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Where Values Make The Difference

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2010

MEMORANDUM Transportation & Development – CC Memo No. 12-072

DATE: JUNE 22, 2012

TO: MAYOR AND CITY COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
 PATRICK MCDERMOTT, ASSISTANT CITY MANAGER *[Signature]*
 R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *[Signature]*
 JEFF KURTZ, PLANNING ADMINISTRATOR *[Signature]*
 KEVIN MAYO, PLANNING MANAGER *KM [Signature]*

FROM: BILL DERMODY, SENIOR CITY PLANNER *BD*

SUBJECT: LUP12-0011 SIDELINES GRILL AND TAVERN

Request: Use Permit approval to continue selling liquor for on-premise consumption only within a restaurant that includes an outdoor patio and live music (Series 12 Restaurant License)

Location: 2980 S. Alma School Road, Suite #2, west of the northwest corner of Queen Creek and Alma School Roads

Applicants: Sidelines Tavern and Grill Corporation/
 Arizona Liquor Industry Consultants

RECOMMENDATION

Planning Commission and Staff, finding consistency with the General Plan and Planned Area Development (PAD) zoning, recommend approval for one (1) year, subject to conditions.

BACKGROUND

The subject restaurant is located west of the northwest corner of Alma School and Queen Creek Roads within the Ocotillo Plaza shopping center that contains the vacant anchor stores formerly occupied by Target and Basha's. The restaurant occupies the southern end of a pad building along Queen Creek Road. The subject request is to extend the approval for alcohol service with live music on the outdoor patio.

The restaurant first received a Use Permit for alcohol service under a Series 12 Restaurant License in 2002. It received a new Use Permit in 2009 to accommodate a patio expansion. In April 2011 it received a Use Permit, limited to one (1) year, to allow the addition of live music

on the outdoor patio. The 1-year time limit was intended to allow re-evaluation after a track record had been established regarding the effect of the music on surrounding neighborhoods.

The restaurant has an estimated seating of 202 persons, including 60 seats on a 1,150 square foot outdoor patio along its southeastern wall. The patio is enclosed with 36-inch tall decorative railing and includes a fireplace and six televisions. The restaurant has been in operation since 2002 (always under a Series 12 Restaurant License) and is open Sunday and Monday from 11 a.m. to 11 p.m., Tuesday through Thursday from 11 a.m. to 12 a.m., and 11 a.m. to 1 a.m. on Fridays and Saturdays.

The application requests permission to continue hosting live music as previously approved in 2011. The 2011 approval contained several conditions relating to the music, including that music “not unreasonably disturb area residences,” that music “not exceed the ambient noise level as measured at the commercial property line,” and that the restaurant provide a phone number for a responsible person in order to quickly resolve any noise complaints. Music is allowed until 10 p.m. on Thursdays and Sundays, and until 11:30 p.m. on Fridays and Saturdays; in practice, the restaurant has chosen to limit music to before 10 p.m. on those days. Music speakers are 12” in diameter and are directed toward the building.

On April 7 the restaurant held a 10-year anniversary party as administratively approved by the city through a special event permit. The special event permit allowed for amplified music and for part of the parking lot to be occupied by a tent, games, etc. The special event permit is separate approval for a one-time event that is not considered part of the Liquor Use Permit.

A Series 12 Restaurant License allows the on-site sale of beer, wine, and spirits for on-premise consumption. Under a typical Series 12 license the establishment must derive at least 40 percent of its gross revenue from the sale of food and non-alcoholic beverages.

DISCUSSION

Planning Commission and Staff recommend approval of the request with a time limit of one (1) year to allow for re-evaluation of conditions regarding amplified music. It is a matter of debate between neighbors and the restaurant owner how many times the music has been too loud and how many times phone calls have been made to the facility. It is apparent that the music sometimes bothers the neighbors and possibly fails to abide by the previously approved conditions. However, the restaurant has hosted live music many times over the past year, oftentimes not bothering the neighbors, which indicates that it is possible to abide by the recommended conditions and be compatible with the surrounding area. It is expected that the restaurant comply 100% of the time in the future with their Use Permit conditions. As always, noncompliance with approved Use Permit conditions could be grounds for revocation of the Use Permit and the associated permissions for live music and alcohol sales.

