

#43  
SEP 26 2013



**MEMORANDUM**                      **Transportation and Development – CC Memo No. 13-107**

**DATE:**            SEPTEMBER 26, 2013

**TO:**                MAYOR AND COUNCIL

**THRU:**            RICH DLUGAS, CITY MANAGER *RD*  
MARSHA REED, ASSISTANT CITY MANAGER *MR*  
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *RJ*  
JEFF KURTZ, PLANNING ADMINISTRATOR *JK*  
KEVIN MAYO, PLANNING MANAGER *KM*

**FROM:**            SUSAN FIALA, CITY PLANNER *SF*

**SUBJECT:**        LUP13-0012 THE PERCH

**Request:**            Liquor Use Permit approval to sell and serve liquor as permitted under a Series 6 Bar License for on-premise consumption indoors, within an outdoor courtyard, and live music outdoors. The second request is for alcohol production and packaging as permitted under a Series 3 Domestic Microbrewery License in a new building addition.

**Location:**            232 South Wall Street, north of Frye Road and west of Arizona Avenue

**Applicant:**            Rebecca Lavenue

**RECOMMENDATION**

Upon finding the request to be consistent with the General Plan and the Community Commercial/Planned Area Development (C-2/PAD) zoning, Planning Commission and Planning Staff recommend approval for one year, subject to conditions.

**BACKGROUND**

The subject site is located north of Frye Road and west of Arizona Avenue. The business was formerly under the name of “The Courtyard on Wall Street”. The site contains several buildings, including Yoli’s Café, clustered around a common courtyard. All of the buildings are owned by the applicant, Lavenue LLC, except for the building located at the southwest corner, which is owned by Yoli’s Café.

The request is for Liquor Use Permit approval to sell and serve liquor as permitted under a Series 6 Bar License for on-premise consumption indoors, within an outdoor courtyard, and have live music outdoors. The second request is for alcohol production and packaging as permitted under a Series 3 Domestic Microbrewery License, in a new building addition.

The current Liquor Use Permit for this business was approved in February 2013. Two conditions of the current Liquor Use Permit require re-application and approval due to the proposed expansion and modification to the approved site plan and floor plan, and the addition of the Series 3 liquor license to the Series 6 license.

The existing business is approved for approximately 21,300 square feet of premise area. The requests add both a roof top/second floor and a microbrewery of approximately 3,300 square feet for a total of 24,600 square feet of premise area.

The roof top area would be renovated into a bar, dining area, and office space, as generally depicted on the roof top/second floor plan exhibit. The roof top/second floor area would be approximately 1,500 square feet and have 40 seats. The building addition would accommodate the microbrewery for brewing craft beer. The approximate 1,800 square foot building addition is proposed to be constructed behind the existing bar and dining area, in the northwest portion of the site.

The request also includes adding live music to the business's operation. The live music would occur on the roof top/second floor and in the outdoor courtyard. The live music would include easy listening, jazz, blues, R&B, pop, and be electrically amplified and acoustic. Two televisions will be located in the indoor bar/dining area.

The restaurant will employ around 20 full and/or part time positions. The restaurant will be open seven days a week. Hours of operation will be from 11 a.m. to 11 p.m. from Monday through Friday and until midnight on weekends. The total number of seating, including all indoor, outdoor, and roof top, is estimated at 148.

Due to the proximity to the residential developments, Planning Staff has added conditions to address any potential noise concerns. Planning Staff recommends a one-year time limit to allow evaluation of compatibility of the live music and entertainment with the surrounding residential and business developments.

A Series 6 Bar License allows a bar retailer to sell and serve spirituous liquors to be consumed on the premises and in the original container for consumption on or off the premises. Under a Series 6 Bar License, the establishment does not have a requirement for percentage of food versus alcohol sales. A Series 3 Domestic Microbrewery License allows beer to be produced or manufactured on premises for consumption on or off the premises, and sales and deliveries of beer to persons licensed to sell beer.

