

# Staff Summary Report



Hearing Officer Hearing Date: October 7, 2008

Agenda Item Number: 9

**SUBJECT:** This is a public hearing for a request by **FAT TUESDAY (PL080339)** located at 680 South Mill Avenue for one (1) use permit.

**DOCUMENT NAME:** 20081007dssd04

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by **CENTERPOINT - FAT TUESDAY (PL080339)** (Chad Wilford, applicant; Centerpoint Holdings LLC, property owner) located at 680 South Mill Avenue in the CC, City Center District for:

**ZUP08144** Use permit to allow live entertainment (karaoke, live bands, individual acts).

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

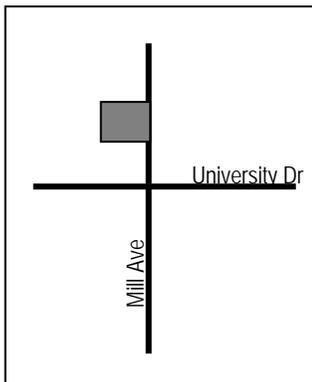
**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval subject to Conditions

**ADDITIONAL INFO:** The applicant is requesting a use permit to allow live entertainment, located at 680 South Mill Avenue, Suite Nos. 106-108; 116-118 in the CC, City Center District. The entertainment would be in the form of live music, dancing, comedy, DJ's, magicians, and karaoke. To date no public input has been received. Staff supports approval of the use permit.



**PAGES:**

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

**ATTACHMENTS:**

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

## COMMENTS:

The applicant is requesting a use permit to allow live entertainment, located at 680 South Mill Avenue, Suite Nos. 106-108; 116-118 in the CC, City Center District. The entertainment would be in the form of live music, dancing, comedy, DJ's, magicians, and karaoke. Live entertainment will take place on Mondays through Sundays during regular business hours.

Due to a pending complaint through the City of Tempe Police Department about noise on the Mill Avenue (front) patio, the live entertainment shall only be allowed inside the tenant's lease space and the rear patio. No outdoor live entertainment or speakers are allowed on the Mill Avenue frontage patio.

To date no public input has been received. Staff supports approval of the use permit.

## Use Permit

The Zoning and Development Code requires a use permit for live music in the CC, City 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;
  - The restaurant use is similar to others in the area; 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 would not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
  - The proposed requested use would not contribute to neighborhood deterioration or downgrade property values.

## Conclusion

Staff recommends approval of the use permit, subject to conditions of approval.

## REASON(S) FOR APPROVAL:

1. Traffic generated by this use should not be excessive.
2. This use will not result in the deterioration of the neighborhood or downgrading of property values.
3. The use appears to be compatible with the surrounding structures and uses.

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

**CONDITION(S)**

**OF APPROVAL:**

1. The use permit is valid for Fat Tuesdays and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. Music generated from the use shall conform to the City of Tempe code requirements for noise control.
4. 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.
5. No live entertainment or outdoor speakers permitted on the Mill Ave frontage patio.
6. The use permit is valid for the plans as submitted within this application.
7. The applicant shall work with the Tempe Police Department to implement a Security Plan for the business.

**HISTORY & FACTS:**

August 29, 2008                      CM081201: Complaint about Live Entertainment without an approved use permit.

**DESCRIPTION:**

Owner – Centerpoint Holdings LLC  
Applicant – Chad Wilford  
Existing Zoning – CC, City Center District  
Parcel Area – 90,561 s.f.  
Suite Size – 10,424 s.f.