PUBLIC/NEIGHBORHOOD NOTIFICATION

- This request was noticed in accordance with the requirements of the Chandler Zoning Code. Additionally, all neighbors who provided their addresses on signed petitions (either for or against) regarding last year’s Use Permit were sent notification of the subject request.

- A neighborhood meeting was held on June 5, 2012 at the Downtown Community Center. A neighbor couple attended with concerns about live music that they had previously communicated to City Councilmembers and staff in April. Essentially, the neighbors report that the live music usually does not disturb them, but that it disturbed them on two occasions in April. One of the two occasions was the restaurant's 10-year anniversary party, which received a special events permit from the City of Chandler. The other occasion involved a phone call to the restaurant that did not result in a change of music volume and the disturbance continued. The concerned neighbors are okay with the approved Use Permit conditions so long as they are actually abided by. However, the neighbors are concerned by the past noncompliance. About 10 people associated with the restaurant also attended the meeting in support.
- The Police Department has been informed of the application and has no issues or concerns.
- Staff is not aware of any opposition or concerns except those expressed by the neighbors at the neighborhood meeting and at the Planning Commission hearing, as noted below. One neighbor's letter of support is among the memo attachments.

PLANNING COMMISSION VOTE REPORT

Motion to approve:

In Favor: 7 Opposed: 0

Planning Commission heard testimony from several neighbors residing in the Stillwater Cove neighborhood located southwest of the subject site, across Queen Creek Road. Five neighbors spoke with concerns about the effects of music on their neighborhood. The neighbors conveyed being disturbed by the restaurant's music between three (3) and 12 times over the past year. Two of the neighbors reported making calls to the restaurant, which sometimes did and sometimes did not result in the volume being lowered to their satisfaction. Other neighbors did not call at all, but rather just went inside or tried to ignore the music. It was posited that residential wall heights might have something to do with why some neighbors were bothered while others were not. The neighbors' requests included that the music stop at 10 p.m. (rather than the previously allowed 11:30 p.m.), that the Use Permit be limited to one year, that the music be kept quieter, and that their phone calls requesting a volume adjustment be abided by.

One neighbor spoke in support of the request, saying that she has never heard the music when out walking her dogs at night. Additionally, two other neighbors attended but chose not to speak – one in favor and one opposed.

The restaurant representatives denied some of the alleged music violations, contending that there were only two noise events, one of which was the 10-year anniversary. However, they expressed a willingness to work with the neighborhood to control the music volume and adjust it upon receiving any neighbor phone calls.

Planning Commission modified two conditions as they were originally presented by Staff so that the Use Permit be approved for one year (rather than three years) and that the music stop at 10 p.m. on all nights (rather than allowing it until 11:30 p.m. on Fridays and Saturdays).

Commissioners expressed a hope that neighbor/restaurant communication would be improved over the coming year.

RECOMMENDED ACTION

Staff, upon finding consistency with the General Plan and PAD zoning, recommends approval of the Use Permit subject to the following conditions:

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. Expansion beyond the approved Floor Plan shall void the Use Permit and require new Use Permit application and approval.
3. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or the addition of entertainment related uses shall require reapplication of the Use Permit.
4. Expansion or modification beyond the approved exhibits (Floor Plan and Narrative) shall void the Use Permit and require new Use Permit application and approval.
5. The Use Permit is non-transferable to any other store location.
6. The patio and area adjacent to the restaurant entrance shall be maintained in a clean and orderly manner.
7. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
8. Outdoor music shall not utilize bass speakers or sub-woofers.
9. The maximum diameter of speakers used in conjunction with outdoor music shall be 12".
10. Music shall not be played after 10 p.m. on evenings with music. Music shall not be played before 9 a.m. on any day.
11. Music shall be limited to Thursday through Sunday.
12. Music shall be controlled so as to not unreasonably disturb area residences and shall not exceed the ambient noise level as measured at the commercial property line.
13. The restaurant shall provide contact information for a responsible person (restaurant owner and/or manager) to interested neighbors that allows music complaints to be resolved quickly and directly.