## **DISCUSSION**

Planning Staff supports the request with conditions, finding that the bar with live music can be appropriate at this location if it is controlled so as to not unreasonably disturb the surrounding

businesses and residents. The one year approval time condition allows evaluation of the compatibility of the outdoor live music.

The site is located within the South Arizona Avenue Corridor Area Plan (SAZACAP). The SAZACAP identifies this site for Cultural and Entertainment land uses. The Perch is also part of Site 8, which received PAD approval in 2011 to address parking. The 2011 case found that there are approximately 743 off-street public parking spaces available on nights and weekends that can be shared by Site 8 properties including this establishment.

There have been no complaints filed with the Police Department. During the neighborhood notification and public notification processes, opposition to the request has been received, see attached.

#### **PUBLIC / NEIGHBORHOOD NOTIFICATION**

- This request was noticed in accordance with the requirements of the Chandler Zoning Code.
- A neighborhood meeting was held on September 4, 2013, at the Downtown Community Center. Three property owners attended and voiced their opposition to the request.
- The Police Department has been informed of the application and has no issues or concerns.
- As of this writing, Planning Staff received a phone call from a downtown business owner concerning parking. A follow up letter, outlining several concerns related to parking, building permits, and zoning was provided. The same downtown business owner sent a subsequent email stating they no longer opposed the proposed request. The two correspondences are attached.

#### **PLANNING COMMISSION VOTE REPORT**

Motion to Approve.

In Favor: 6    Opposed: 0    Absent: 1 (Baron)

#### **RECOMMENDED ACTION**

Planning Commission and Planning Staff, upon finding consistency with the General Plan and zoning, recommend approval of LUP13-0012 THE PERCH, for one year, subject to the following conditions:

1. The Use Permit granted is for a Series 6 license and a Series 3 license, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit shall remain in effect for one (1) year from the date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require reapplication to and approval by the City of Chandler.
3. The Use Permit is non-transferable to any other location.

