

Staff Summary Report



Hearing Officer Hearing Date: March 4, 2008

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by **CHEZ MONIEUX (PL080036)** located at 5004 South Price Road for one (1) use permit.

DOCUMENT NAME: 20080304dssd01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **CHEZ MONIEUX (PL080036)** (Vance Matthews, applicant; Property Brokers LLC, property owner) located at 5004 South Price Road in the PCC-1, Planned Commercial Center District for:

ZUP08020 Use permit to allow live entertainment (DJ, dancing, live music) ancillary to a restaurant.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

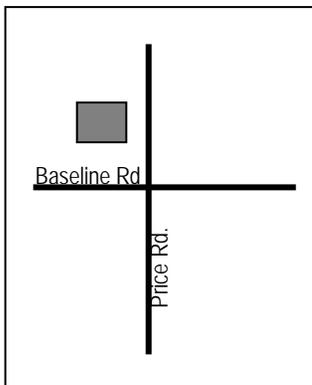
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to the conditions of approval 1-9

ADDITIONAL INFO: Chez Monieux is requesting a use permit to allow live entertainment (live bands, acoustical guitar and DJ) at a restaurant/bar located at 5004 South Price Road in the PCC-1, Planned Commercial Center District. To date, staff has received one letter of inquiry on this request. In that this use is not out of character with the area's existing retail and commercial businesses. Staff recommends approval of the use permit request with attached conditions.



PAGES:

1. List of Attachments
2. Comments;
3. Reason for Approval; Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor Plan
6. Letter of Inquiry from Neighbor
- 7-8. Staff Photograph(s)

COMMENTS:

Chez Monieux is requesting a use permit to allow live entertainment in the form of live bands two (2) nights a week, acoustical guitar two (2) nights a week, jukebox and an occasional DJ at a new restaurant/bar located at 5004 South Price Road in the PCC-1, Planned Commercial Center District. The Cajun themed restaurant/bar; holds a series 12 liquor license is an allowed use in the PCC-1 zoning district. The hours of operation will be from 10:00 AM to 2:00 AM and the business will have five (5) full time and up to eight (8) part time employees. The applicant has stated in their letter that live amplified music will be scheduled two (2) nights a week and all live music will cease by 12:00 AM.

This shopping center has a history of allowing restaurants and bars with live entertainment. Both the Reggae Café and Sinbad's Restaurant once occupied this suite and obtained city approvals for live entertainment. Other businesses in the shopping center, Priceless Inn (Bar) and Real Bar (Bar) also had received city approvals for live entertainment. The adjacent neighborhood has a history of supporting the business establishments in this shopping center. The neighborhood had concerns with The Real Bar noise and complaints were filed with Tempe Police. Since the neighborhood had to deal with an unpleasant experience (The Real Bar), they have paid close attention to new businesses that move into the shopping center. Several neighbors have spoke with the Chez Monieux ownership and have given tentative support to the business operation as described in their letter of explanation.

In that this request is not out of character with the area's existing retail and commercial businesses and the neighborhood have given a favorable review of this business. Staff recommends approval of the use permit request with attached conditions.

To date, staff has received one letter of inquiry on this request.

Use Permit

The Zoning and Development Code requires live entertainment to obtain a use permit in the PCC-1, Planned Commercial Center District. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There should be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This use is similar to others in the area and past restaurants in the shopping center.; sound from music will have to conform to the noise ordinance.
- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;
 - The proposed requested use should not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding structures and uses.

Conclusion

Staff recommends approval, subject to the conditions of approval.

REASON(S) FOR APPROVAL:

1. The business is a general commercial use (restaurant/bar), and is compatible with the other businesses on the property and within the area.
2. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
3. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

CONDITION(S) OF APPROVAL:

1. This use permit is valid for "Chez Monieux" and is non-transferable. Should the business be sold, the new owners must contact the Hearing Officer staff and apply for a new use permit.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. The live entertainment shall be indoors only, no live entertainment will be allowed on the exterior patio; this is to include no outdoor speakers.
4. Live (amplified) music shall be restricted to two (2) nights a week; this is stated in the applicant's letter of explanation.
5. Within one (1) year from approval (**March 4, 2009**), the applicant shall return and meet with Development Services staff for a review of the live entertainment use permit.
6. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
7. The use permit is valid for the plans as submitted within this application and any expansion or intensification of the use will require review of the use permit.
8. The applicant shall adhere to the City of Tempe Noise Ordinance.
9. The rear door shall require (compliant) security lighting that meets five (5) foot candles at the door and two (2) foot candles within a 15' radius.