CC Memo 12-072

June 22, 2012

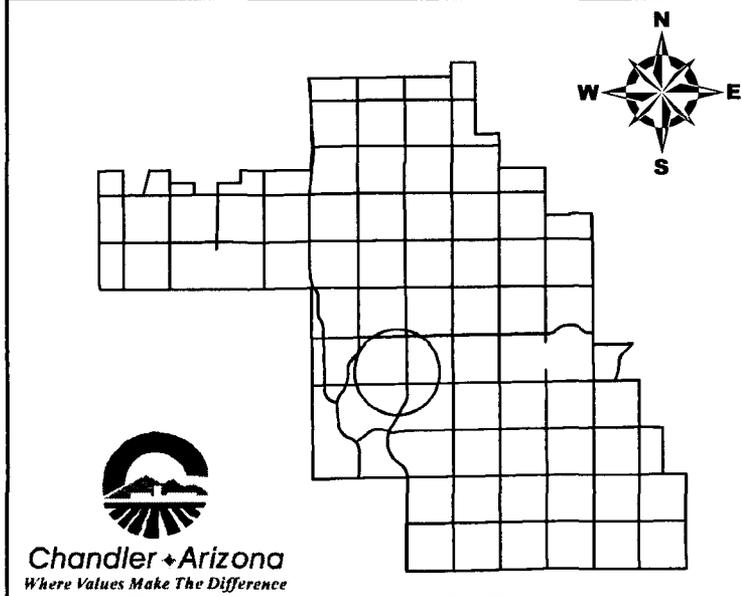