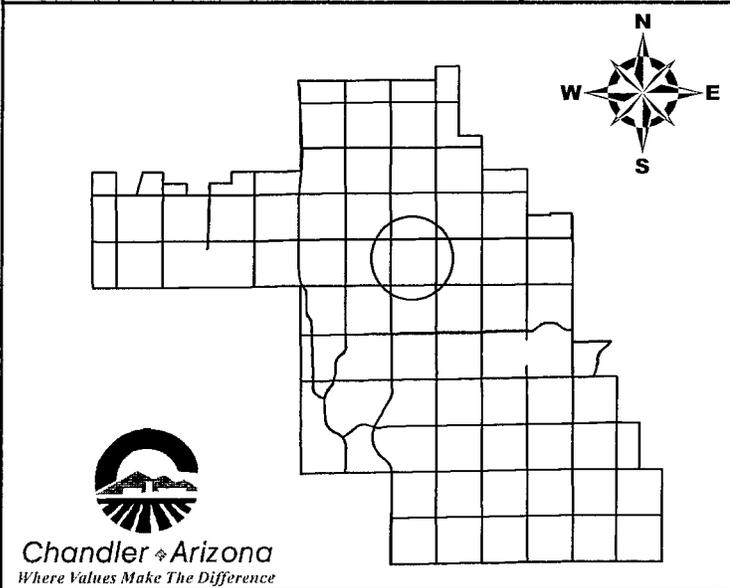
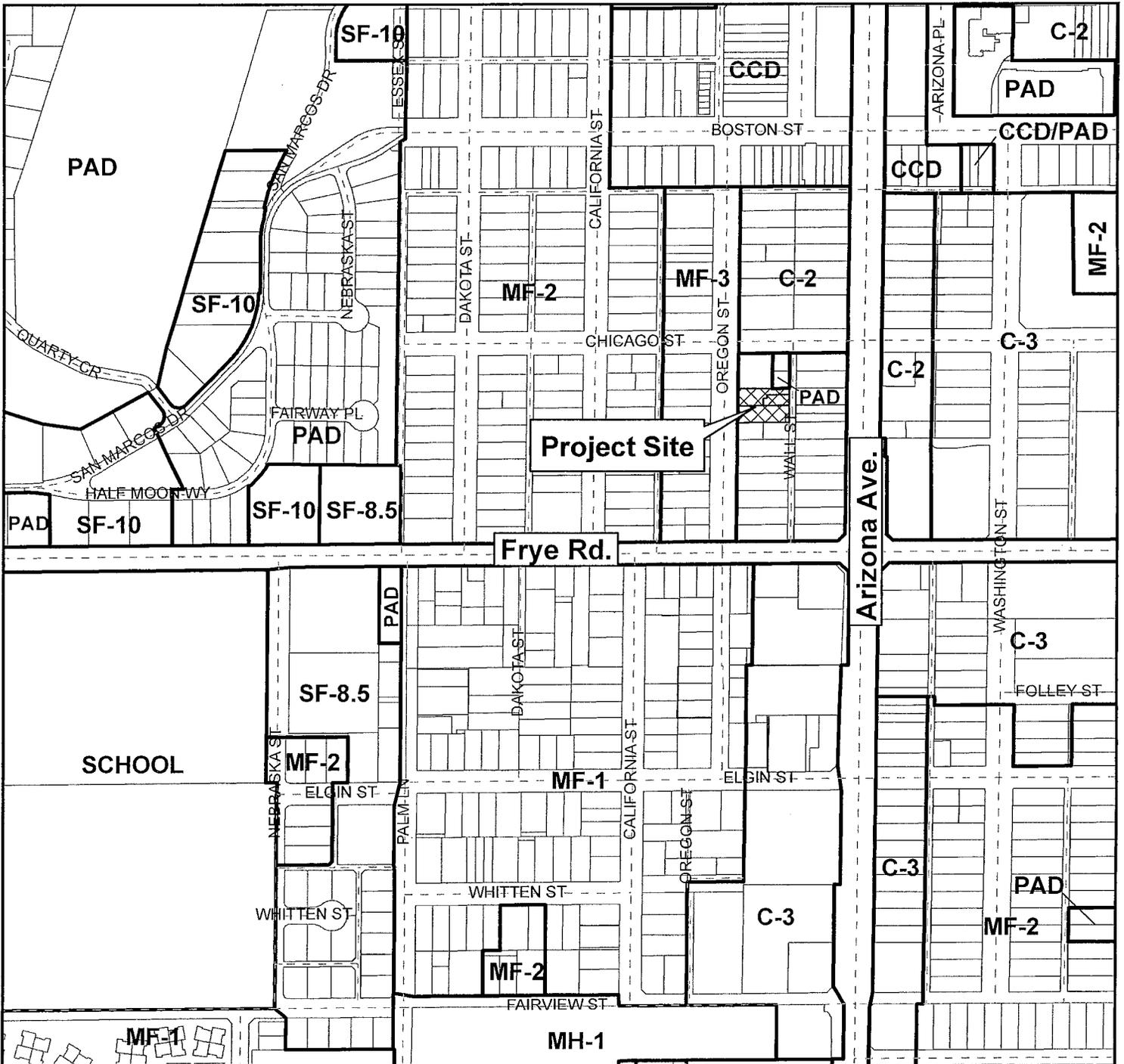
4. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan and Narrative) shall void the Use Permit and require a new Liquor Use Permit application and approval.
5. The site shall be maintained in a clean and orderly manner.
6. Music and entertainment shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.
7. No noise shall be emitted from the live music and entertainment occurring outdoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
8. The establishment shall provide a contact phone number of a responsible person (bar owner and/or manager) to interested neighbors to resolve noise complaints quickly and directly.

**PROPOSED MOTION**

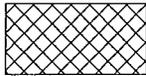
Motion to approve Liquor Use Permit, LUP13-0012 THE PERCH, subject to the conditions recommended by Planning Commission and Planning Staff.