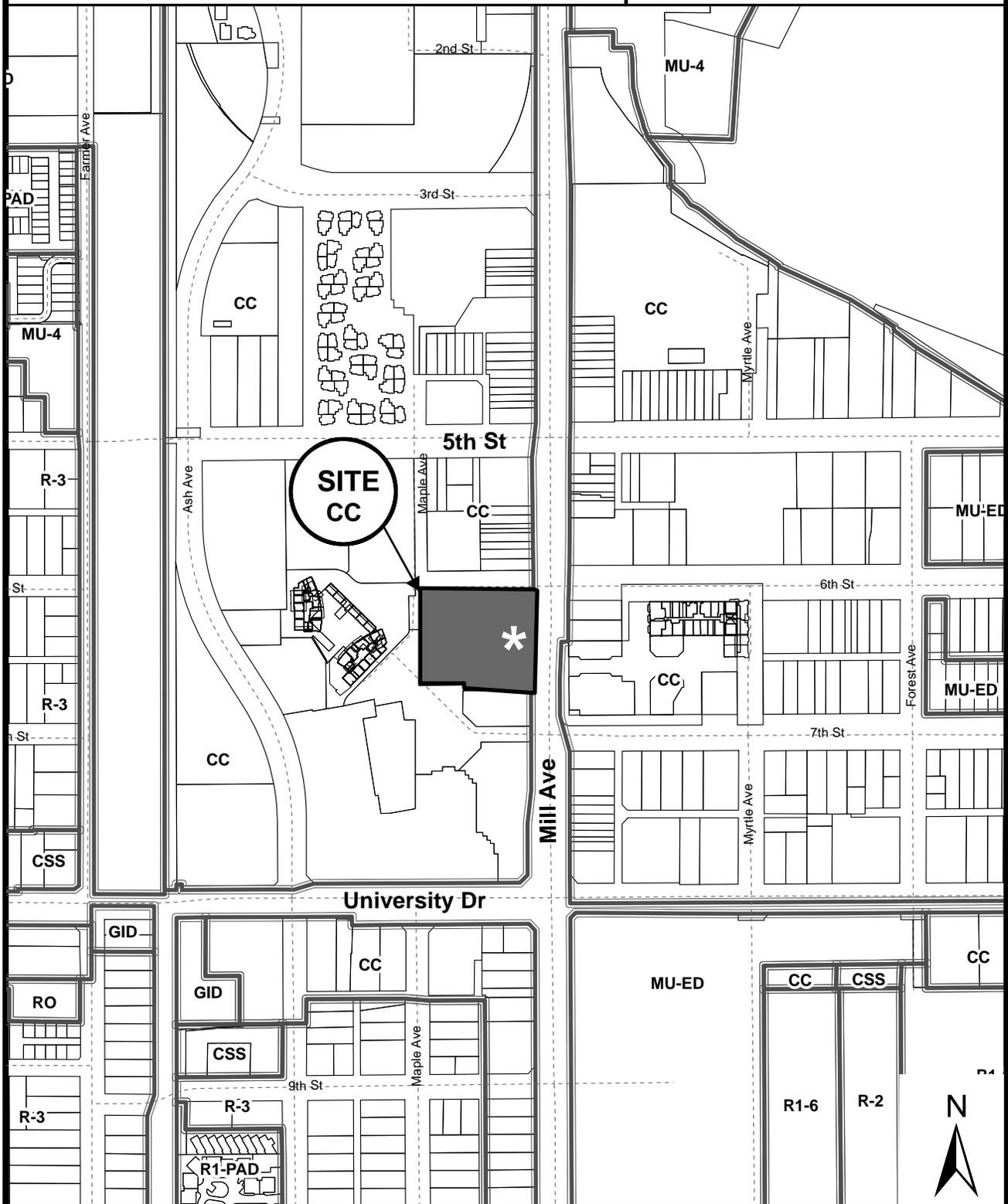
**ZONING AND DEVELOPMENT**

**CODE REFERENCE:**

Part 3, Chapter 2, Section 3-202: Permitted Uses in Commercial and Mixed Use Districts.  
Part 6, Chapter 3, Section 6-308: Use Permit

**CENTERPOINT - FAT TUESDAY**

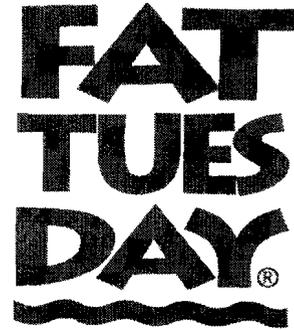
**PL080339**



**Location Map**



**CENTERPOINT - FAT TUESDAY (PL080339)**



September 4, 2008

Fat Tuesday Tempe  
680 S. Mill Ave.  
Tempe, AZ 85281

To Whom It May Concern:

We at Party Gators Inc, dba Fat Tuesday, are requesting a use permit from the City of Tempe for live entertainment. We would like to have the following types of entertainment: DJs, live bands, magicians, comedy acts, dancing and karaoke. The DJs and bands will be set up in the locations shown on the attached floor plan. DJs may also be setup in a small section of the front patio facing Mill Avenue, with speakers, not to exceed noise ordinances. Magicians will be floating entertainers within the boundaries of our leased space. We will have live entertainment Monday- Sunday during our regular business hours as needed.

