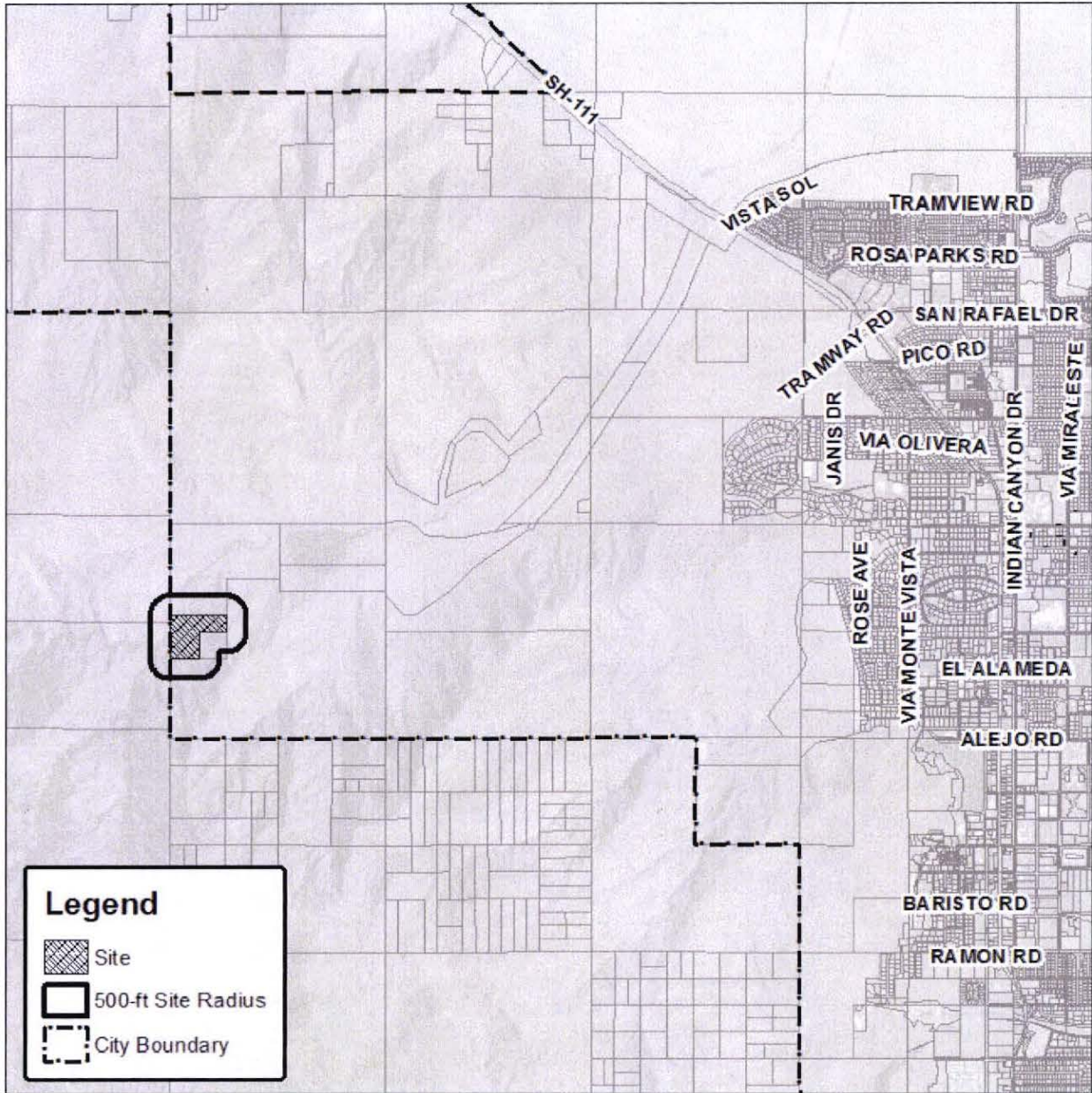
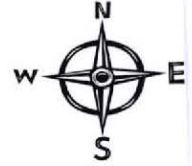
David H. Ready, Esq., Ph.D.
City Manager

Attachments:

1. Vicinity Map
2. Draft Resolution
3. Letter of Request from Applicant
4. Site Plan / Floor Plan
5. List of Authorized License Types in the Subject Census Tract
6. Census Tract Map



Department of Planning Services Vicinity Map



CITY OF PALM SPRINGS

CASE NO: 5.1412 PCN

ADDRESS: 1 Tram Way

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DETERMINING THE PUBLIC CONVENIENCE WILL BE SERVED BY THE SALE OF BEER FOR CONSUMPTION ON OR OFF PREMISES (TYPE 40 STATE ALCOHOLIC BEVERAGE CONTROL LICENSE) AT A CAFÉ/COFFEE SHOP LOCATED WITHIN THE AERIAL TRAMWAY VALLEY STATION, 1 TRAM WAY AND WITHIN CENSUS TRACT #9405.

THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

- A. Elevated Experiences, LLC has applied for a California Department of Alcoholic Beverage Control (ABC) Type 40 liquor license to sell beer at an existing café/coffee shop located within the Valley Station of the Palm Springs Aerial Tramway, 1 Tram Way Road, Census Tract No. 9405.
- B. The ABC has determined that there are nine existing alcohol licenses within Census Tact No. 9405, while two (2) alcohol licenses would be allowed based on on-sale retail licenses to population in the County in which the applicant's premise is located.
- C. The ABC has determined that there is an "undue concentration" of alcohol-related licenses in the Census Tract No. 9405.
- D. Pursuant to Section 23958.4(b)(2) of the State of California Business and Professions Code, the City Council may determine the public convenience or necessity would be served by the issuance of the requested license.
- E. The business will be located in Census Tract No. 9405, which encompasses much of the mountainous areas and some developed areas on the westerly edge of the city. As a commercial recreation attraction, food and beverage services are often viewed as a necessity for the convenience of tourists and visitors. Furthermore, as an isolated site that is an attraction destination, there isn't any other nearby business/use that would be impacted by the issuance of this Resolution of Convenience or Necessity.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS RESOLVES:

That the public convenience would be served by the issuance of Type 40 (On Sale Beer) alcoholic beverage license for the sale of beer at Valley Station of the Palm Springs Aerial Tram, 1 Tram Way, Census Tract No. 9405.

ADOPTED THIS 7th DAY OF JUNE, 2017.

David H. Ready, City Manager

ATTEST:

Kathleen Hart, Interim City Clerk

CERTIFICATION

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

I, Kathleen Hart, Interim 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:

Kathleen Hart, Interim City Clerk
City of Palm Springs, California




@ The Palm Springs Aerial Tramway

City of Palm Springs,

Regarding Resolution of Convenience & Necessity

As the food and beverage operator for the Palm Springs Tramway, when transferring the liquor license for the Valley Station we found that we need to change the type of license to a type 40 beer license from a type 47 full liquor license. When switching these we found that the census tract exceeds the number of licenses allowed. All we need to do is switch the type of license for the location. We will not be adding an additional license so the number of licenses for the census tract will remain the same.

Thank You,

 3/1/17
John Fritch

Owner/ General Manager

760-537-4671

jfritch@elevatedpsat.com

RECEIVED

MAR 01

PLANNING SERVICES
DEPARTMENT

LICENSED PREMISES DIAGRAM (RETAIL)