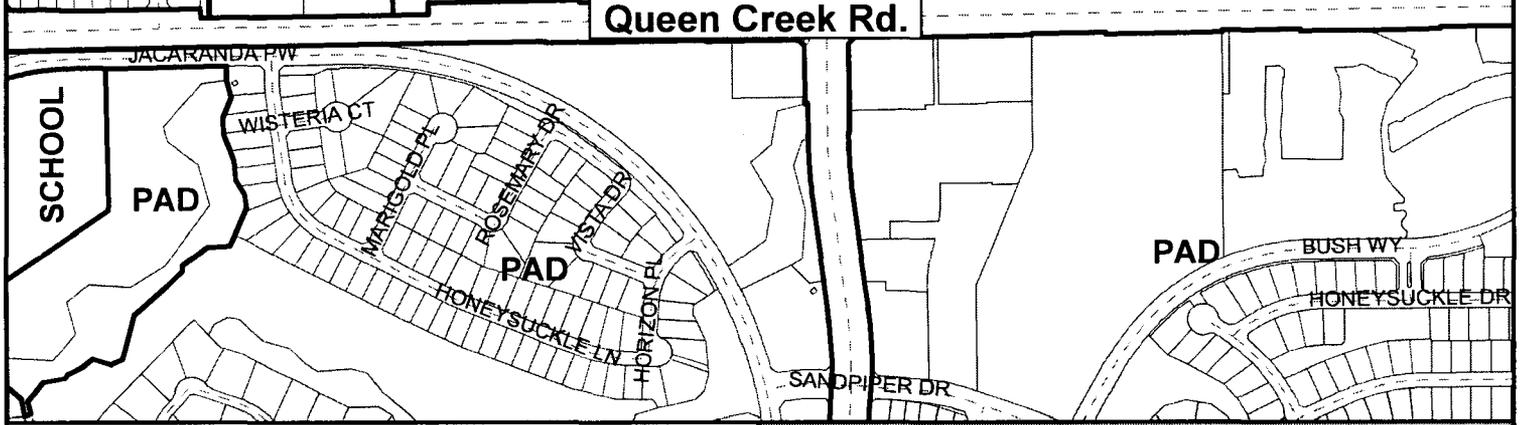
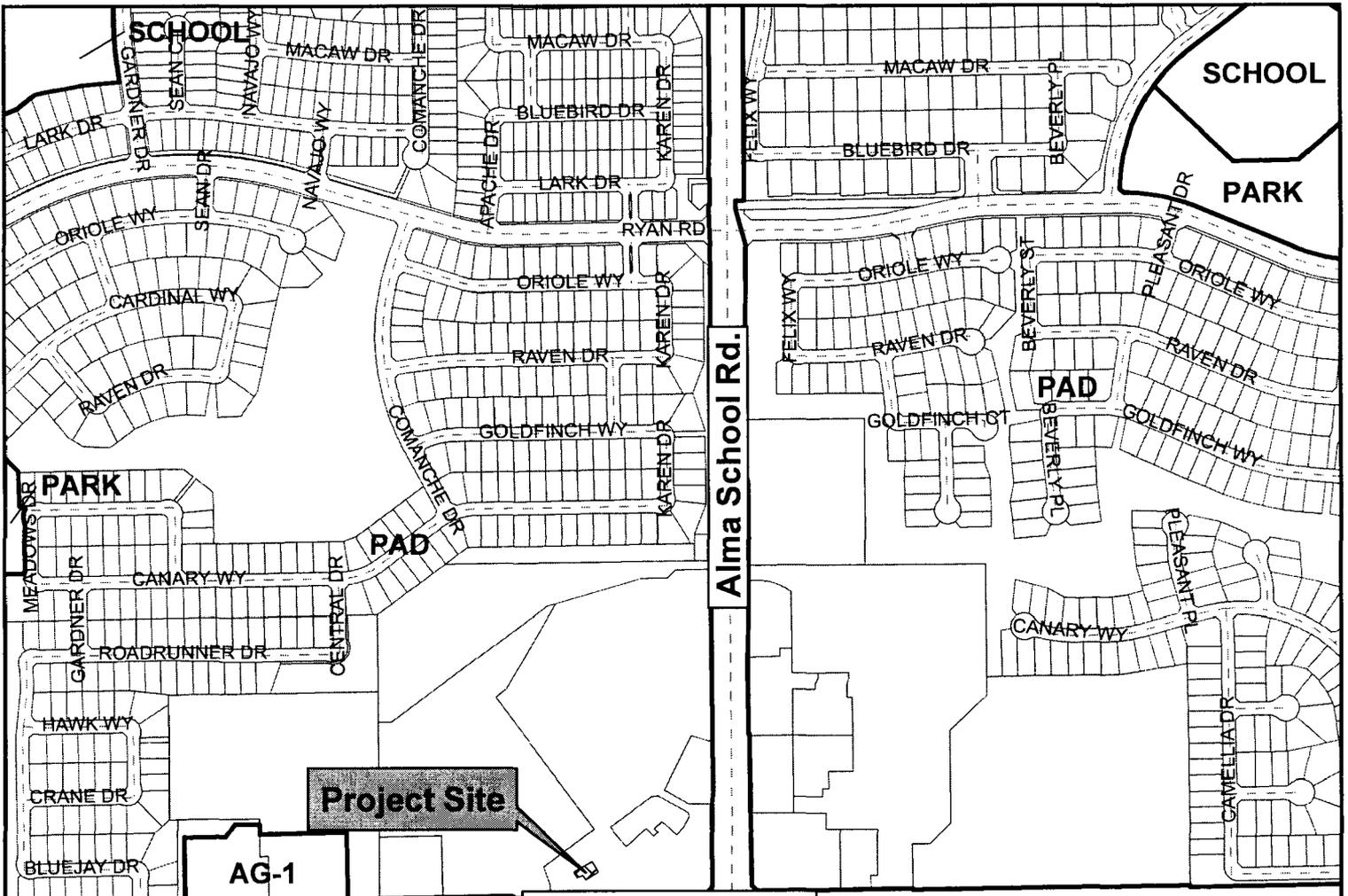
Page 5 of 5