**Attachments**

1. Vicinity Maps
2. Site Plan
3. Floor Plans
4. Narrative
5. Citizen Correspondence



## Vicinity Map



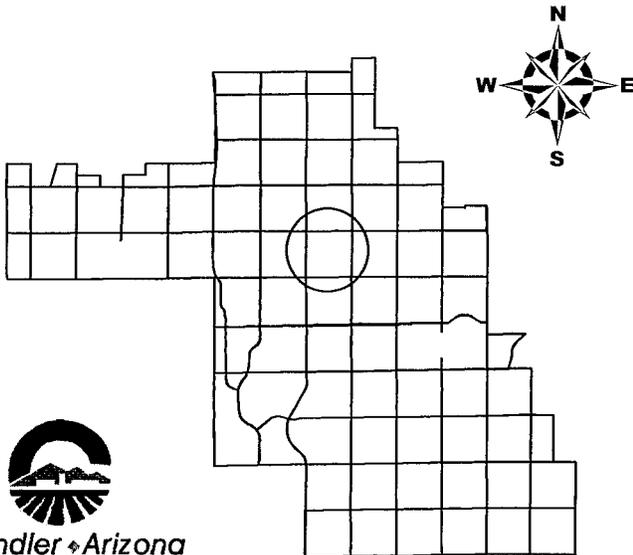
LUP13-0012

The Perch  
Liquor Use Permit

CITY OF CHANDLER 7/29/2012



## Vicinity Map



LUP13-0012

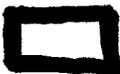
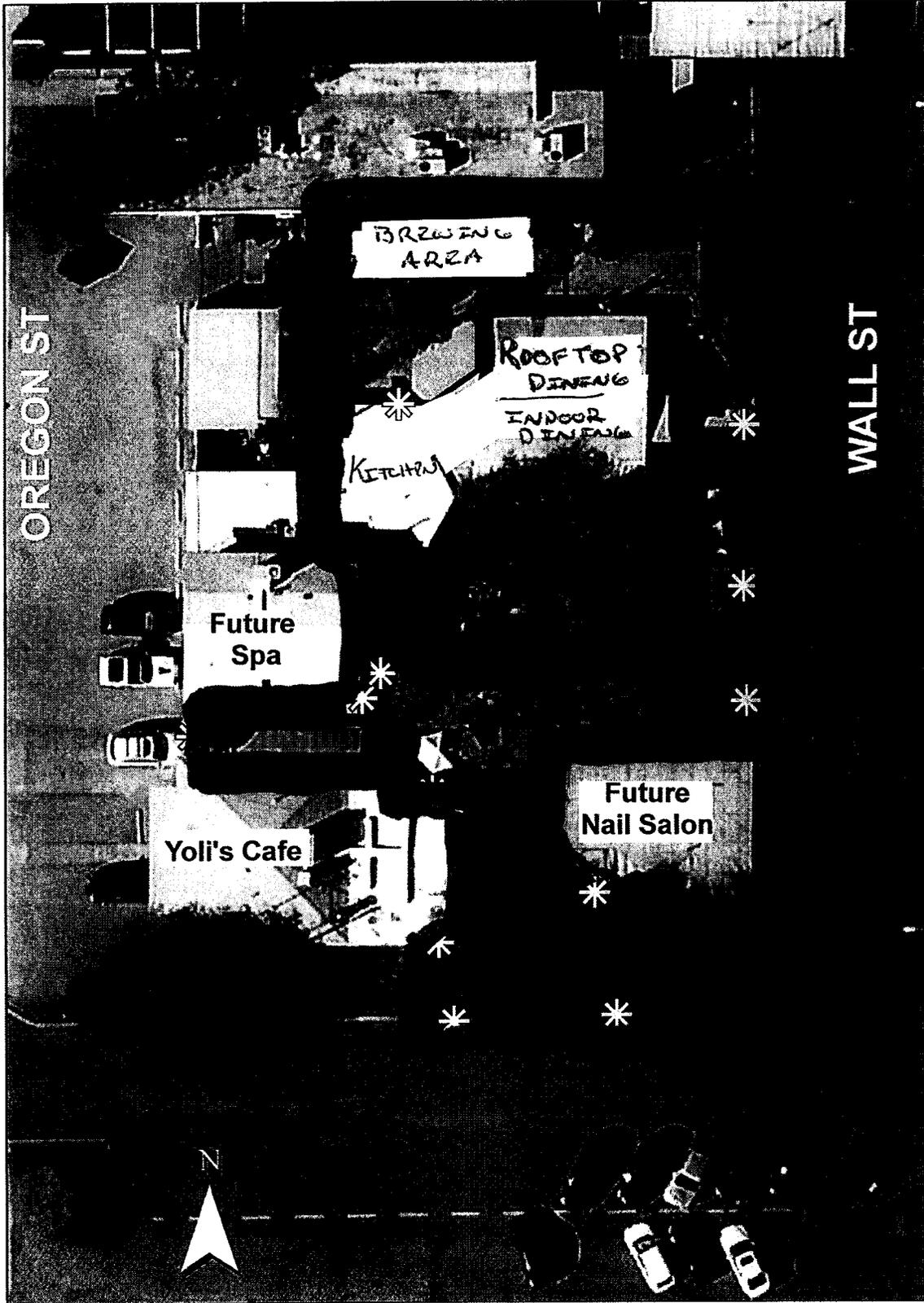
The Perch  
Liquor Use Permit