HISTORY & FACTS:

February 20, 1997

BA970032: Use Permit approved for LIKLE-MONTEGO CAFÉ REGGAE to allow live entertainment at 5004 S. Price Rd.

April 25, 2002

CC020015: Use Permit approved for PRICELESS INN to allow a Bar at 5014 S. Price Rd.

May 6, 2003

BA030075: Use Permits approved for SINBAD'S RESTAURANT to allow live entertainment and an outdoor patio at 5004 S. Price Rd.

February 24, 2005

CC040104: Use Permit approved for REAL BAR to expand existing Bar and adding live entertainment at 5014 S. Price Rd.

November 20, 2007

PL070412: Use Permit(s) denied for LUCKY MAN PRODUCTIONS to allow a series 6 bar and live entertainment music venue.

DESCRIPTION:

Owner – Property Brokers LLC
Applicant – Vance Mathews
Existing Zoning – PCC-1, Planned Commercial Center District
Parcel Size– 315,996 s.f. / 7.2acres
Building/Tenant Area – 1,208 s.f.
Parking Required – Shared Parking Model
Parking Provided – 394 spaces

**ZONING AND
DEVELOPMENT**

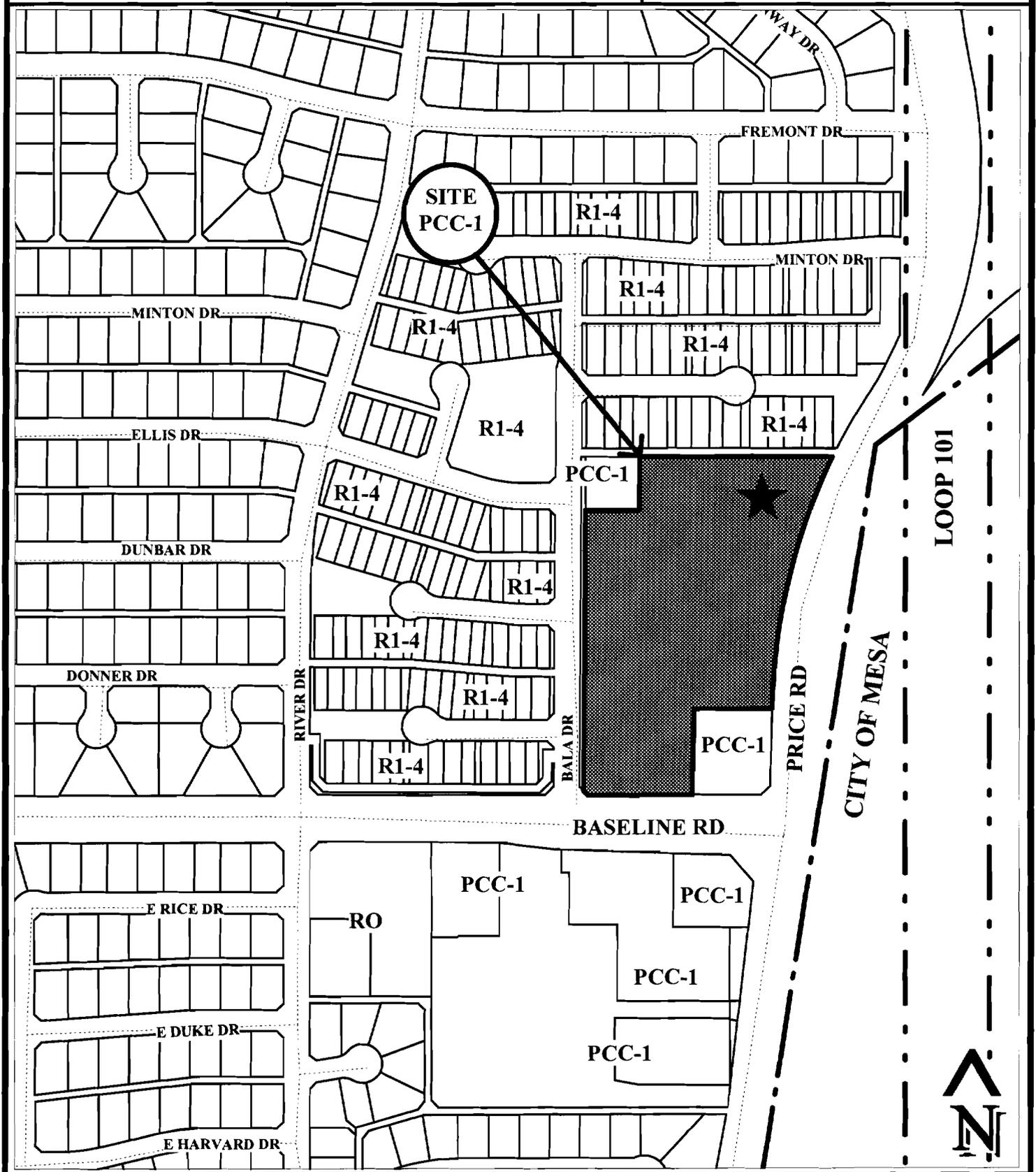
CODE REFERENCE:

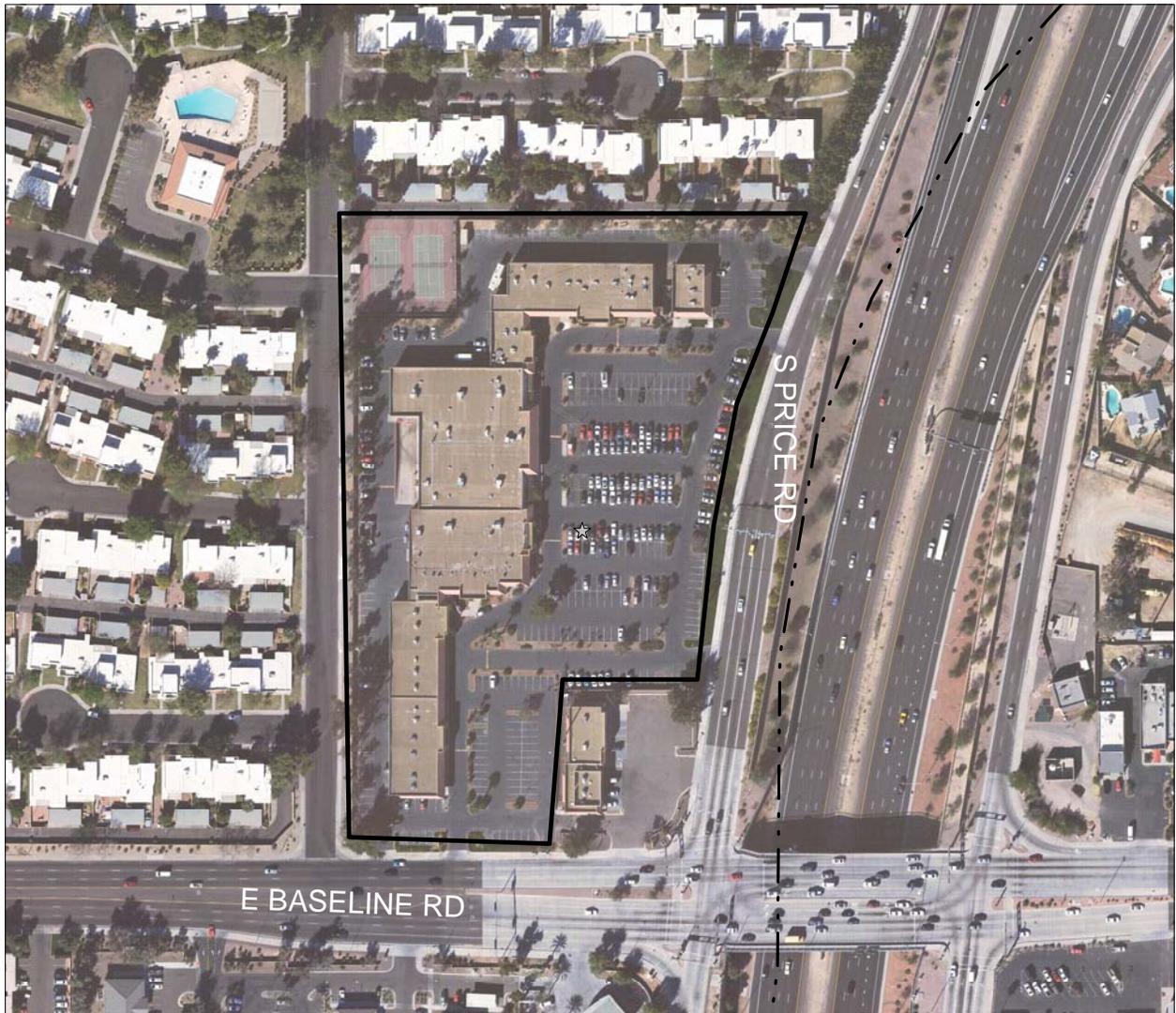
Part 3, Chapter 2, Section 3-202, Table 3-202A – Permitted Land Uses in PCC-1, Planned Commercial Center District.

