

Staff Summary Report



Hearing Officer Hearing Date: November 20, 2007

Agenda Item Number: 2

SUBJECT: This is a public hearing for a request by **LUCKY MAN PRODUCTIONS LLC (PL070412)** located at 5004 South Price Road for two (2) use permits.

DOCUMENT NAME: 20071120dssd01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **TEMPE VILLAGE - LUCKY MAN PRODUCTIONS LLC (PL070412)** (Stephen Duncan, Esquire/applicant; White Knight Investments, ACC /property owner) located at 5004 South Price Road in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP07146 Use permit to allow a bar (Series 6).

ZUP07153 Use permit to allow live entertainment (venue).

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

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

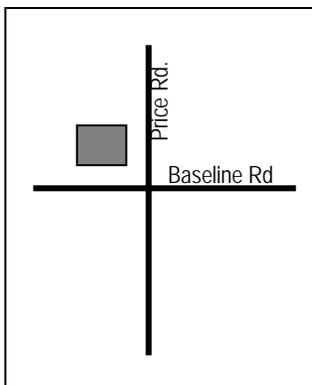
A handwritten signature in black ink, appearing to read 'SEA'.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial

ADDITIONAL INFO: Lucky Man Productions is requesting two (2) use permits, one to allow a bar (Series 6) and another use permit to allow live entertainment (venue) at 5004 South Price Road in the PCC-1, Planned Commercial Center Neighborhood District. The need for the use permits stems from the new ownership proposing to expand a previously operated bar (Real Bar) into a music venue encompassing two (2) buildings at the north end of shopping center. To date, staff has received seventeen (17) e-mails and ten (10) phone calls of opposition to this request. In that the use (music venue) is out of character with the area's existing neighborhood retail and commercial businesses, and is not similar to the previous neighborhood bars that existed in the past, staff does not support a music venue at this location; the use is too intensive for a neighborhood shopping district.



PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-5. Letter of Intent
6. Site plan
7. Floor Plan
8. Elevations
- 9-35. Letters/E-mails of Opposition
- 36-40. Staff Photograph(s)

COMMENTS:

Lucky Man Productions is requesting two (2) use permits. The first to allow a bar (Series 6) and a second use permit to allow live entertainment (venue) at 5004 South Price Road in the PCC-1, Planned Commercial Center Neighborhood District. The need for the use permits stems from the new ownership proposing to expand a previously operated bar (Real Bar) into a music venue that encompasses two buildings at the north end of shopping center. Lucky Man Productions is proposing two music venues, the north will be the largest music venue and will cater to teenagers and young adults; adults over 21 years of age will be able to purchase alcohol in the large music venue. The south venue (previously Sinbad's Restaurant) will host a smaller, more intimate musical venue which will cater to the same clientele. The smaller venue will have a soda bar available for the patrons with no alcohol being served in the smaller venue. The hours of operation will be seven (7) days a week from 7:00 PM to 1:00 AM and will require 45 employees including security guards, bartenders, and entertainment staff. Lucky Man Productions is also proposing to move their corporate headquarters to the northwest corner of the shopping center. Hours of operation for the office will be Monday through Friday 8:00 AM to 5:00 PM, and will consist of 20 employees.

To date, staff has received seventeen (17) e-mails of opposition regarding this request, and ten (10) phone calls of opposition. The City of Tempe Police Department's, Crime Prevention Unit is in opposition to this case. In the past, the Police Department cited similar businesses like The Sets, Real Bar, and The Clubhouse. These three (3) businesses are series 6 bars that incorporate live entertainment. They have not mixed well with surrounding residential uses causing noise and crowd control issues that have been difficult to police. Arizona Department of Transportation (ADOT) also is concerned with the traffic that may be generated by a music venue; ADOT feels Price Frontage Road and Baseline Road intersection adjacent to the Loop 101 is not adequate to handle the traffic that would be generated by a music venue. Lucky Man Productions is a "music venue" more intense than a neighborhood bar with live entertainment, and will open only when they have scheduled concerts. In that this use (music venue) is out of character with the area's existing neighborhood retail and commercial businesses, and is not similar to the previous neighborhood bars, staff does not support a music venue at this location; the use is too intensive for a neighborhood shopping district.

Neighborhood Meeting

The applicant volunteered to hold a neighborhood meeting to explain the operation to the residential neighbors, as well as the commercial tenants in this shopping center.

The neighborhood meeting was held Wednesday October 10, 2007 at 6:30 PM. Twenty-nine (29) neighbors showed up to attend the meeting. The neighbor's raised concerns over parking, noise, vibration, crowd control and believe this operation should seek another location. Many neighbors felt the use is too close to the neighborhood. The neighbors do not believe it is possible to sound-proof a building to the extent no noise or vibration would disturb the neighborhood. The architect, Martin Ball, explained that Lucky Man Productions is planning on sound proofing the walls to reduce the noise and vibration so as to not cause conflict with the neighbors. The sound proof wall will be a similar to the "THX" sound walls found in movie theaters. The architect is working with City staff on shared parking for the shopping center. The shared parking has not been approved; we are waiting for additional information from the applicant to complete our review. Sherri Lesser has preliminarily indicated that the shared parking could work given the mix of uses at this shopping center.

Use Permit

The Zoning and Development Code requires Bars, Taverns and Nightclubs to obtain a use permit in the PCC-1, Planned Commercial Center Neighborhood District. This use permit request does not meet all applicable tests in the following manner:

Evaluating the use permit, the proposal doesn't pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be 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 not similar to others in the area; there may be noise, vibration, and crowds. Control of the interior environment does not mitigate potential parking lot issues prior to, during, and after events.
- 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 may potentially contribute to neighborhood deterioration or downgrade property values as indicated by historic incidences cited by the Police Department, Crime Prevention Unit.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use is an intensification of previous neighborhood bars and is not compatible with surrounding structures and uses.

Conclusion

Staff recommends denial of the use permits.

REASON(S) FOR DENIAL:

1. This business is not a general commercial use (bar/tavern), it is a regional music venue and is not compatible in a neighborhood shopping center, the close proximity of residential neighborhoods and other businesses on the property and within the area.
2. Apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
3. Traffic generated by this use could not be excessive for this neighborhood area
4. The use is not compatible with the building, site and adjacent property. The building would require improvements to satisfy building code requirements.
5. Approval of the use permit will be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

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 "Lucky Man Productions" and is not transferable. Should the business be sold, the new owners must contact the Board of Adjustment/Hearing Officer staff 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. 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.
4. The applicant shall come back to the City of Tempe for a review of the Use Permits in one (1) year. Applicant shall return to the Hearing Officer before **November 20, 2008**.
5. The Shared Parking application must be reviewed and approved in order for the Use Permit to become effective. If the Shared Parking is not approved the use will not be allowed to operate at this location due to inadequate parking.
6. Any expansion or intensification of the use will require review of the use permit.
7. The use permit is valid for the plans as submitted within this application.
8. Submit a security plan with the Tempe Police Department within 30 calendar days (**December 20, 2007**). Contact Officer Dan Brown at (480) 858-6331.
9. The Tempe Police Department, Crime Prevention Unit will be requiring all parking lot lighting be upgraded to meet City of Tempe Lighting Standards. Lighting to meet Zoning and Development Code, Part 4, Chapter 8.
10. Remove all the non-compliant light fixtures on all areas of the building; these fixtures do not meet the City of Tempe Lighting Standards. Replace with a compliant light fixture, details to be reviewed by staff. To be completed before business opens.
11. All comments from Site Plan Review dated (9/26/07, 10/31/07) need to be resolved.
12. Lucky Man Productions shall adhere to the City of Tempe Noise Ordinance. No noise exceeding ambient decibels for this area or vibration shall eminent from the music venue.