PROPOSED MOTION

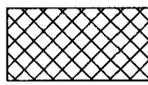
Move to approve Use Permit LUP12-0011 SIDELINES GRILL AND TAVERN, subject to the conditions recommended by Planning Commission and Staff.

Attachments

1. Vicinity Maps
2. Aerial Close-up
3. Patio Floor Plan
4. Indoor Floor Plan
5. Applicant Narrative
6. Letter of Support
7. Applicant Photos of a Sound Meter (May 12 & 18)



Vicinity Map


LUP11-0002

Sidelines Grill and Tavern
Liquor Use Permit

CITY OF CHANDLER 4/30/2012

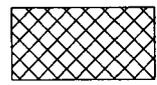
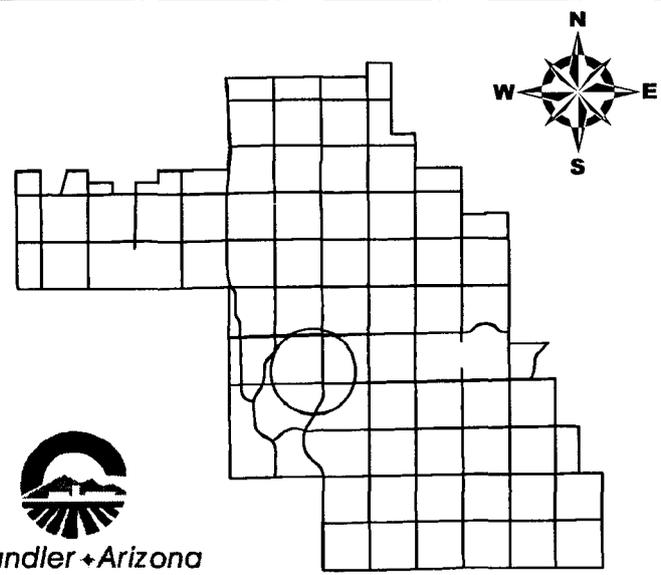


Alma School Rd.

Project Site

Queen Creek Rd.