We are also requesting similar live entertainment in an enclosed extension of premise during special events as approved by property ownership and the City of Tempe. Attached is also a tentative floor plan for our extension of premise. Variations may occur and are subject to landlord and city approval.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Wilford".

Chad Wilford  
Managing Partner

SUITE NUMBERS

680 SOUTH MILL AVENUE

RETAIL BUILDING 'B'

City of Tempe  
Suite Assignment

Name of Project:

Address: 680 S MILL AVE

Contact Name: SARA BOENKE

Phone #: 602-867-2200

New

Reassigned

Suite Numbers:

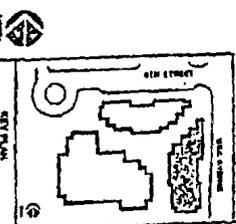
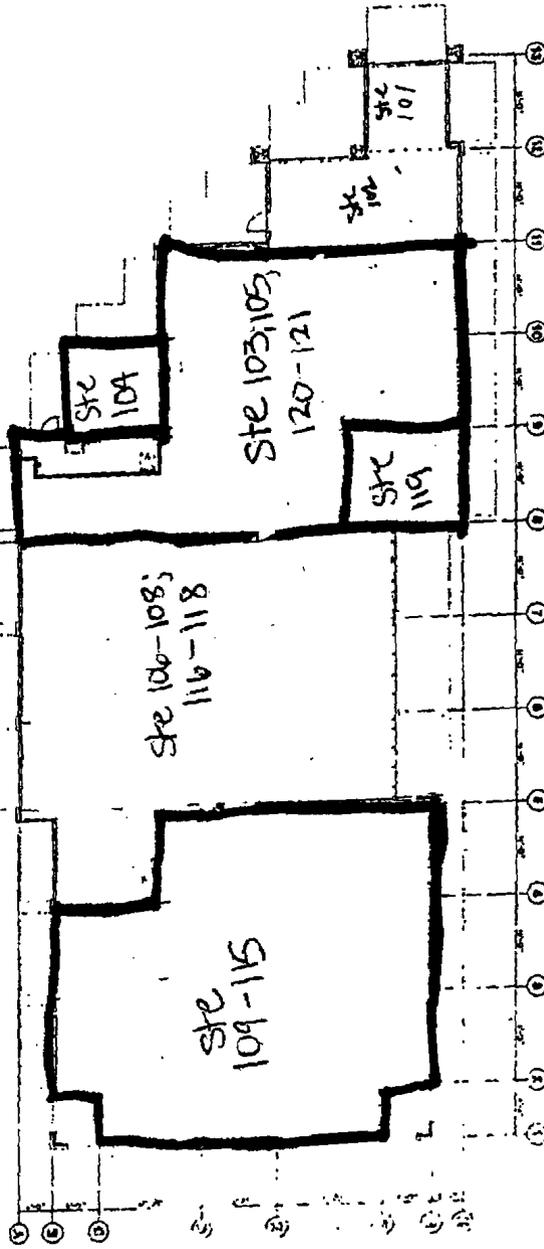
STE 101-121