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.

DESCRIPTION:

Owner – White Knight Investments, ACC
Applicant – Stephen Duncan
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District
Parcel Size– 54,576 s.f. / 1.25 acres
Building Area– 15,200 s.f.
Total Parking Required – Shared Parking
Total Parking Provided – 394 spaces

ZONING AND DEVELOPMENT

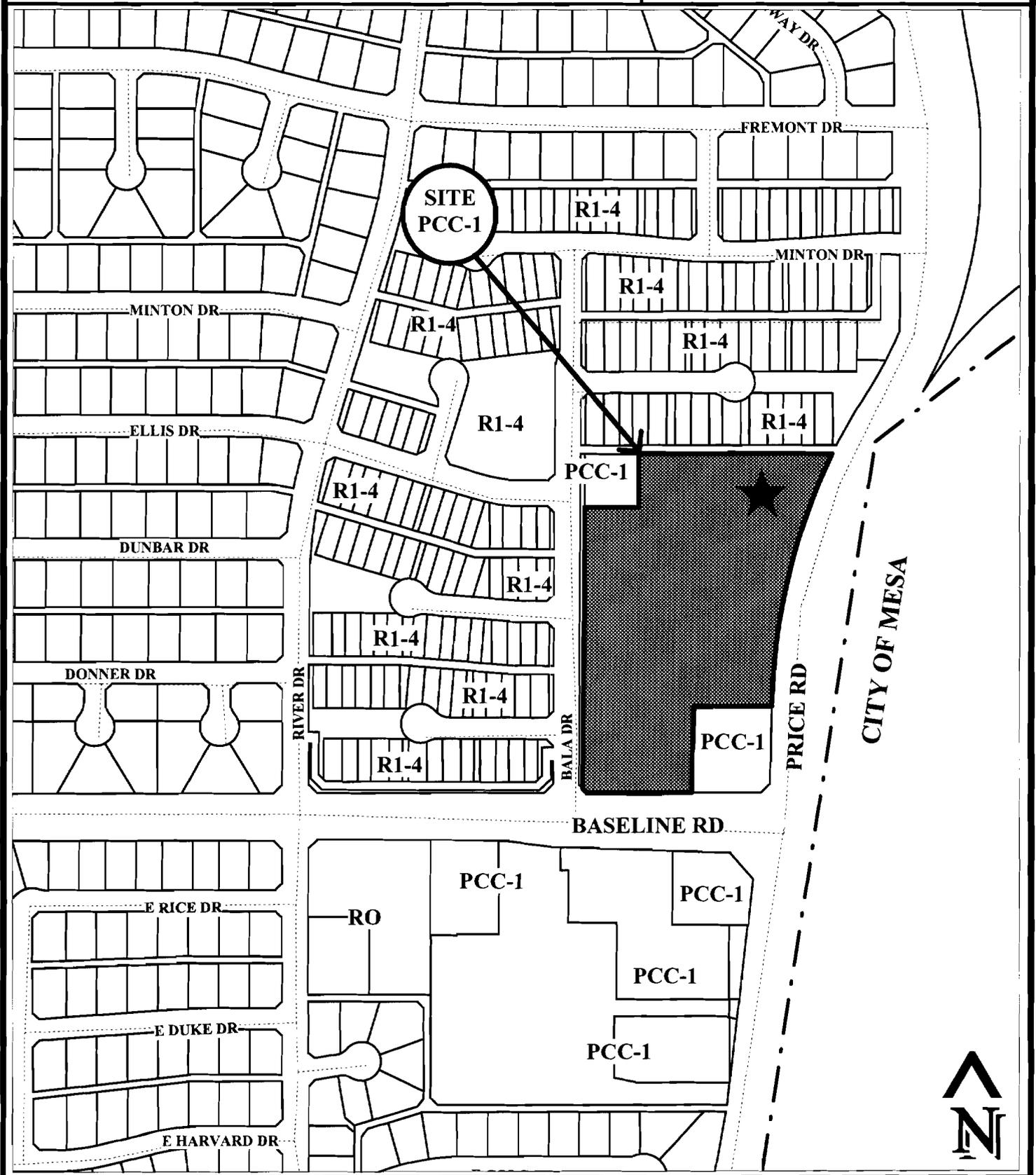
CODE REFERENCE:

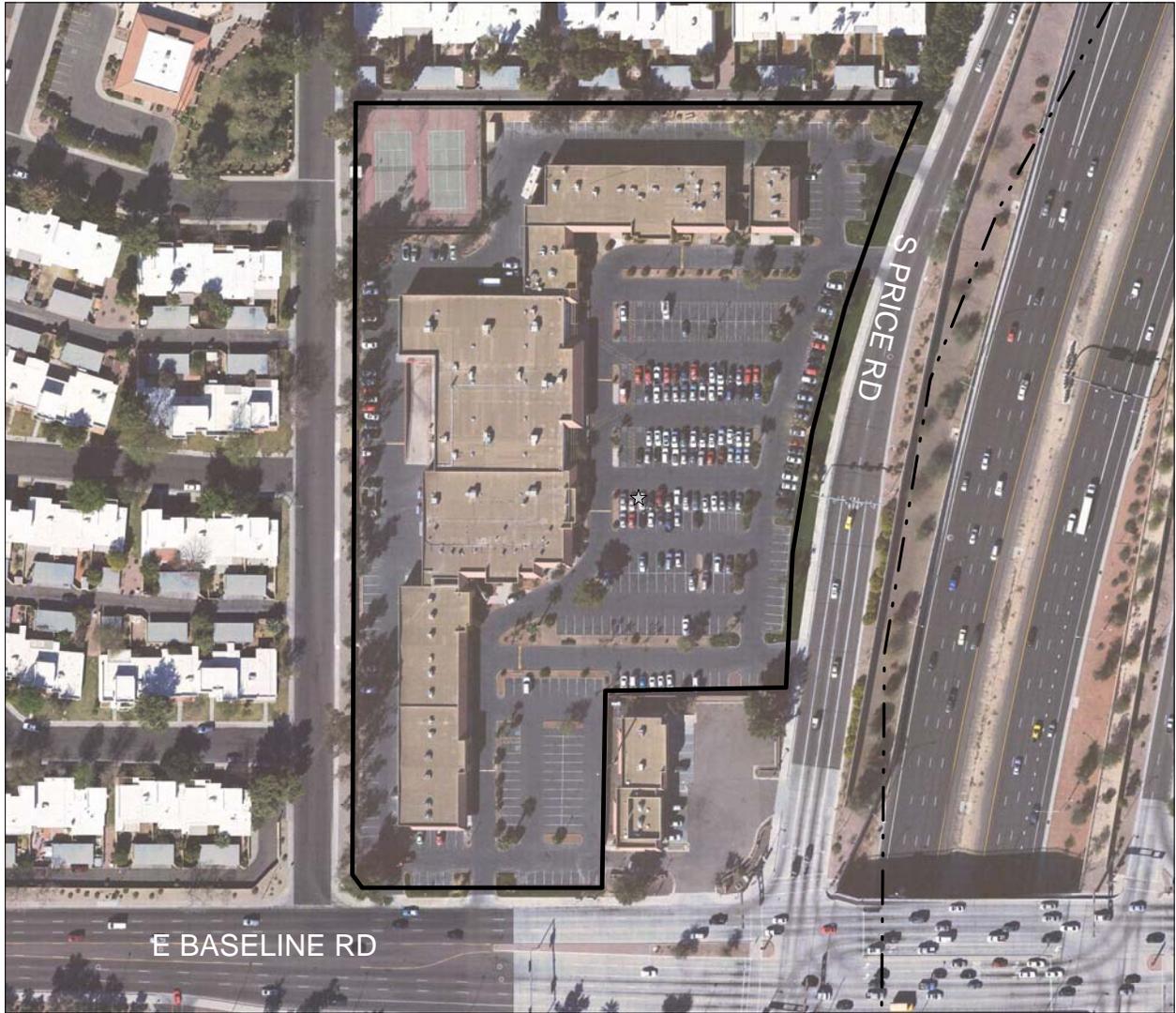
Part 3, Chapter 2, Section 3-202, Table 3-202A – Permitted Land Uses in PCC-1, Planned Commercial Center Neighborhood District.