Vicinity Map



LUP11-0002

**Sidelines Grill and Tavern
Liquor Use Permit**

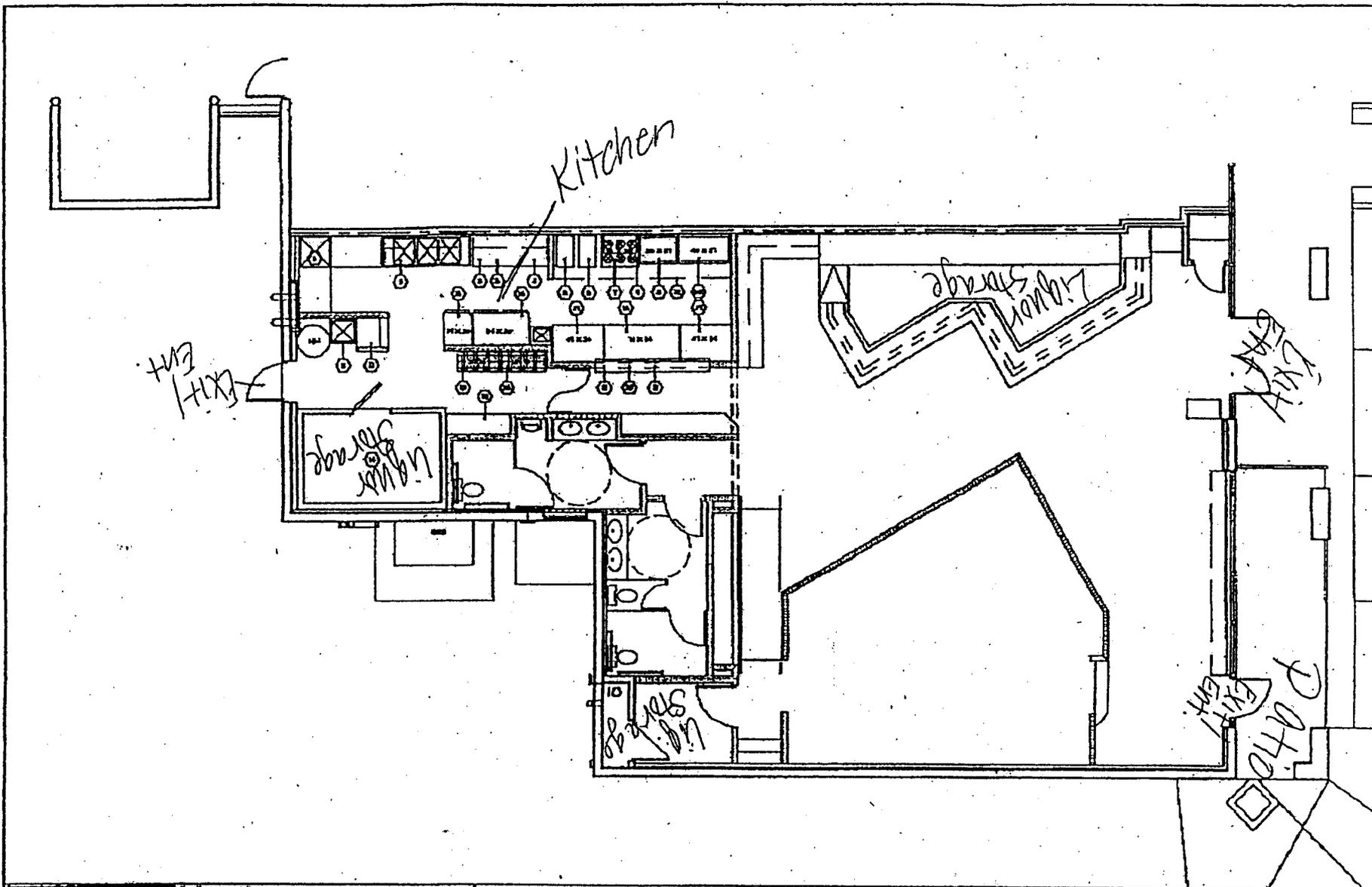


Google earth

feet
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INDOOR FLOOR PLAN

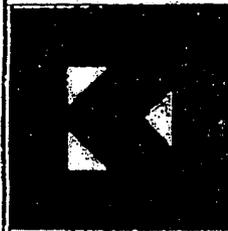


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(FAX) 602-252-2503

K&I ARCHITECTS & INT

MAR-20-2002 (WED) 15:54



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ARCHITECTS & INTERIORS LLC.
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PHOENIX, AZ. 85004
PH: 602-252-5202
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01080
DATE: 3/20/02
2,652 U.S.F.

SIDELINES TAVERN

2980 E. QUEEN CREEK RD. SUITE 2

CHANDLER, ARIZONA

SPACE PLAN



SCALE: 3/32" = 1'-0"

P.O. Box 2502
Chandler, Arizona 85244
(480) 730-2675 Phone (480) 730-2676 Fax



ARIZONA LIQUOR
INDUSTRY CONSULTANTS

City of Chandler Planning and Development Department
Current Planning Division
215 E. Buffalo Street
Chandler, Arizona 85225

April 19, 2012

To Whom It May Concern:

Sidelines Grill & Tavern is an existing restaurant located at 2980 S. Alma School Road Suite 2 in Chandler within the Ocotillo Plaza Shopping Center. Sidelines Grill & Tavern has already qualified and holds a series 12 restaurant liquor license and has a Chandler Liquor Use Permit already in place but we would like to request permission to continue the live entertainment.