Part 6, Chapter 3, Section 6-308 – Use Permit

CHEZ MONIEUX

PL080036





CHEZ MONIEUX (PL080036)

This letter is to describe the operation of the restaurant and bar I am currently working on opening. I would like to begin by saying I want this place to be a neighborhood oriented restaurant and bar catering to local residents and businesses. The name will be Chez Monieux. I ideally would like the hours of operation to begin at ten am and run through the day and night until two am. We will be serving food and spirituous liquors. This will be a cajun themed establishment. Our staff will consist of five full time employees and five to eight part time employees who will all be sent to food and liquor service classes. This will be a mature and sophisticated environment catering to all types of customers but mainly to the neighborhood.

As for vehicular and pedestrian traffic, I can assure all parties interested that there will be no traffic to significantly cause any inconvenience and we will be monitoring all activity in the parking lot and surrounding areas. And when it comes to any nuisances I would like say that I would like to offer live music here. Mainly jazz, rock and roll, blues and cajun style music. This would not exceed two nights per week for amplified music and maybe one or two more for acoustic sets. This will not be a venue, but just an addition to the atmosphere. And there will be no live music to go beyond eleven pm -twelve am and would be on the weekend for amplified music. We would also like to have a juke box and an occasional DJ. I am more than willing to work with the neighbors and possibly install some form of sound proofing on the back side of the building to filter the sound from getting into the neighborhood.

I also intend on having a pool table and pinball machines for added entertainment. We want people to have fun and that's what this restaurant and bar is about. With that being said, we will not tolerate customers disrupting or destroying any property around us. As I said we will be monitoring the area and if need be we will hire security for the sole purpose of ensuring the local residents and business that their property and themselves are protected. And I would like to add that we are aware of the neighboring school and we will not allow minors in our establishment without a parent or guardian.

My staff will consist of responsible and experienced people. I can assure you that they will do their best to keep the neighborhood residents, local businesses, and customers happy.

Sincerely,
Vance T. Matthews
Owner

PRICE & BASELINE PROJECT DESCRIPTION:

A project program to renovate and improve the existing building 17' and building 17' at 5900 S. Price Road in Tempe, Arizona. The project includes the renovation of building 17' to be a multi-unit residential building (MUR) with 200 units. The applicant is requesting a change in zoning from the existing zoning to a multi-unit residential building (MUR) with 200 units. The applicant is requesting a change in zoning from the existing zoning to a multi-unit residential building (MUR) with 200 units. The applicant is requesting a change in zoning from the existing zoning to a multi-unit residential building (MUR) with 200 units.