RECEIVED

1 APPLICANT NAME (If individual Last, first, middle)

ELEVATED EXPERIENCES LLC

NOV 04 2016

2. LICENSE TYPE

40

3 PREMISES ADDRESS (Street number and name, City, zip code)

San Jacinto Valley Station

4. NEAREST CROSS STREET

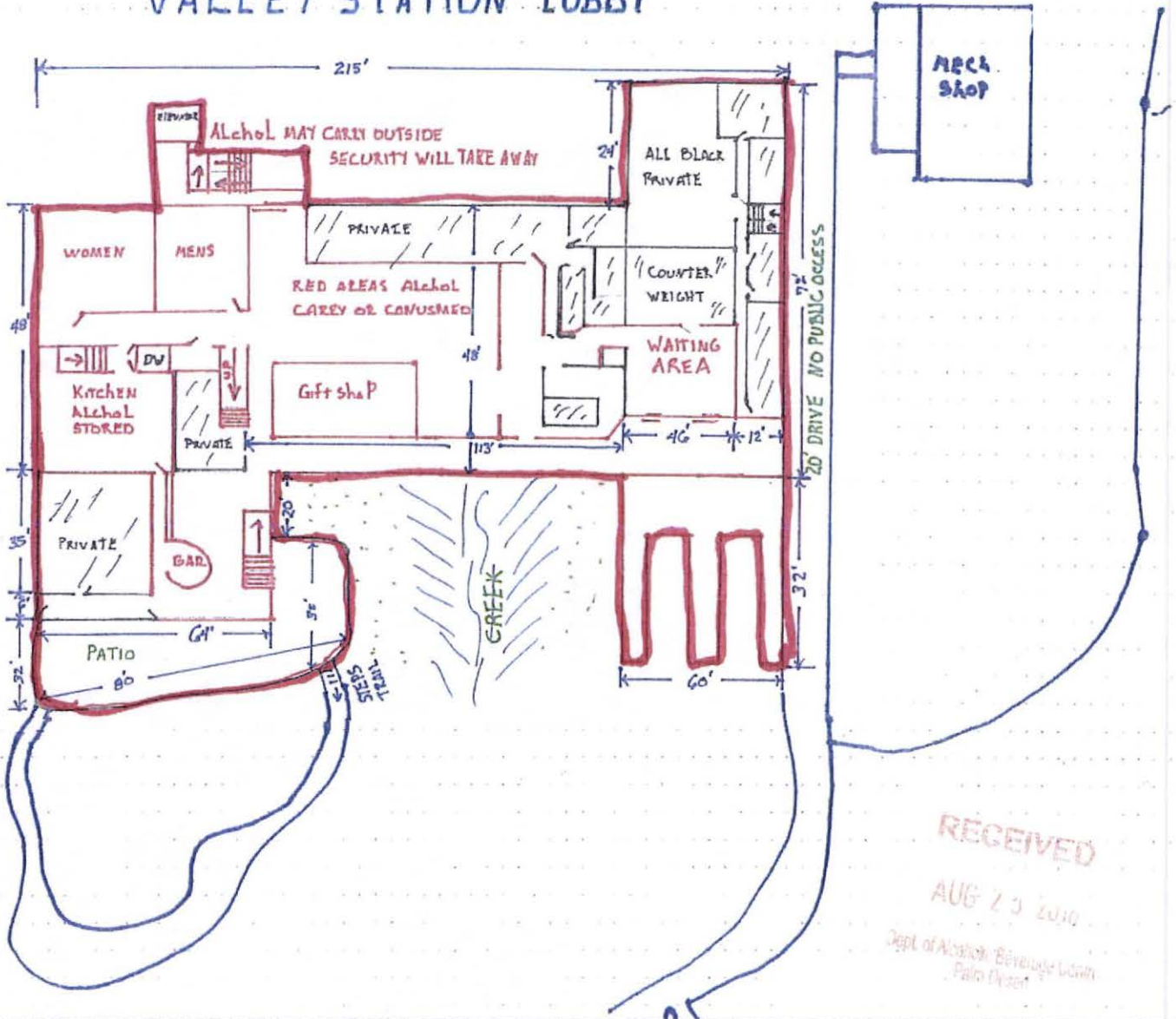
11111 Highway Road Palm Springs, Ca

Dept. of Alcoholic Beverage Control
Palm Desert

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.).

DIAGRAM

VALLEY STATION LOBBY



RECEIVED
AUG 23 2016
Dept. of Alcoholic Beverage Control
Palm Desert

It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required)

Donna Hooper

DATE SIGNED

11/4/16

FOR ABC USE ONLY

CERTIFIED CORRECT (Signature)

Donna Hooper

PRINTED NAME

Donna Hooper

INSPECTION DATE

8.25.16



**California Department of Alcoholic Beverage
Control
For the County of RIVERSIDE - (On-Sale Licenses)
and Census Tract = 9405**