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

LUCKY MAN PRODUCTIONS LLC

PL070412





TEMPE VILLAGE - LUCKY MAN PRODUCTIONS LLC (PL070412)

STEPHEN L. DUNCAN, P.C.

ATTORNEY AT LAW

BRENNAN HOUSE

1726 NORTH SEVENTH STREET

PHOENIX, ARIZONA 85006

LETTER OF EXPLANATION

Re: A Use Permit Application for Existing Building at 5000 South Price Road

Lucky Man Productions, LLC (formerly SunVen Entertainment Group) was formed in the summer of 2004 by industry veterans with over 30 years of concert experience. Lucky Man Productions is the Southwest's #1 independent event producer, specializing in artist development of today's most exciting new band from around the world. Lucky Man Productions promotes events throughout Arizona, New Mexico and Utah. Lucky Man Productions also promotes shows from the smallest of clubs to arena level attractions. Lucky Man Productions has exclusively managed and operated the Marquee (formerly the Red River Music Hall) Theatre in Tempe, Arizona since 2003.

Lucky Man Productions is proposing a use of the property at issue as both its local corporate office and as a venue for smaller concerts than those held in the Marquee Theatre. The property at issue is commonly described as a strip mall and is located on the northwest corner of the intersection of Price and Baseline. The property is situated in the north portion of this commercial subdivision and is currently vacant. The property will have multiple uses.

The northwest portion of the property will be used as the corporate headquarters and an accounting office for Lucky Man Productions with hours of operations of 8:00 a.m. to 5:00 p.m. Monday through Friday. During these hours of operation there will be no outside customers. The office will consist of 20 full time employees (most living in Tempe).

The north portion of the property will be used as a large musical venue providing live entertainment and refreshments to teenagers and young adults as well as alcohol to individuals over 21 years of age. The hours of operation for the venue will be seven day a week between the hours of 7:00 p.m. through 1:00 a.m. Lucky Man Concerts will employ approximately 30 employees for this portion of the property with positions ranging from security guards and bartenders to entertainment staff.

The northeast portion of the property will be used as a smaller more intimate musical venue which will cater to the same clientele as the larger musical venue. The hours of operation will be Wednesday through Saturday between 7:00 p.m. through 1:00 a.m. The two venues will provide entertainment simultaneously. There will be approximately 15 employees needed for this portion of the property.

This proposed use is well suited for this site. This is a large commercial development located on

STEPHEN L. DUNCAN, P.C.

ATTORNEY AT LAW

the northwest corner of the major intersection of Price Road and East Baseline Road. The portion of the development to be used for this use is situated in the north portion of this commercial subdivision and is currently vacant. To the East of the proposed use is Price Road abutting the 101 Freeway. To the South of the proposed use is East Baseline Road. To the West of the proposed use is multi-family development. This development is separated from the proposed use by two block walls and South Bala Drive. To the North of the proposed use are multifamily developments separated from the proposed use by a block wall. In addition, there are parking structures situated North of the Northern block wall and between the proposed use and the multifamily development.

Due to the large parking area location adjacent to East Baseline Road and Price Road, the proposed use will not cause any significant vehicular or pedestrian traffic in the adjacent areas.

The building cite is also well developed to prevent any nuisance. The parking area is paved and well striped to prevent dust and provide for orderly parking. The proposed use is also adjacent to Price Road and the 101 Freeway commercial development and multifamily use. The area has a present and constant amount of ambient noise. The proposed use will not add to the noise in the area. The multifamily area West of the proposed use will be separated from the concerts by the corporate offices and is separated by two block walls, a street and a substantial amount of distance. The multifamily area North of the proposed site will be separated from the concerts by a parking lot, a block wall, and garages. Additionally, the exterior doors on the North and West sides of the proposed use will be available to employees only and only during daytime business hours. All West side and North side doors will remain closed during business hours after 5:00 p.m. As a further effort to minimize impact upon neighboring properties, existing doors on the north facade of the building to be used as emergency fire exits shall exit through low vestibule spaces lined with acoustical dampening materials.

The proposed use will add to the goals of the neighborhood as well as promote the goals, objectives and policies of the City. The neighborhood is a commercial and multifamily mixture with major roads and a freeway. The current proposed use property itself is a commercial strip mall that has a variety of tenants, including a restaurant. The proposed use would provide tenant improvements to the currently vacant commercial property and customers for the restaurant. The applicant has long promoted the objectives and policies of the City by providing a venue for local and international performing arts.

The applicant and land lord propose to construct tenant improvements within the existing Building at 5000 South Price Road. No changes are to be made to the public facade of the existing building. One new emergency exit door is to be installed on the east wall of the existing 'building D' within the outdoor space between buildings D and E. Signage for the music venues is not included within this application. Therefore the proposed use will not impact the compatibility with the existing surrounding structures.

Lucky Man Productions has exclusively managed and operated the Marquee Theater in Tempe, Arizona since 2003. Lucky Man Productions is a locally owned business and has a long term

STEPHEN L. DUNCAN, P.C.

ATTORNEY AT LAW

commitment to doing business in Tempe. Lucky Man Productions has an established history with working with Tempe in developing and implementing security plans that prevent any disruptive behavior which may create a nuisance to the surrounding area or general public.