No new use is to be added to the existing structure for this use. The existing building 17' is to be renovated to comply with the City of Tempe's requirements for multi-unit residential buildings. The applicant is requesting a change in zoning from the existing zoning to a multi-unit residential building (MUR) with 200 units. The applicant is requesting a change in zoning from the existing zoning to a multi-unit residential building (MUR) with 200 units.

No changes are to be made to the public layout of the existing building. One new temporary use is to be identified on the east side of existing building 17' within the setback area between buildings 17' and 17'.

Signage for the multi-unit residential building is to be provided by an approved sign application.

PARCEL NUMBER:
133-33-001-C

PROPERTY DESCRIPTION:

NE 1/4 SEC 34 T14N R02W TO NE COR SEC 1 T14N R02W TO 232.20W TH 1/4 OF E 1/4 OF 7TH N 440 W 14.17 TH N 85.12 AP TO 100 TH N 12.64 TH S 88D E 1.24 TH S 72.06 TH N 89D W 12.64 POB

OWNER IS EXPLORING LIQUOR LICENSING SEPARATELY FROM ARCHITECTURAL APPLICATION. CONTACT ZONING ATTORNEY STEPHEN DUNCAN FOR INFORMATION PERTAINING TO STATUS OF OWNER'S LIQUOR LICENSE.

A SHARED PARKING MODEL PER APPENDIX F OF CITY OF TEMPE ZONING ORDINANCE HAS BEEN SUBMITTED TO DEVELOPMENT SERVICES.

APPLICANT:

LUCKYMAN PRODUCTIONS
ATTN: TOM LAPENNA
730 N. MILL AVE
TEMPE, AZ 85281

ZONING ATTORNEY:

STEPHEN L. DUNCAN, P.C.
BRENNAN HOUSE
1726 N. 7TH STREET
PHOENIX, AZ 85006

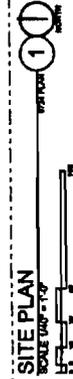
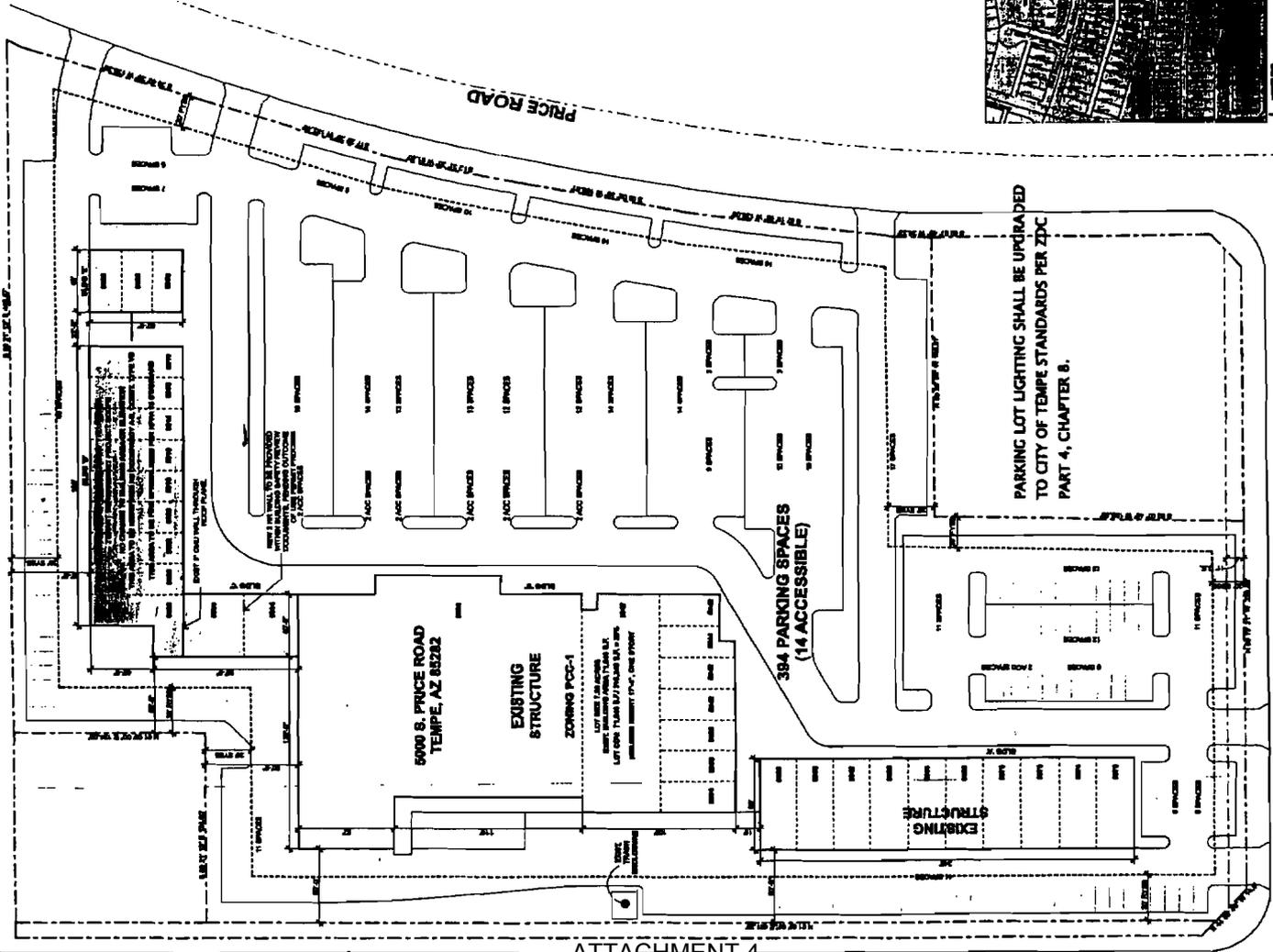
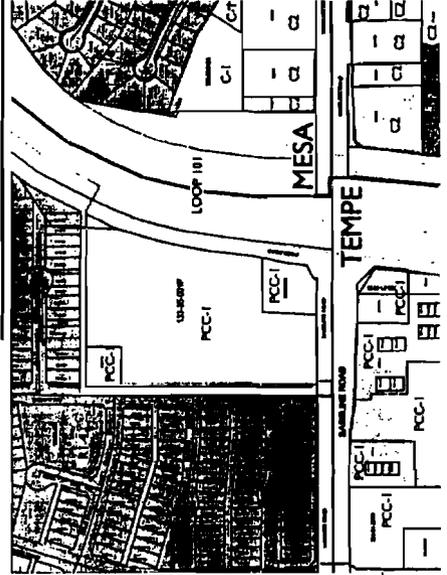
ARCHITECT:

CCBG ARCHITECTS, INC.
ATTN: MARTIN BALL
102 E. BUCHANAN STREET
PHOENIX, AZ 85004

VICINITY MAP

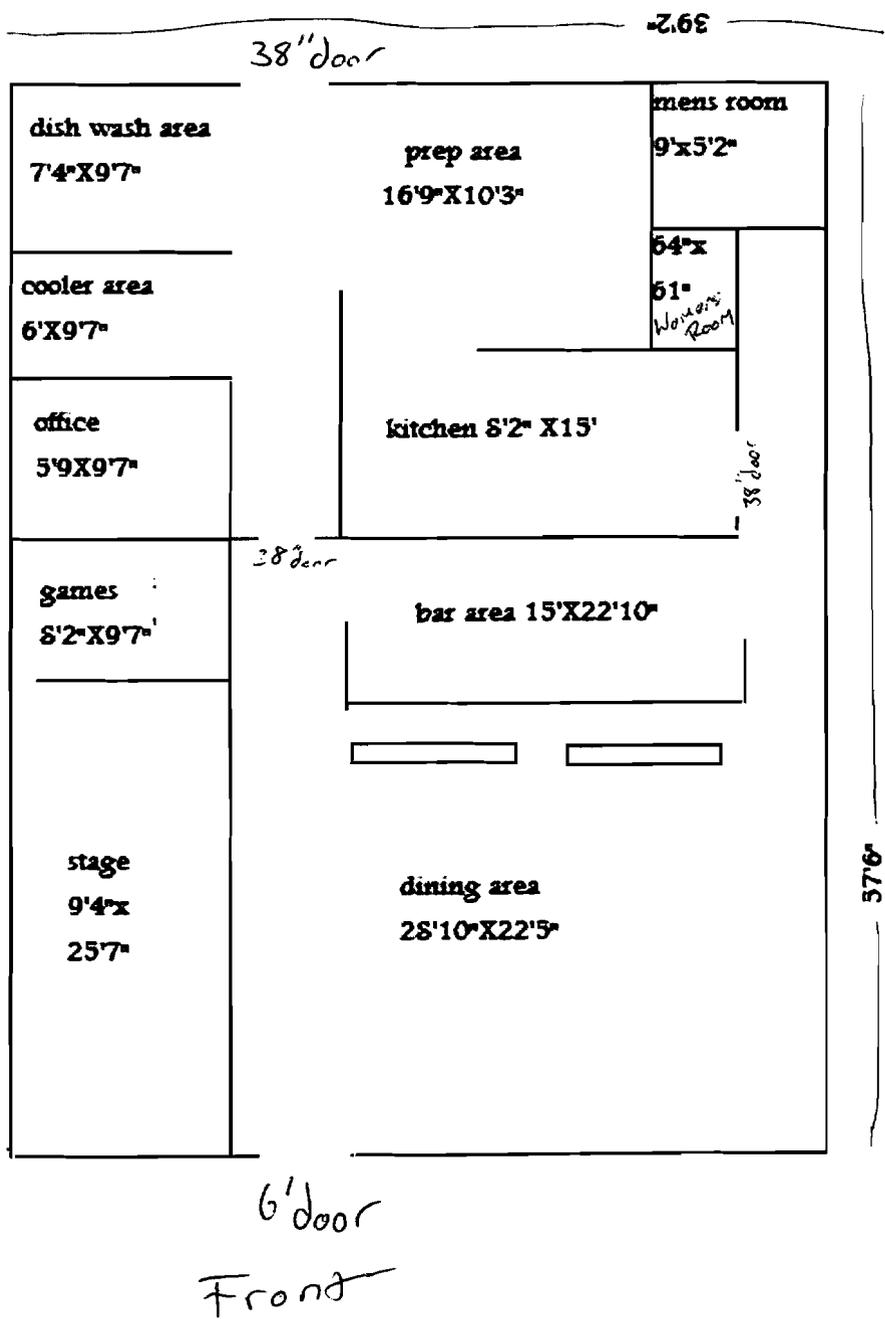


CONTEXT MAP



Chez Monieux
Floor Plan

5004 South Price RD
Tempe AZ 85282



Daffara, Shawn

From: FRANK BINKLEY [febink@msn.com]
Sent: Tuesday, February 19, 2008 3:03 PM
To: Daffara, Shawn
Subject: Chez Monieux (5004) S. Price

RECEIVED
08 FEB 21 PM 1:39
TEMPLE DEVELOPMENT
SERVICES DEPARTMENT

Shawn,

It was good to talk to you again. As I said I don't think there will be as much opposition to this request as there was for the last one.

A few things that I would like to have stipulated are:

1. The back door will be closed at all times there is live music.
2. A security light will be installed.
3. No parking in the rear except for staff.
4. Review of request in one year.
5. Amplified music on no more than 2 nights per week. (This is what he says he wants to do, but I would like to have it as a condition of approval).
6. No congregating allowed outside. Smoking limited to the front of the building. A designated, cordoned off smoking area would be best.

That's it for now. If I come up with anything else, I will let you know.

Thanks for your help.

Frank Binkley
2163 E. Ellis Drive
480-838-6552



CHEZ MONIEUX

5004 S PRICE RD

PL080036

FRONT OF BUSINESS



CHEZ MONIEUX

5004 S PRICE RD

PL080036

SIDE OF BUILDING