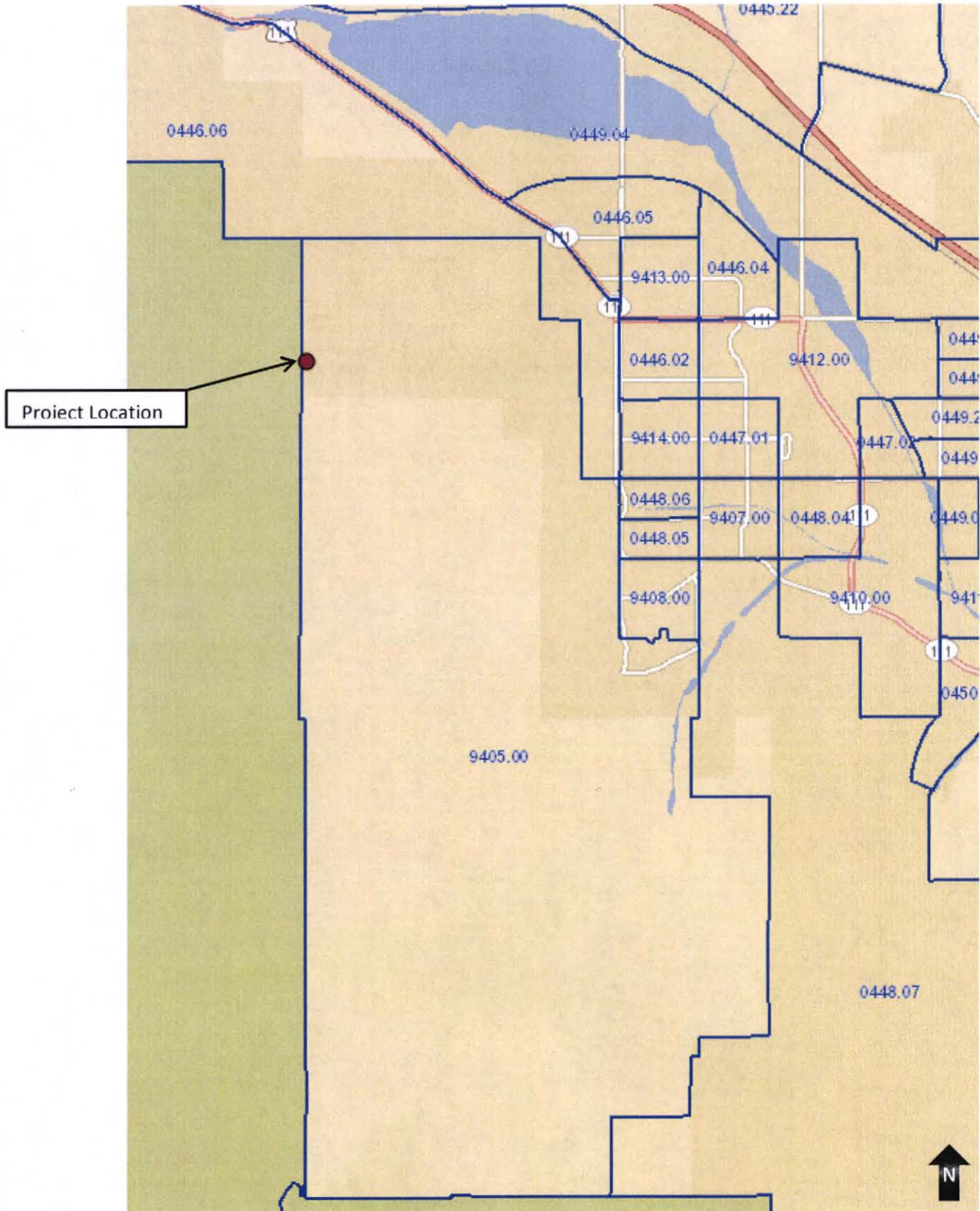
Report as of 5/24/2017

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 325737	ACTIVE	47	2/6/1997	1/31/2018	PALM CANYON SPLASHS INC 2800 S PALM CANYON DR PALM SPRINGS, CA 92264 Census Tract: 9405.00	PALM CANYON SPLASHS		3310
2) 329362	ACTIVE	47	4/22/1997	3/31/2018	TERZIC, MIRELA 1555 S PALM CANYON DR, STE H101 PALM SPRINGS, CA 92264 Census Tract: 9405.00	Mيروس RESTAURANT		3310
3) 390869	ACTIVE	41	9/13/2002	5/31/2017	ISHIKAWA, KIYOSHI 1555 S PALM CANYON DR, STE H104 PALM SPRINGS, CA 92264 Census Tract: 9405.00	KIYOSAKU		3310
4) 392528	ACTIVE	47	10/28/2004	9/30/2017	AGUA CALIENTE DEVELOPMENT AUTHORITY 1097 E MURRAY CANYON DR PALM SPRINGS, CA 92264 Census Tract: 9405.00	INDIAN CANYONS GOLF RESORT	5401 DINAH SHORE DR PALM SPRINGS, CA 92264-5970	3310
5) 445623	ACTIVE	47	5/31/2007	4/30/2018	LARMIERE, ELEANOR JOAN 535 S PALM CANYON DR PALM SPRINGS, CA 92264-7437 Census Tract: 9405.00	PALM CANYON ROADHOUSE		3310
6) 465596	ACTIVE	47	8/15/2008	7/31/2017	ARAMARK SPORTS & ENTERTAINMENT SERVICES LLC SAN JACINTO AERIAL TRAMWAY, VALLEY STATION PALM SPRINGS, CA 92262 Census Tract: 9405.00	SJ AERIAL TRAM	610 SMITHFIELD ST, STE 300 PITTSBURGH, PA 15222-2512	3310
7) 480009	ACTIVE	47	9/10/2009	8/31/2017	AGUA CALIENTE DEVELOPMENT AUTHORITY 1100 E MURRAY CANYON DR PALM SPRINGS, CA 92264-9484 Census Tract: 9405.00	INDIAN CANYONS GOLF RESORT NORTH		3310
8) 541589	SUREND	47	6/18/2014 4:38:10 PM	5/31/2017	MIGGYS CANTINA LLC 1555 S PALM CANYON DR, STE B101 PALM SPRINGS, CA 92264-8341 Census Tract: 9405.00	HACIENDA CANTINA & BEACH CLUB	1555 S PALM CANYON DR, STE D106 PALM SPRINGS, CA 92264	3310
9) 571078	ACTIVE	47	12/21/2016 8:21:14 AM	11/30/2017	ELEVATED EXPERIENCES LLC SAN JACINTO AERIAL TRAMWAY MOUNTAIN STATION PALM SPRINGS, CA 92262 Census Tract: 9405.00	ELEVATED EXPERIENCES	1 TRAMWAY RD PALM SPRINGS, CA 92262-1827	3300

--- End of Report ---

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

Map of Census Tracts





**State of California
Secretary of State**

L

16-420987

**STATEMENT OF INFORMATION
(Limited Liability Company)**

71
sk

FILED
Secretary of State
State of California

Filing Fee \$20.00. If this is an amendment, see instructions.