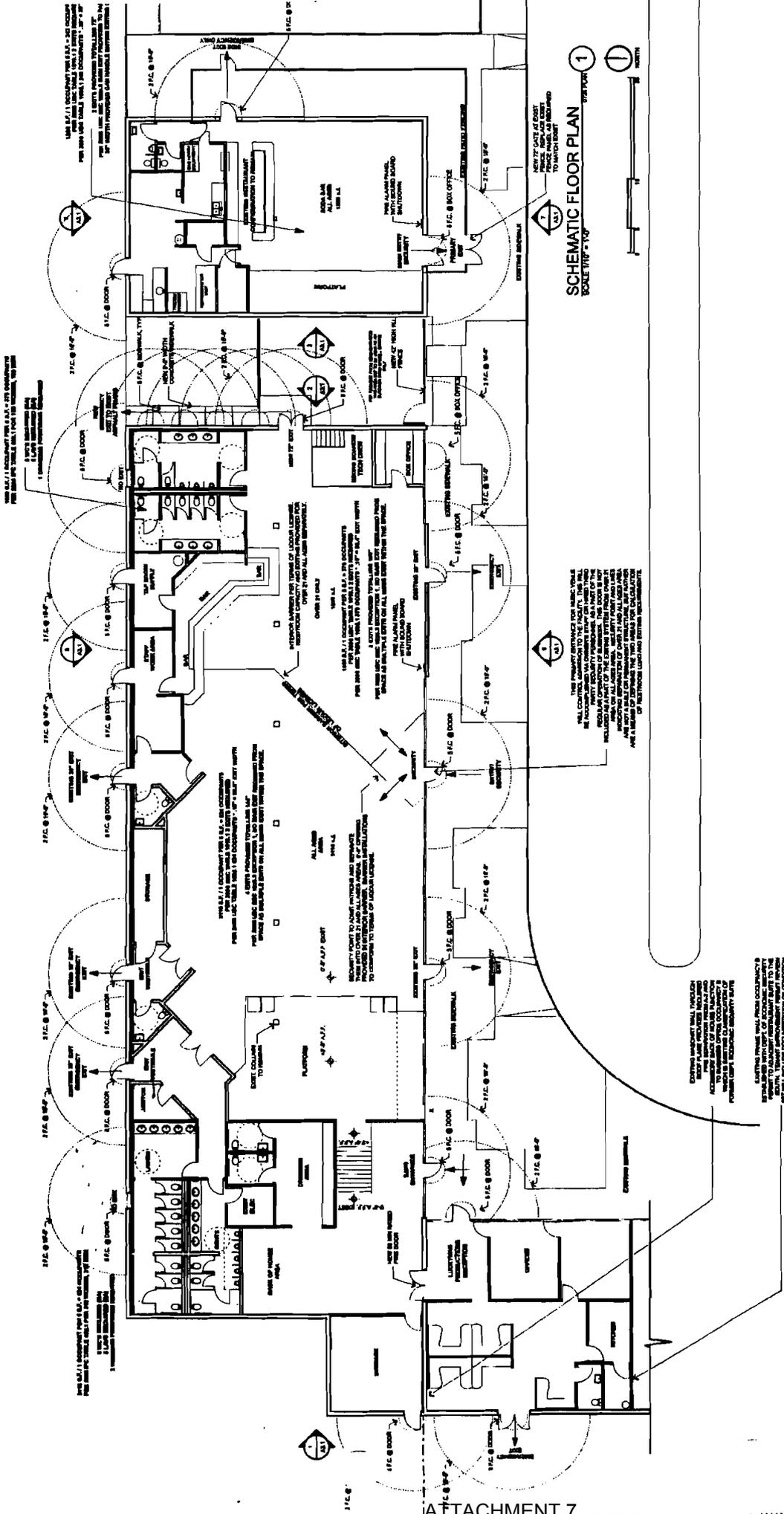
Neighborhood Meeting requirements are not applicable pursuant to Section 6-402 (B) of the City of Tempe Arizona Zoning and Development Code.

Sincerely,

STEPHEN L. DUNCAN, P.C.

A handwritten signature in black ink, appearing to read 'SLD', with a long horizontal stroke extending to the right.

Stephen L. Duncan, Esq.



SCHEMATIC FLOOR PLAN
 SCALE: 1/8" = 1'-0"



THE REINFORCED CONCRETE WALLS SHALL BE CONCRETE, ACCORDING TO THE FACILITY DESIGN, WITH A MINIMUM STRENGTH OF 4000 PSI. THE WALLS SHALL BE REINFORCED WITH #4 BARS AT 18" ON CENTER. THE DOOR IS NOT TO BE INSTALLED IN THE WALLS. ALL DOOR THRESHOLS SHALL BE 1/2" HIGH AND 1/2" WIDE. THE DOOR IS NOT TO BE INSTALLED IN THE WALLS. ALL DOOR THRESHOLS SHALL BE 1/2" HIGH AND 1/2" WIDE. THE DOOR IS NOT TO BE INSTALLED IN THE WALLS. ALL DOOR THRESHOLS SHALL BE 1/2" HIGH AND 1/2" WIDE.

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Daffara, Shawn

To: Brown, Dan; Abrahamson, Steve
Cc: Harmon, Ken; Dorsey, John
Subject: RE:

Memorandum

City of Tempe



Date: October 29, 2007
To: Shawn Daffara
From: Dan Brown
 Shawn,

The Crime Prevention Unit will be in opposition to the "USE PERMIT" for the "Music Box", not solely based on the use, but the location. This location is adjacent to an existing neighborhood and from my experience; I believe calls for service will have an impact on the Police Department as well as residents of Tempe as it did with other establishments adjacent to neighborhoods. Examples are the, Paragon, Nita's, Phase 54, and the Sets.

In addition to the neighborhood quality of life complaints, we also have concerns from a public safety standpoint. Based on the history of documented violent crimes at similar establishments, (report numbers are available) including but not limited to homicide, I see the propensity for futures crimes the establishment being a detriment to the community.

Some of the bars that had music platforms which had violent acts are, Club Freedom (shooting at Taco Bell), Olive Brach (32 shots fired in the parking lot, Sets (subject shot in the parking lot) Clubhouse (homicide in parking lot of over/under club) Derby Bar and Grill(shooting in bar, not over/under) Club One/skateland- shots fired. We would not be as opposed to the club if located in a commercial area, such as Marquee, but believe this location for this type of venue would not be of the best interest to the citizens of Tempe.

If the use permit is granted the establishment should be required to have the following stipulations:

- Sound proofing to the north walls of the business adjacent to the neighborhood
- Mandate the bar comply with all city and state noise ordinances
- Do not allow an exterior patio
- Lighting inspection in the parking to ensure lighting standards comply with current codes
- No parking allowed between area between business and neighborhood including but not limited to loading and unloading of stage/band/musical equipment
- Comply with the security plan set forth by the Tempe Police Department
- Require north doors to be closed at all times with the exception as being used as an emergency exit.

- The open space between buildings shall be closed off to prevent loitering by patrons

Dan Brown

Crime Prevention Specialist

Tempe Police Department

480 858-6343



Arizona Department of Transportation
Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

Janet Napolitano
Governor

Sam Elters
State Engineer

Victor M. Mendez
Director

November 2, 2007

Ms. Decima Sever
City of Tempe
Development Services
31 E. Fifth Street
Tempe Arizona 85281

RE: Tempe Village – Lucky Man Productions/ ZUP07-146 & ZUP07-153
NWC of Baseline and Price Rd.