Chandler ♦ Arizona  
Where Values Make The Difference

CITY OF CHANDLER 7/29/2012

AERIAL PHOTOGRAPH



Liquor Serving Premises

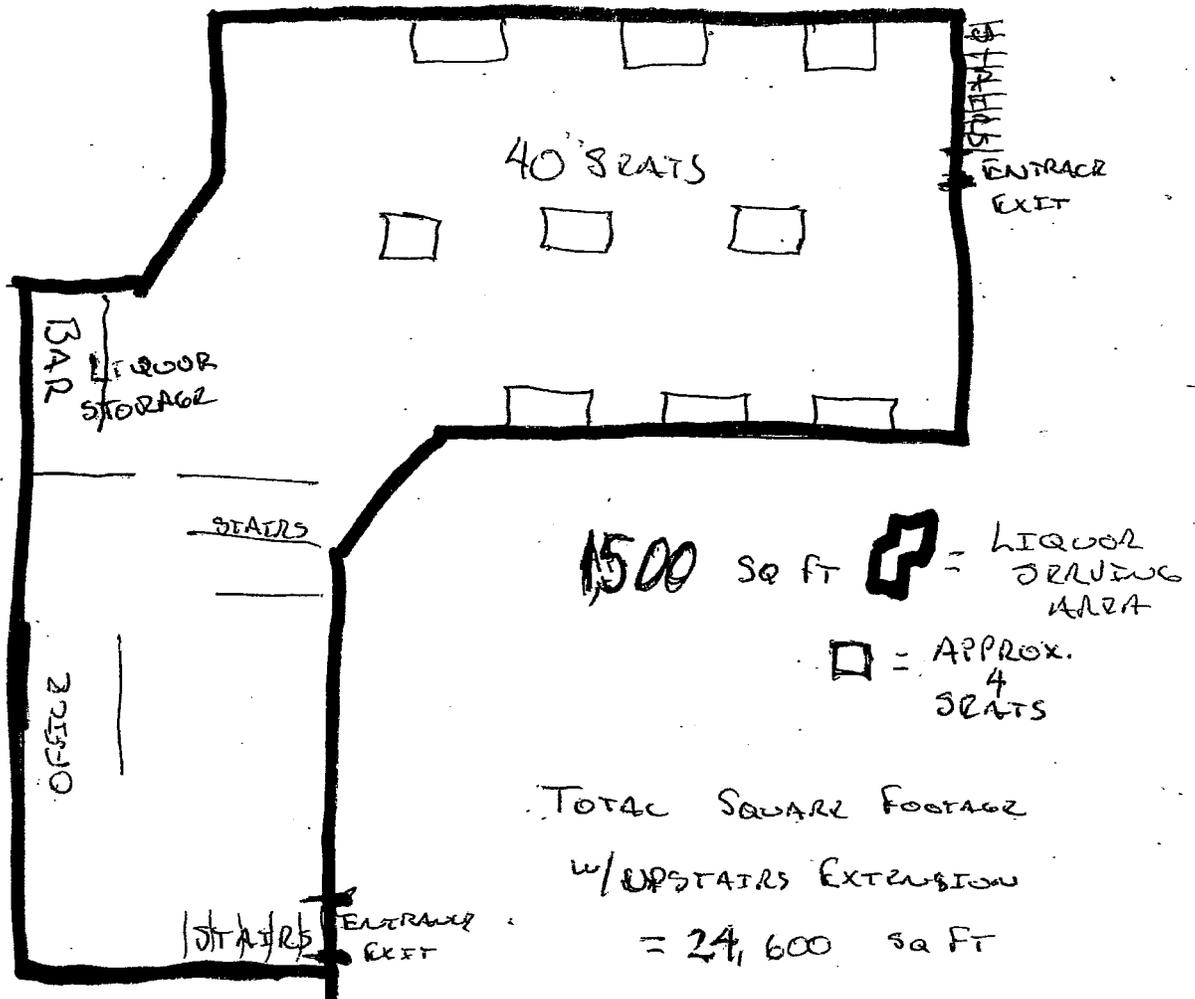


Entrance/Exit



# UPSTAIRS EXTENSION .

SECOND FLOOR / ROOFTOP DINING / SEATING



City of Chandler,

The Perch L.L.C., would like to request to expand the floor plan for our approved Series 6 (Bar) liquor license and add/stack a Series 3 Microbrewery liquor license to our establishment located at 232 S. Wall St. Chandler, AZ. 85225. The proposed expansion would not only utilize a roof top area located above the current Bar/Dining area of the licensed premise but we would also like to include a small area behind that dining area for brewing craft beer with a Series 3 Microbrewery. In sum, this Liquor Use Permit request would add/stack a Series 3 Microbrewery liquor license to an already approved Series 6 Bar license and would also add/expand approximately 3,300 sq ft. to the already approved licensed premise of 21,300 sq ft. - totaling 24,600 sq ft. The lot numbers associated with this request are 303-09-090A, 303-09-090B & 303-09-093.

The Perch is one of many businesses which all have access to a gorgeous common courtyard and it is our desire to integrate the sale of gourmet food, premium alcoholic drinks and craft beer as well as some easy listening, (jazz, blues, R & B, pop) electrically amplified and acoustic, live entertainment into this beautiful courtyard and roof top area. A neighborhood liaison will be designated and the liaison's name and contact information will be made available to neighbors for them to contact with any concerns including any disruptive noise or loud music from The Perch. The services proposed are designed to create another unique reason to choose Downtown Chandler for entertainment, recreation and dining.