IMPORTANT — READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

MAY 19 2016

21/NF/PC/202/5-25-16
This Space For Filing Use Only

1. LIMITED LIABILITY COMPANY NAME
ELEVATED EXPERIENCES, LLC

File Number and State or Place of Organization

2. SECRETARY OF STATE FILE NUMBER 201604810071	3. STATE OR PLACE OF ORGANIZATION (If formed outside of California) CA
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No Change Statement

4. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no Statement of Information has been previously filed, this form must be completed in its entirety.

If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 15.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 5 and 7 cannot be P.O. Boxes.)

5. STREET ADDRESS OF PRINCIPAL OFFICE	CITY	STATE	ZIP CODE
850 E. Vista Chino #37	Palm Springs	CA	92262
6. MAILING ADDRESS OF LLC, IF DIFFERENT THAN ITEM 5	CITY	STATE	ZIP CODE
7. STREET ADDRESS OF CALIFORNIA OFFICE	CITY	STATE	ZIP CODE
850 E. Vista Chino #37	Palm Springs	CA	92262

Name and Complete Address of the Chief Executive Officer, If Any

8. NAME	ADDRESS	CITY	STATE	ZIP CODE

Name and Complete Address of Any Manager or Managers, or if None Have Been Appointed or Elected, Provide the Name and Address of Each Member (Attach additional pages, if necessary.)

9. NAME	ADDRESS	CITY	STATE	ZIP CODE
John Fritch	850 E. Vista Chino #37	Palm Springs	CA	92262
10. NAME	ADDRESS	CITY	STATE	ZIP CODE
Ronald William Wilcox	850 E. Vista Chino #37	Palm Springs	CA	92262
11. NAME	ADDRESS	CITY	STATE	ZIP CODE

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 13 must be completed with a California address, a P.O. Box is not acceptable. If the agent is a corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 13 must be left blank.

12. NAME OF AGENT FOR SERVICE OF PROCESS
Legalzoom.com, Inc. C2AV73A9

13. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL	CITY	STATE	ZIP CODE
		CA	

Type of Business

14. DESCRIBE THE TYPE OF BUSINESS OF THE LIMITED LIABILITY COMPANY
Accommodation and Food Service

15. THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT.

05/16/2016	Cheyenne Moseley	Authorized Representative	<u>CM</u>
DATE	TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM	TITLE	SIGNATURE