Dear Ms. Sever:

Recently we received notification regarding the Zoning Use Permit on the above referenced subject. After reviewing this information and the proximity of this project to the L101, we have concurred that at this time the proposed plan could have an impact on our highway facilities in this area.

Access to ADOT R/W, whether it is for construction or any other purpose is by permit only, to do so please contact Dave Zimbardo, at ADOT District Permits Section at (602) 712-7522 for access or encroachment information. Or you may obtain the permit on-line at www.azdot.gov/highways/districts/Phx_maintenance/permits.asp

ADOT reserves the right to review and comment on development plans for the site as to any impact they may have on the State Highway System.

Should you have any questions, you may contact me at 602-712-8876, or in writing at 205 S. 17th Avenue, Right of Way Project Management Section, MD 612E, Phoenix, Arizona 85007. Thanking you in advance for your cooperation.

Sincerely,

Annette Close
Administrative Assistant III
Right of Way Project Management
aclose@azdot.gov



2001 Award Recipient



PHOENIX
 Mr. & Mrs. Paul Scorza
 2167 E. Ellis Dr.
 Tempe, AZ 85282-7457

Re: Lucky Man Productions
 PL 070412
 Pg 1 of 3

October 11, 2007

RECEIVED
 TEMPE HOUSING SERVICES

City of Tempe Hearing Office
 P.O. Box 5002
 Tempe, Az. 85280-5002

OCT 15 PM 3:04

Re: - Lucky Man Productions LLC
 Hearing 10/16/07 - 1:30 PM
 Request: PL070412

TEMPE HOUSING SERVICES DEPARTMENT

07 OCT 17 PM 2:52

RECEIVED

Dear Sir:-

My wife and I have lived at 2167 E. Ellis Drive, Tempe for 27 years, and are located directly across the alley from the site requesting a use permit for a Series 6 bar (ZUP 07146), and a permit to allow live entertainment (ZUP 07153).

We attended a neighborhood meeting with the Personnel from Lucky Man Productions last night, October 10, 2007 at 6 PM, and strongly objects to having a large musical venue at the 5000 South Price Road location which is adjacent to Continental Villas East III,

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a 171 unit residential townhouse association. We believe the entertainment venue would not be appropriate this close to our prime residential location for many reasons. We are concerned that the entertainment venue would bring an increase in noise, crime, vandalism, a deterioration of our property value, loss of our peaceful quality of life, and is an insufficient distance from the Judge Accelerated High School which is located at the same site.

All the concerns are serious, however I want to specifically address the additional noise issue.

The entertainment venue plans to operate from 7 PM to 1 PM, 7 days a week. The music reverberation and associated noises would be intolerable. It would be similar to having a boom box playing in our back yard night after

TEMPERLE DEVELOPMENT
SERVICES DEPARTMENT

07 OCT 17 PM 2:52

RECEIVED

3.

night.

I'm 83 and a member of the Block Watch Committee of Continental Villas East III, my wife is 82, is ill and retired early. Presently our Association members call the City of Tempe Police whenever any neighbor has a noisy party. I'm sure the City of Tempe, our neighbors, and Lucky Man Productions would be better served by locating in an Industrial zone more suitable and appropriate for this music entertainment venue.

Please do not allow this venue with its accompanying noises and other problems to adversely affect our residential area.

Thank you for your consideration.

Sincerely,
Paul Scorza
(480) 838-2139

cc: Tempe City Council

RECEIVED
TEMPERANCE DEPARTMENT
SERVICES DEPARTMENT

07 OCT 17 PM 2:52

November 3, 2007

City of Tampa Hearing Officer
P.O. Box 5002
Tampa, Az. 35280-5002

FILE COPY

Re: Lucky Man Productions LLC
Hearing 11/20/07 - 1:30 PM
Request: PL 070412

Dear Sir:-

The Public Hearing Notice on site as well as Notices mailed to the community are inadequate and misleading.

The Notices refer to property located at 5004 South Grace Road, however Lucky Man Productions indicate they intend to use the full north portion of the property, which contains the 5004 building and a separate building with addresses from 5012 to 5024.

I feel it is imperative to advise the public and interested parties of the specific size of the proposed entertainment

007

Y "

2.

music venue. Some may think the hearing only applies to the 5004 building, the former Simbad Restaurant location. It has one rear door, however the 5012-5024 S. Price property has 7 additional rear doors.

We live in a town house across the alley from the proposed site. We do not have garages or any other means to filter out the continuous music and other noises.

We object strenuously to having a venue more suitable for an industrial location adjacent to our prime 171 Continental Villa East town house neighborhood.

Sincerely,
 Paul Scorza
 (480) 838-2139

RECEIVED
 07 NOV 36 PM 1:22
 TEMPE-DEVELOPMENT
 SERVICES DEPARTMENT

Mr. & Mrs. Paul Scorza
 2167 E Ellis Dr
 Tempe, AZ 85282

Daffara, Shawn

From: FRANK BINKLEY [febink@msn.com]
Sent: Friday, October 05, 2007 8:09 AM
To: Daffara, Shawn
Subject: 5004 S. Price

RECEIVED
 07 OCT -5 AM 8:46
 TEMPE-DEVELOPMENT
 SERVICES DEPARTMENT

Shawn,

This is a follow-up to our our conversation at your office on Tuesday, October 2.

The primary issues I have with the proposal for 5004 S. Price are as follows:

- 1) The noise generated by two music venues operating within 50 yards (approximately) of each other can only be considered a major nuisance.
- 2) Forgetting the noise generated by the music, the noise generated by large groups of people milling around the outside of such venues is something that cannot be fixed by sound proofing materials. The age demographic which this proposal is directed toward is a demographic not noted for its' concern for the interests of other people.
- 3) The inherent security risks from having two venues operating in such close proximity are many. The shooting death of a young man in Mesa just a few weeks ago occurred at a venue very much like the ones being proposed here. While not as serious as a fatal shooting, the probability of fights and vandalism is also very high.

In looking at the proposal presented to you, I find several things that also raise concern.

They state that they will keep the West and North doors closed during operating hours. However, they show plans to have a smoking patio between the two buildings. In order to access the patio they show a new door being cut into each of the buildings. If these are to function to allow people to get to the patio, they will have to be open. This would negate any advantage of having the other doors closed. Even if the doors were not to be put in, the idea of an open patio between two buildings is not a good idea. The noise generated by a crowd of people will be amplified by bouncing off of the walls of the buildings. It is my opinion that not only should the patio not be allowed, but that the open space that they plan to pave over should instead be blocked off so that no one can get between the buildings.

In looking at their website, it seems that on many occasions they book multiple acts on the same night. What is the provision for noise control during the switch from one group to another? Where will the bands unload their instruments and what provisions will be made to control the noise this generates? Not necessarily from the instruments themselves but the noise caused by the shouting, or at least very loud talking, that almost always goes along with this type of activity.

Some of the statements they make regarding the surrounding neighborhood are misleading, if not outright fabrications. They state that there are "parking structures" between the site and the multifamily development. The term parking structure generally brings to mind a parking garage. In this case they are referring to open carports which in no way act as a noise buffer. In another paragraph they refer to these same carports as garages.