In addition to the gourmet foods, premium alcoholic drinks and craft beer, we also plan to have a enviable wine list, exceptional coffees, lattes and cappuccino and even smoothies and other fruity beverages for the kids, all set in a very relaxing, quaint and seemly secluded outdoor environment that the entire family can enjoy.

The majority of the seating will be outdoors, however we also have an indoor Bar/Dining area with approximately 28 to 34 seats and 2 televisions. The total number of seats, including all indoor and outdoor seating as well as the addition of roof top is estimated at 148 total seat

We anticipate hiring approximately 20 employees varying between full and part time and our projected hours of operations will be 11:00 am. until 11:00 pm. on weekdays and 11:00 am. to 12:00 am. on weekends. Proper signage (No Alcohol Beyond This Point) will be posted at every gate or entrance/exit as to better inform the public where the premise begins and ends.

Thank you for your time and consideration on this matter,

Rebecca Lavenue  
Lavenue L.L.C.

**To: Susan Fiala, City of Chandler Planner  
Rebecca Lavenue, Applicant**

**Re: LUP12-0012 THE PERCH**

**Date: September 4<sup>th</sup>, 2012**

I welcome building improvements as well as the use of property that could bring the area more city tax revenues, positive growth, and increased property values. I am directly affected by this Liquor Use application as I own property on both the north & south sides of the applicant: at: 251 South Oregon, 261 South Oregon, 77 W. Chicago.