Sideline's Grill & Tavern currently holds a series 12 restaurant liquor license (12075162) and is open for business Sunday & Monday 11am until 11pm, Tuesday & Thursday 11am until 12am and Friday & Saturday 11am until 1am. Sidelines is a family friendly sports grill with a menu that consists of hamburgers, chicken, pizza, fish, salads and appetizers (menu attached). We currently employ 30 people. Our interior square footage is 2,652 and our patio is 800 and has total seating of 202 inside and out. Our parking is not assigned by the property manager; it is shared with other businesses.

Sidelines Grill and Tavern would like to continue to offer live entertainment in their business. The live entertainment would consist of a one or two man acoustic band to be located inside the restaurant. The entertainers use 2 110 watt speakers that are 12 inches and are attached to their microphone. The live music will be mostly Thursday evenings 7pm till 10pm and on weekends although we may occasionally change days and times. The following bands are what we are considering: Desert Dixie, a two man band that plays country music. Alan Dequina, a one man band that plays rock and roll oldies. Curt and Rod, a two man band that plays mostly country, top hits, Neil Diamond etc. any

Please contact me if you have any questions. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Amy Nations".

Amy Nations
Arizona Liquor Industry Consultants

From: Amy Blackwell <amyblackwell1@me.com>
To: Rick Heumann <rick.heumann@chandleraz.gov>, Kevin Hartke <kevin.hartke@chandleraz.gov>, Jack Sellers <jack.sellers@chandleraz.gov>, Matt Orlando <matt.orlando@chandleraz.gov>, Jay Tibshraeny <jay.tibshraeny@chandleraz.gov>, Jeff Weninger <jeff.weninger@chandleraz.gov>, Trinity Donovan <trinity.donovan@chandleraz.gov>
Cc: Kristina Grako <kcgrako@hotmail.com>
Date: 05/21/2012 07:38 PM
Subject: Letter to Council - Re: Sidelines

May 21, 2012

Dear Gentilepersons;

Myself, my wife and two teenage daughters reside at 3040 S. Rosemary Dr. Chandler AZ 85248. We have lived in this home for almost 7 years. Our home is located SW of the intersection of Queen Creek and Alma School Rd in the Stillwater Cove community of Ocotillo. Our home borders the northern community perimeter wall and is almost directly south of the Sidelines establishment.

Approximately two months ago, a senior female asking me to sign a petition to protest the weekend patio music at Sidelines solicited me at my door. The individual did not identify herself nor did she offer any compelling basis for her objections to the outdoor entertainment. I informed her that the practice at Sidelines did not at all disturb my family nor cause any hardship to any neighbors that we knew in the local demographic. I informed her that I would not sign the petition nor support her assertion that the music from Sidelines was offensive or in any way bothersome to our residence and family.

Despite its close location and physical convenience, over the past seven years, my family has frequented Sidelines on less than six occasions. Saying that, we have no allegiance to the business or its ownership. I can testify that the weekend patio music in no way interferes with our family and outdoor enjoyment. I believe that a local option for live music is positive for the community and contributes to the health and prosperity of local businesses attempting to expand their market presence and offer viable options for the community.

It is my hope that equity and common sense prevails associated with this public issue. I find it regrettable that such a trivial matter could actually find its way to onto the purposeful City Council Agenda. Small businesses should be valued for their contribution to our local economy and be allowed to attempt to grow their public offerings to appeal to a resident clientele. I would not support any efforts to discourage the outdoor evening entertainment at Sidelines as it currently exists in its constrained format.

Respectfully,

Garry Blackwell
3040 S. Rosemary Drive
Chandler, AZ 85248

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dBA

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