They refer to a block wall between the site and the homes on the North side. Yes, there is a wall

but it is at the most 8 feet high and again does not afford any sound buffering. They say that the West side is protected by two block walls and S. Bala. Again, they are correct in their reference to Bala but there is only one wall.

They state the hours of operation will run until 1:00 AM. Since the official closing time for bars is 2:00 AM, are we to believe that they will really close an hour earlier?

Should the project be approved I would hope that it would demand the following conditions to be followed.

- 1) No parking would be allowed to the East or the North of the site. This would necessitate that the Northern most entrance to the parking lot be blocked off and that the entrance to the parking area on the East side of the site be blocked off.
- 2) No congregating would be allowed on the East or North sides of the site. This should be enforced by the security people they claim they will have on hand.
- 3) A review of their application should be held with in at least six months to assure that all conditions are being met.

These are just the concerns that have come to mind immediately. I am sure there will be others that will come up after the meeting on the 10th. You said that you and Steve Abrahamson were planning on coming to that meeting. I hope that is still the case.

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

RECEIVED
07 OCT -5 AM 8:46
TEMPERANCE DEPARTMENT
SERVICES DEPARTMENT

Shawn Dafford
350-8627

From the resident of...

2153 E. Ellis

Tempe, AZ (just north of the
proposed new club)

10 Oct 07

The Lucky Man Productions proposal
for 5004 S. Price Road...

Sounds good To me!

I sleep just 100' north of the
back doors of the proposed music
clubs. And if they're 1/2 as nice
as the previous 3 owners I've known,
I should sleep very soundly.

I'm especially impressed with the
installation of sound/vestibules on

NORTH emergency exits. Excellent idea.

I been here when that rental space
was...

The Princess II

Boston's Club

The Real Sports BAR

Those three owners went out of their
way to keep relationships good with
CUE III ... the vestibul idea will help
keep things peaceful.

The new owners have my support
... give 'em a shot!

Sincerely,

Roger Winick

Roger Winick

Daffara, Shawn**RECEIVED**

From: John Chester [jchester3@cox.net]
Sent: Friday, November 02, 2007 3:14 PM
To: Daffara, Shawn
Subject: Lucky Man Productions Public Hearing

07 OCT 25 AM 9:13

TEMPE DEVELOPMENT
SERVICES DEPARTMENT

Dear Mr. Daffara,

We are writing to you regarding the above matter which is scheduled for a Hearing on November 6, 1:30pm at City Hall. It concerns the property on the NW corner of Price and Baseline.

My husband and I reside in the townhouse community, Continental Villas East III, directly north and west of the proposed site where Lucky Man Productions wishes to establish their business undertakings. In fact, our carport (not garage) backs up to the alley which is directly north of the proposed site.

We wish to inform you of our opposition to their proposal. People are citing the noise, traffic as major issues. And, that they are. However, the businesses which are currently at the site are open daytime hours only. What is being proposed covers the hours of **7pm - 1am, seven days/week**. In other words, **EVERY** evening.

In addition we firmly believe that there is another more important issue: safety. People should be able to feel comfortable in their own homes/community. Our community, CVE III, is made up of residents of all ages, from families w/ young children, to a high number of older, retired residents. From what we've heard Lucky Man Productions is "promising the moon" but we all know that the ages targeted, 16-21+, for this proposal will consume alcohol - whether allowed legally to do so or not. Live entertainment translates into people, noise, traffic and yes, drinking. **All of that translates to the very real potential for an increase in crime.** We already have enough problems with the Tempe Accelerated High School located in the same complex.

Because of where we live, we are not too fond of drunken teens and/or young adults stumbling down the alley or worse yet, climbing over the block wall. We do not feel that we should have to lock up like "Fort Knox" once the sun goes down nor do we wish to go out in the morning and run the risk of finding our cars "keyed", broken into or even stolen. We also do not like the idea of bodily fluids being left in the alley - as this will most assuredly occur. Further, we do not relish the idea of broken containers, plastic or glass makes no difference, in the alley where we or any one of us who live here can be injured. Since these situations do not exist at the present time, it can only be assumed that if Lucky Man Productions is granted their proposal, their enterprises will be the culprit and we don't think that they want to be subjected to the possibility of numerous lawsuits which could very well ensue.

We will make every effort to attend the public Hearing on Novmber 6th. However, we were also directed to email you with our concerns regarding the proposals currently being considered by the City of Tempe.

Thank you for your time in reading this email.

Sincerely,

John and Margo Chester
jchester3@cox.net

Daffara, Shawn

From: laruematte@cableone.net
Sent: Wednesday, October 24, 2007 12:05 PM
To: Daffara, Shawn
Subject: Lucky Man Productions and CVE III

RECEIVED

07 OCT 25 AM 9:13

TEMPER DEVELOPMENT
SERVICES DEPARTMENT

I am writing concerning the upcoming meeting to review the use permit proposed by Lucky Man Productions. The use of portions of the strip mall located at Price and Baseline (northwest corner) by teenagers and young adults as a musical venue, including the sale of alcoholic beverages, seems to me to be a formula for disturbance and trouble. As a homeowner living in the adjacent Continental Villa III section, I can foresee noise and people disruptions nightly if they operate as planned seven days a week from 7-1 pm. It is also possible that people attending these musical events could spillover into our neighborhood either driving or walking. I have grave reservations about this plan and what it will do to the surrounding communities if put into place and believe at the very least that more study of how it will be operated and how security will be maintained.

Nancy L. Matte

Msg sent via CableONE.net MyMail - <http://www.cableone.net>

Daffara, Shawn

From: Anthony Saulina [asaulina@yahoo.com]
Sent: Monday, October 22, 2007 6:43 PM
To: Daffara, Shawn
Subject: Lucky Man Prod.

RECEIVED
07 OCT 25 AM 9:13
TEMPE DEVELOPMENT
SERVICES DEPARTMENT

Sir:

This thing is a bad idea. It's only 135 feet from the town houses. That's much to close. Also, I was there at 4:00 PM today and they have started work inside without a building permit. "The arrogance". You would think they were approved already. Is this a done deal?

I live a block away, on Dunbar Dr. I could hear the base drum from the old place when I sat on my deck. If I hear this noise I will report it to the police.

Thank You
Anthony Saulina
2122 E Dunbar Dr
Tempe Az 85282
480-756-1563

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Tired of spam? Yahoo! Mail has the best spam protection around
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Abrahamson, Steve

From: Abrahamson, Steve
Sent: Monday, October 22, 2007 1:40 PM
To: Brown, Dan
Cc: Harmon, Ken; Rogers, Buck; Daffara, Shawn
Subject: RE: Hearing for Music Box at 5000 S price

Dan,

Thank you for the e-mail. Is PD indicating opposition to the request? If so, we need to know as soon as possible (in that the report should be completed by week's end). Again, we appreciate your efforts and the heads-up.

Steve

From: Brown, Dan
Sent: Monday, October 22, 2007 10:14 AM
To: Abrahamson, Steve; Daffara, Shawn
Cc: Harmon, Ken; Rogers, Buck
Subject: Hearing for Music Box at 5000 S price

Steve,

In regard to the November 6th hearing reference the new bar, Music Box, (owned by Marquee) we will be in attendance at the hearing stating our hesitation due to the close proximity to the established neighborhood directly adjacent to the club. They are turning it into two seperate over/under music venues with a capacity of over 600 at one venue and over 100 at the other venue.

