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MEMORANDUM **Transportation & Development – PZ Memo No. 13-070**

DATE: SEPTEMBER 18, 2013

TO: PLANNING AND ZONING COMMISSION

THRU: R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
JEFF KURTZ, PLANNING ADMINISTRATOR
KEVIN MAYO, PLANNING MANAGER KM

FROM: SUSAN FIALA, CITY PLANNER SMF

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

Planning Staff, finding consistency with the General Plan and the Community Commercial/Planned Area Development (C-2/PAD) zoning, recommends 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 new approval due to the proposed expansion and modification beyond 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. 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.

The roof top area would be renovated into a bar, dining area, and office space as generally depicted on the second floor plan exhibit. The roof top/second floor would be approximately 1,500 square feet with 40 seats. The first floor building addition would accommodate the microbrewery for brewing craft beer. The approximate 1,800 square foot building addition is proposed 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, is attached.

RECOMMENDED ACTION

Planning Staff, upon finding consistency with the General Plan and zoning, recommends 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 re-application 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.

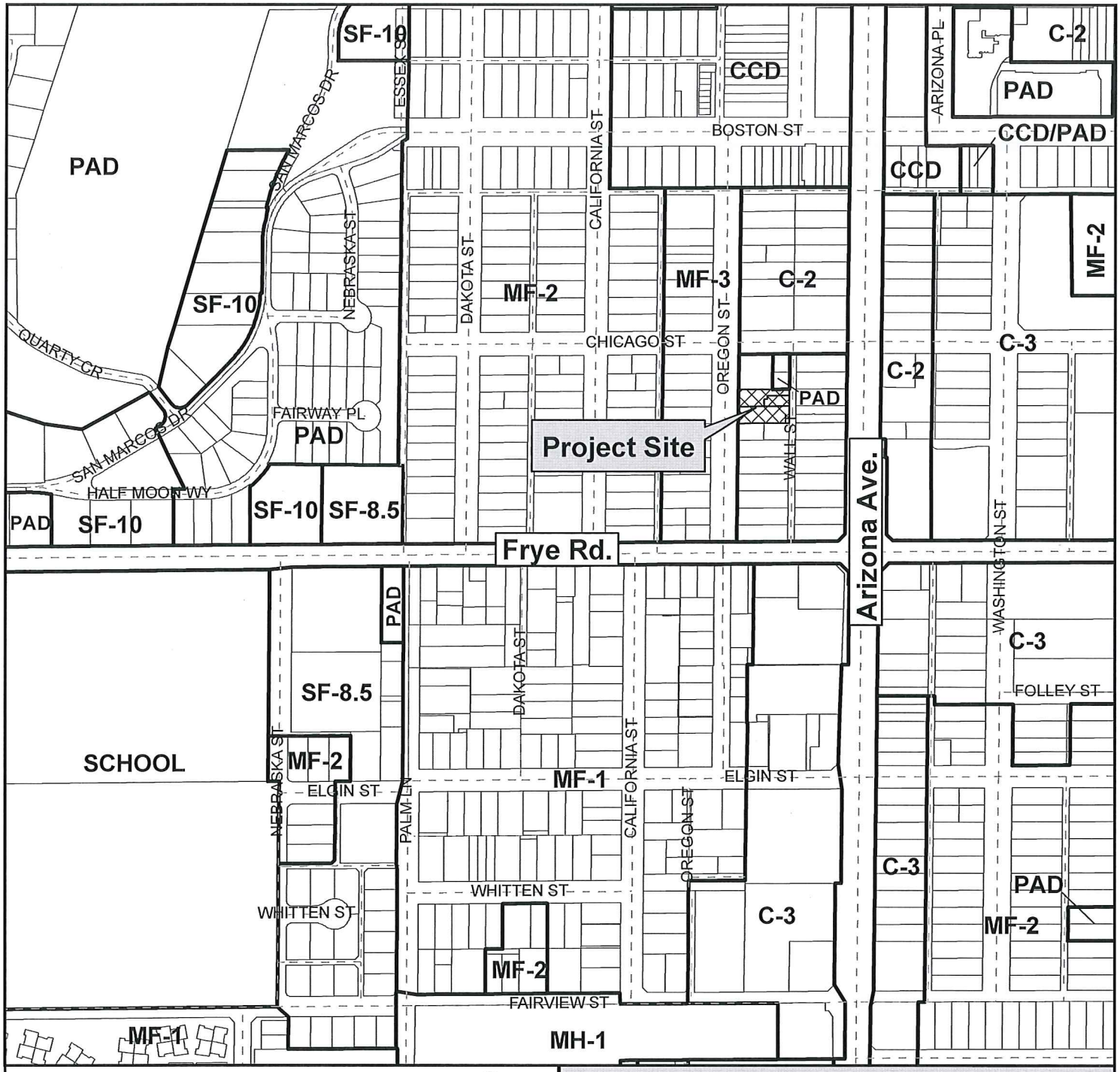
8. The establishment shall provide a contact phone number of a responsible person (bar owner and/or manager) to interested neighbors to resolve noise complaints quickly and directly.

PROPOSED MOTION

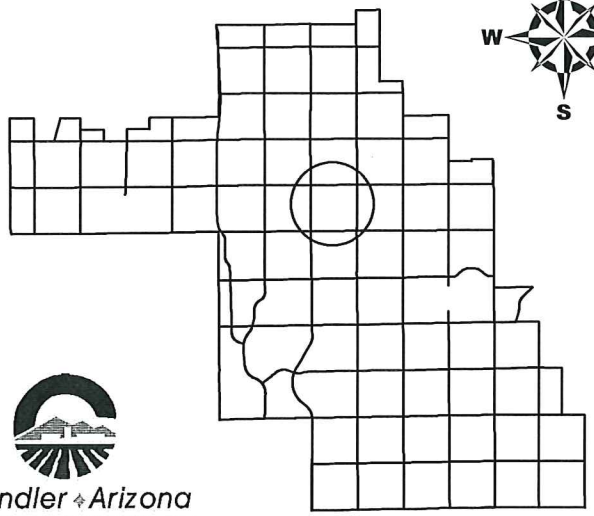
Move to recommend approval of Liquor Use Permit, LUP13-0012 THE PERCH, subject to the conditions recommended by Planning Staff.