I am opposed to this application at this time. I am in favor of a future APPROVAL for a future LUP for THE PERCH **if & only after** the concerns below have been addressed by the applicant and/or city staff:

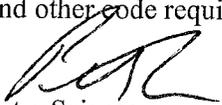
**1.) Parking is misrepresented** on the attached notice. Parking needs to be clarified and properly re-noticed for a neighborhood meeting. There are 63 of the 90 spots shown on attached that are private parking spaces for my tenants use, not for the applicant's use.

**2.) Year in Review:** Most often, Liquor Use permit applications are conditional upon an annual re-application. This allows city staff, P&Z, and Council an opportunity to review police reports, complaints, & such use of an LUP. The applicant was approved for LUP12-0035. (applied for 11/14/12, approved on 2/28/13). Since that approval, the applicant was sited with 2 complaints on 6/6/13 and 7/12/13. (attached) The attached CC report of February 12, 2013 (CC Memo 13-029 page 2) details the location of the use permit, and the fact that there were 2 buildings that may become one. This indicated to the public, the City, Commissioners & Council that a building permit would be applied for. One was not.

While liquor use permits can be issued without brick & mortar, (parks, special events, a Chili's not yet built for example) and are often issued before building CofO or even before building permit submittals, this applicant has shown a blatant disrespect for codes, for process, and for public safety. It appears the prior LUP approval was used as a quasi-building permit.

For this reason, and in this case, I would request a liquor use permit be re-applied for at such after building permits are issued. The building(s) in part is the location of the liquor use application. The applicant is requesting use on top a 3200-foot rooftop that was built illegally, as well as within buildings built without permits, without fire sprinklers, & without proper processes.

**3.) Encroachment:** Applicant's Use Permit application is in C2 zoning. In C2 side setbacks for new build can be *Zero Lot Line* (instead of 12 ft) only if there is access to the front and back of property. In this case there is. However, the applicant should provide proof there will be NO encroachment of the said Use Permit application. The newly built out-buildings (future brewing area under this use permit application) may be encroaching onto my property's back wall. (see photos). Touching is allowed under *Zero Lot Line*, however the buildings may be not be attached with nails, screws or epoxy. Being "Attached" creates an encroachment, and with an encroachment triggers the applicant and I to agree to an easement. I have concerns with fire rating and other code requirement for brewing. (photos of possible encroachment attached).

  
Peter Sciacca  
81 West Boston Street  
cell: 602 330-6888

LUP12-0012

LUP12-0012

Peter Sciacca

to:

jeff.kurtz, Kevin.Mayo@chandleraz.gov, susan.fiala

09/18/2013 02:11 PM

Hide Details

From: Peter Sciacca <peter@lsourceinc.com>

To: <jeff.kurtz@chandleraz.gov>, "Kevin.Mayo@chandleraz.gov" <Kevin.Mayo@chandleraz.gov>, <susan.fiala@chandleraz.gov>

I am in support of staff, P&Z and city approving LUP12-0012

I can not find the conditions on-line and would hope there would be conditions and clarification on my points:

1. Parking
2. Good Citizenship
3. Encroachment

**Parking** is a non-issue, just not all commissioners or council understand it, and needs to be explained better.

**Good Citizenship:** Staff is working with her to retro-permit her physical LUP serving area, not yet legal LUP serving area. This application varies greatly from the 1st neighbor meeting prior to P&Z in Jan which differs from City council in February. Are changes normal between P&Z and Council (attached)

**Encroachment:** *LUP on property applicant does not own.*

Applicant requested to serve alcohol at Yoli's cafe outside seating (as drawn in staff packet) This is not property the applicant **owns**, but prior application should have included a letter of use on the property NOT owned by applicant with permission from Yoli's.

Likewise, she is requesting to serve alcohol (brew beer) on the backside on my building in buildings encroaching onto my property. In other words, requesting LUP on property she does not own (again). Unlike above she does not YET have permission from me to use my property for such use. (whether it be 4 inches or 40 feet)

**peter sciacca**

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