Dan

Continental Villas East III
2130 E Ellis Street
Tempe, Arizona 85282

October 30, 2007

Shawn Daffora, Planner II
Development Services
31 E. 5th Street
Tempe, Arizona 85281

Dear Shawn:

The Continental Villas East III Homeowner's Association has directed me, acting as President of the Board of Directors, to send a letter of concern to you regarding Lucky Man Productions application for a bar business license adjacent to our homes. I, and several of our Homeowners, went to the Lucky Man Productions public hearing on October 10, 2007 to hear their proposal.

Our concerns are many. Our homes are in very close proximity on the north and west side of the proposed entertainment venue which will be serving alcohol where underage people are in attendance. We are concerned about noise, traffic, vandalism, parking, damages to our property, and underage drinking. There are other issues that concern us also. We feel that this type of venue is not appropriate in a neighborhood of private homes. The noise issues can come from outside as well as inside the business.

Our homes are separated from the back of this building with only a block wall and an alley width. That alley provides access to our entire property, our private carports and rear gates into our properties. Access to our property can be gained by jumping over this wall and this has happened historically with the school that is in the same strip mall. The noise from the previous businesses prompted many calls to the police (mostly to no avail) and is of concern and worry to us.

Lucky Man personnel stated to the meeting attendees and I asked a follow-up clarification, that 16 is the median age of the average expected audience of 500 or so persons. The serving of alcohol in this atmosphere is questionable at best and frightening to all of us as homeowner's and concerned citizens. We feel as if we will be probable victims of any or all of the concerns stated above.

RECEIVED
07 NOV '11 AM 9:50
TEMPERANCE ENTERTAINMENT
SERVICES DEPARTMENT

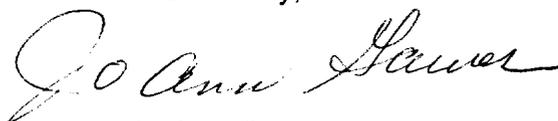
Despite the Lucky Man claims that the parking lot is of the appropriate size, several representatives of our community have surveyed that parking lot in the evenings when businesses and the school are open. It does not appear that adequate parking for a large crowd is there and we know where the parking will be – in front of our homes and clogging the streets.

We want to be on record as 171 homeowners who do not want this entertainment venue as our neighbor. We do not want to see our property values diminished by this type of business venture. We do not want another senseless murder of a young man as the one that occurred a short time ago just a mile and freeway width from us.

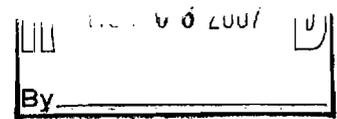
Many of us have lived here 20 or more years and have invested much loving care into our homes and community. Not a single homeowner has stated a favorable opinion of this proposal.

Again, we ask that you please take these concerns with the greatest care, consideration and responsibility.

Sincerely,

A handwritten signature in cursive script that reads "Jo Ann Garver". The signature is written in black ink and is positioned above the printed name and title.

Jo Ann Garver
President of the Board of Directors



Hearing Officer,
City of Tempe

November 6, 2007

Sir:

Case # ZUP07146
Case # ZUP07153

Lucky Man Productions;

We are opposed to allowing a bar with live entertainment in or close to this quiet neighborhood area.

The "live Entertainment" allowance today usually means loud to very loud music of the hard rock variety.

The people trying to sleep in the neighboring residences cannot benefit from such noise.

These businesses can now serve liquor until 2:00 AM when many people are sleeping.

The vehicle traffic with drivers who have been drinking can also spill over into the residential areas, as well as the major streets and the immediately adjacent Freeway.

Bill Butler, Co Chair Riverside Sunset Neighborhood Association.
Darin Price, Co Chair Riverside Sunset Neighborhood Association.

Daffara, Shawn

From: jac shepperson [jacshepperson@yahoo.com]
Sent: Friday, November 02, 2007 4:04 PM
To: Daffara, Shawn
Subject: Fwd: Re: Lucky Man Prod.
Attachments: Re: Lucky Man Prod.

Mr. Daffara,

I would like to add my voice again to the many others from Continental Villas East in protest to the proposed Luckyman bar and club. I can't think of a better way to voice our concerns than what the Chesters said in the attached email you already received from them.
Thank you for passing on our concerns to those making the decisions.

Sincerely,

Jac Shepperson

Note: forwarded message attached.

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

Daffara, Shawn

From: Brown, Dan
Sent: Wednesday, October 31, 2007 2:19 PM
To: Daffara, Shawn
Subject: FW: The Music Box

Ok, my boss wants to make them do the lighting up grade as a stipulation.

From: Harmon, Ken
Sent: Wednesday, October 31, 2007 1:53 PM
To: Brown, Dan
Subject: RE: The Music Box

I support it.

Ken

From: Brown, Dan
Sent: Wednesday, October 31, 2007 1:44 PM
To: Harmon, Ken
Cc: Dorsey, John; Daffara, Shawn
Subject: The Music Box

As you know, the owner of Marquee Theater is opening up an over/under club adjacent to a neighborhood at Price and Baseline.

Due to the potential impact to the PD and the neighborhood I have been very involved in the project in an attempt to mitigate calls for service to patrol by doing a security plan which requires adequate security, sound mitigation, eliminating the use of the back doors adjacent to the neighborhood and several other items that I have seen as issues in like establishments.

Today I went to a planning meeting regarding the project and I requested a stipulation which require the owners to install new parking lot lighting to meet current codes. This was well received by the planners but will most likely be fought by the owner due to the expense. When it is fought the planners will tell them this is based on a decision by the PD and we will have to defend it. This suggestion is based on the shooting we have had in bar parking lots, Sets, Clubhouse, Olive Branch, etc.

The expense of the lighting would cost the owner between 150k-200k to retrofit the lighting and would most likely cause the bar owner to withdraw from proceeding with the project.. He would appeal my decision to the Chief and our defense would be the history of shootings in bar parking lots with live music. I told Planning to hold off on my decision until I run it up my chain of command. The would like an answer back by early next week.

Daffara, Shawn

From: FRANK BINKLEY [febink@msn.com]
Sent: Tuesday, October 30, 2007 12:15 PM
To: Daffara, Shawn
Subject: 5004 S. Price
Attachments: complex.jpg; house2.jpg

Shawn,

I have been somewhat ambivalent about the Lucky Man project. After their presentation, I felt that they might have their act together and could maybe be a reasonably good neighbor. I was inclined to give them a chance to prove that they would do all they said they would, with the condition that they were subject to review in case they did not produce. Now that they have asked for a second extension, my feelings have changed.

It appears that their presentation was mostly smoke and mirrors, admittedly well put together, but having no basis in reality. They came prepared to tell us what we wanted to hear, with no real plan for implementing what they were promising.

Thanks to the original extension, I have had time to think further about potential problems that their project would cause. Parking and traffic control are two of the issues that I am very concerned about.