Copy to Applicant  Entered in Permits +

Added to Suite Book  Sent to Engineering

Initials: DMB

Date: 7/18/08



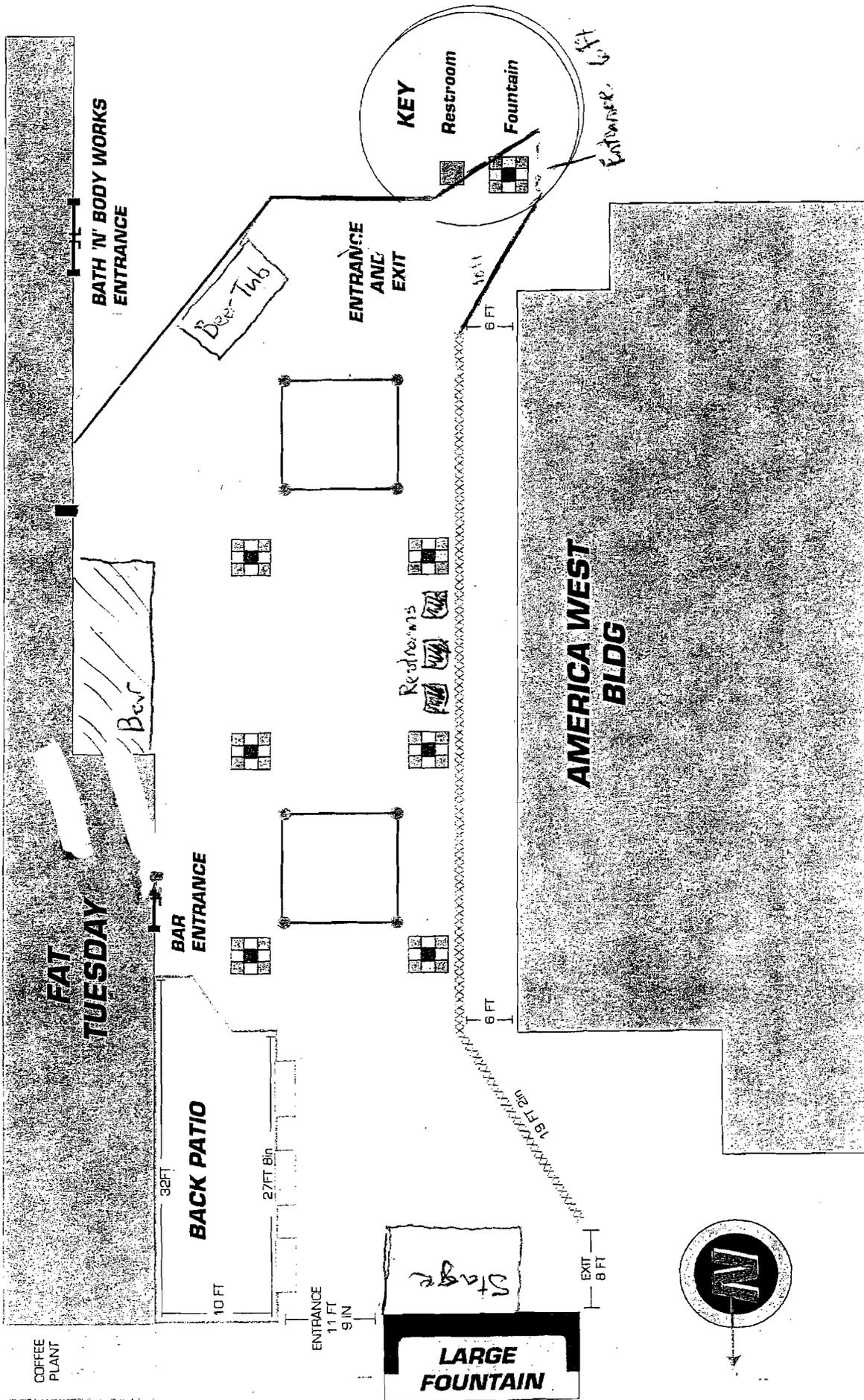
NO.	DATE	REVISIONS

DATE: 7/18/08  
 DRAWN BY: [unclear]  
 CHECKED BY: [unclear]

# CENTERPOINT

Phase One of a Downtown Mixed-Use Redevelopment in Tempe, Arizona  
 A Joint Development by: DMB ASSOCIATES INC. & BERWIND REALTY SERVICES INC.





Special Event / Extension of premise Site plan.



**CENTERPOINT – FAT TUESDAY**

**680 SOUTH MILL AVENUE**

**PL080339**

**FRONT OF BUSINESS**