In the license request for the Real Bar (01/11/05) it was stated that there were 393 parking spaces in the complex. I believe Lucky Man quoted 399 spaces, so they were reasonably close. If they were to have 600 people at an average of two per car, they would need 300 spaces. That's all well and good, except for the following facts.

They said there would be no parking on the North side of the building. There are 51 spaces there. I have asked that there be no parking on the East side, there are 12 spaces there. Common sense would dictate that there would be no parking on the West side. There are dumpsters in that area and the school has tables and other items there. There are 51 spaces on that side. They said they would reserve spaces for the Siamese Cat restaurant. I would think that would require at least 10 spaces. DES normally has 8-10 cars parked overnight. That comes to a total of 134 spaces, not including handicapped spaces that will no longer be available to them. This reduces the number of spaces to 265, quite a few less than they stated. I'm not sure this is enough to handle the crowds they anticipate. The end result will be overflow into our neighborhood.

They are going to be set up as a concert venue. This means that the majority of their customers will be arriving and leaving at the same time. This is different than it would be for a regular bar offering entertainment. At a bar people are coming and going all the time, with no real "rush hour".

If they were only to have 400 hundred people attend their concerts, this would mean 200 cars arriving within 15-30 minutes of each other and all 200 leaving at the same time. There only 5 aprons for the lot, 3 on Price and 2 on Baseline. Two of the exits on Price are within 30 feet of each other and the two on Baseline are about the same distance apart. Also, there is an island on Baseline that makes the Easternmost entrance very difficult to access for Eastbound cars. The Westernmost apron is really designed to access the parking spaces on the West side of the building. To get to the main parking area requires a hard right turn immediately upon entering

the lot. There cannot help but be a back-up on Baseline waiting to make a left turn into the lot. If this was only a once in a while occurrence, it might not be too bad, but this will be happening every day if their business goes as they hope.

Price is a very heavily traveled road. Any freeway traffic wanting to get to Baseline has to use it. There is also a blind curve just North of the property. Cars tend to come down Price at a high rate of speed and it is very difficult to see them during the day, much less at night. When people start exiting the lot, the potential for wrecks is going to be very high. Everyone will be impatient, wanting to get out and go home. Their natural tendency will be to get out of the lot without really checking on on-coming traffic.

To give you some idea of the lay of the land I have attached two jpg's I got from Google Earth showing the relationship of the complex both to my house and to the entire surrounding neighborhood

I know I tend to ramble on, but that's what happens when I get passionate about something. If they ask for another extension, I would like to see the request denied without a hearing, otherwise I am requesting that your recommendation to the hearing officer be that the usage request should be denied. I can only hope that you are in agreement.

Thanks for your time.

Frank Binkley
2163 E. Ellis Drive
(489)8\ 838-6552

Ph : (480) 858-2284
Fax: (480) 350-8872
Shawn Daffara@Tempe.gov

From: Anthony Saulina [mailto:asaulina@yahoo.com]
Sent: Monday, October 22, 2007 6:43 PM
To: Daffara, Shawn
Subject: Lucky Man Prod.

Sir:

This thing is a bad idea. It's only 135 feet from the town houses. That's much to close. Also, I was there at 4:00 PM today and they have started work inside without a building permit. "The arrogance". You would think they were approved already. Is this a done deal?

I live a block away, on Dunbar Dr. I could hear the base drum from the old place when I sat on my deck. If I hear this noise I will report it to the police.

Thank You
Anthony Saulina
2122 E Dunbar Dr
Tempe Az 85282
480-756-1563

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Daffara, Shawn

Subject: RE: Lucky Man Prod.

From: John Chester [mailto:jchester3@cox.net]

Sent: Sunday, November 11, 2007 3:27 PM

To: Daffara, Shawn; Anthony Saulina; laruematte@cableone.net; jac shepperson; Pat Flynn; FRANK BINKLEY; LESLKS@aol.com

Cc: Abrahamson, Steve

Subject: Re: Lucky Man Prod.

Thank you, Mr. Daffra, for the update.

My husband and I still oppose *Lucky Man Productions* being granted permission to do bussines as I stated in my earlier email. This new "stunt" doesn't alter our opinion one bit. This whole continuance bit smells of "we didn't do our homework because we thought we'd be a shoo-in". We guess that they did not count on the residents of our townhouse community, CVE IIII, being as vocal and expressive as we have been. If they really wanted to be granted a permit to operate, all of this last minute business would have been done **FIRST before** going to the City and the Public Hearing route. No amount of sound proofing will prevent kids from drinking, climbing over the walls, walking down our alley, driving drunk, safety issues for those of us whose carport backs up to the alley directly to the north of the proposed sight and, not to mention, the parking issue. As far as we know, there is no "sound-proofing" the outdoors! I don't buy their story about security guards/bouncers to keep control on the crowds. Rest assured, the first sound of any noise, the police will be called. And, we don't think that we'll be alone in making such a phone call. What a waste of our taxpayer dollars to have the entire Tempe PD responding to calls about *Lucky Man Productions* when there are more serious matters which need their attention. But, rest assured, they will be called.

Thank you for your attention to this matter and for keeping us informed.

Sincerely,

John and Margo Chester
jchester3@cox.net

----- Original Message -----

From: Daffara, Shawn

To: Anthony Saulina ; John Chester ; laruematte@cableone.net ; jac shepperson ; Pat Flynn ; FRANK BINKLEY ; LESLKS@aol.com

Cc: Abrahamson, Steve

Sent: Monday, October 29, 2007 3:29 PM

Subject: RE: Lucky Man Prod.

Hello,

I would like to let you know that Lucky Man Productions has requested a Continuance until November 20, 2007. They need more time to work out sound proofing and further develop their architectural plans.

The city will send out a new announcement to all the neighbors with in 300' for the November 20, 2007 Meeting

Shawn Daffara

Planner II

Development Services/Planning

Daffara, Shawn

From: Vickie [vfftempe@cox.net]
Sent: Saturday, November 10, 2007 11:10 AM
To: Daffara, Shawn
Subject: Lucky Man Productions

Shawn,

I am a 10 year owner of a Townhouse in Continental Villas at Baseline & Price. I work during the day so I won't be able to attend the hearing at the Council Chambers on Tuesday, November 20.

Please, we do not need a bar in our backyards! I don't want to see the value of my home decrease and the crime in my neighborhood increase. Would you want to live next door to a bar?

Thank you for your consideration.

Vickie Feldhausen
2160 E. Minton Drive
Tempe, AZ 85282



LUCKY MAN PRODUCTIONS

5004 S PRICE RD

PL070412

NONCOMPLIANT LIGHT FIXTURE ON REAR OF BUILDING.



LUCKY MAN PRODUCTIONS

5004 S PRICE RD

PL070412

PROPOSED OUTDOOR PATIO AREA



LUCKY MAN PRODUCTIONS

5004 S PRICE RD

PL070412

MAIN BUILDING: VIEW TO NORTH



LUCKY MAN PRODUCTIONS

5004 S PRICE RD

PL070412

EAST BLDG: VIEW TO NORTH



LUCKY MAN PRODUCTIONS

5004 S PRICE RD

PL070412

**REAR OF BUILDING: MISSING TREES IN
LANDSCAPE AREA**