Attachments

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



Vicinity Map



LUP13-0012

The Perch
Liquor Use Permit

Chandler Arizona
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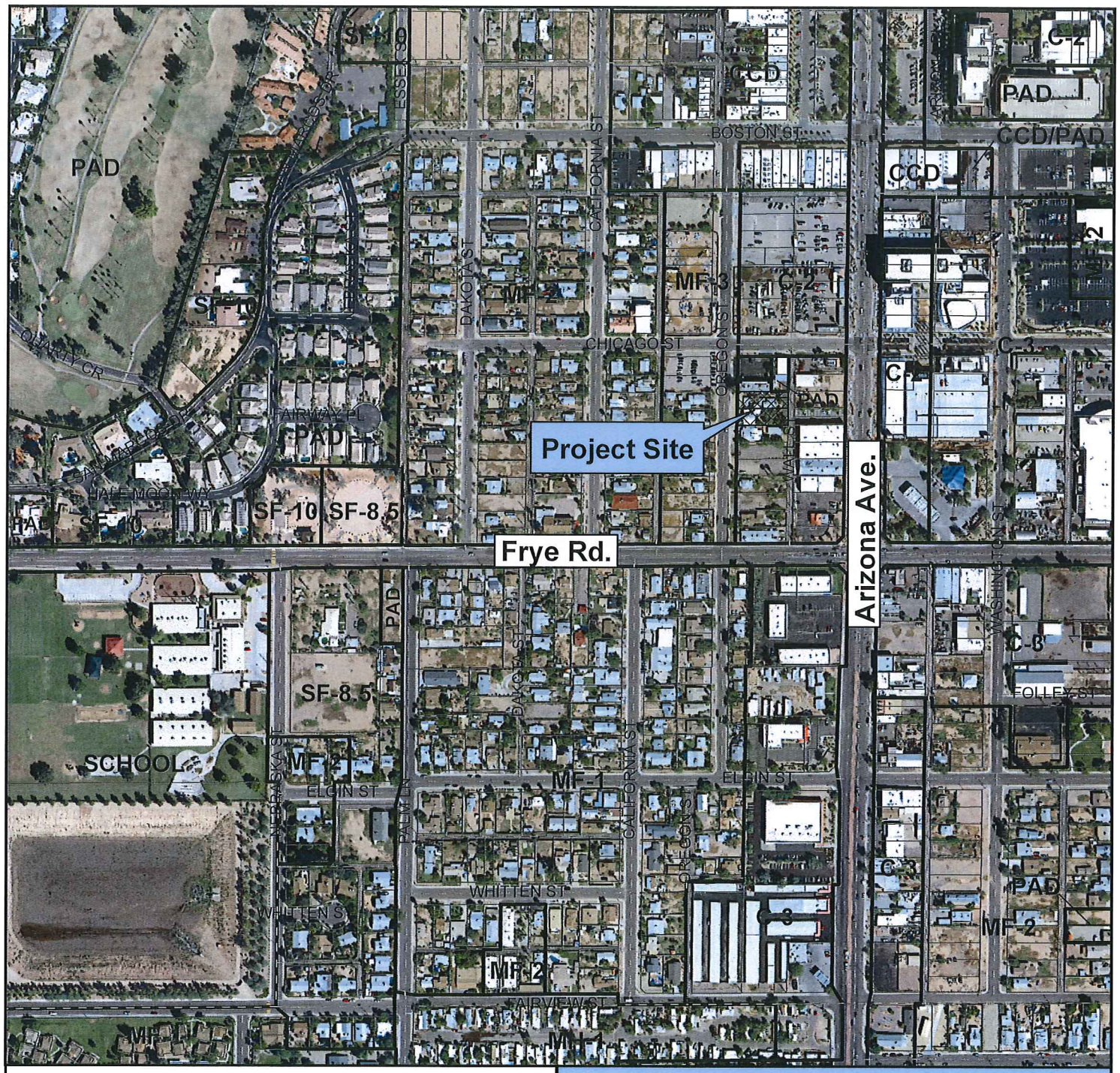
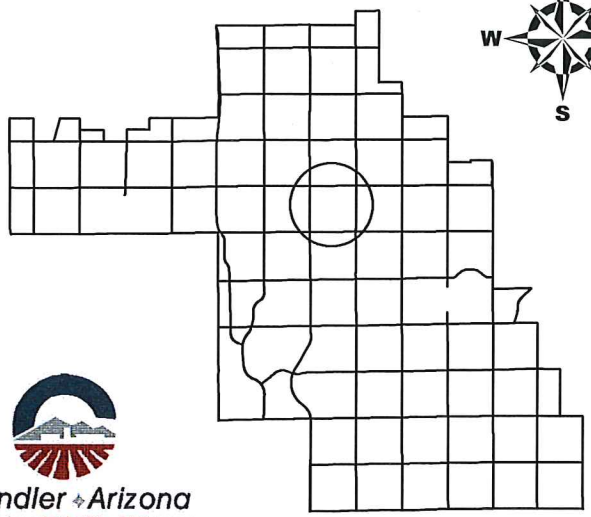
CITY OF CHANDLER 7/29/2012



Vicinity Map



LUP13-0012

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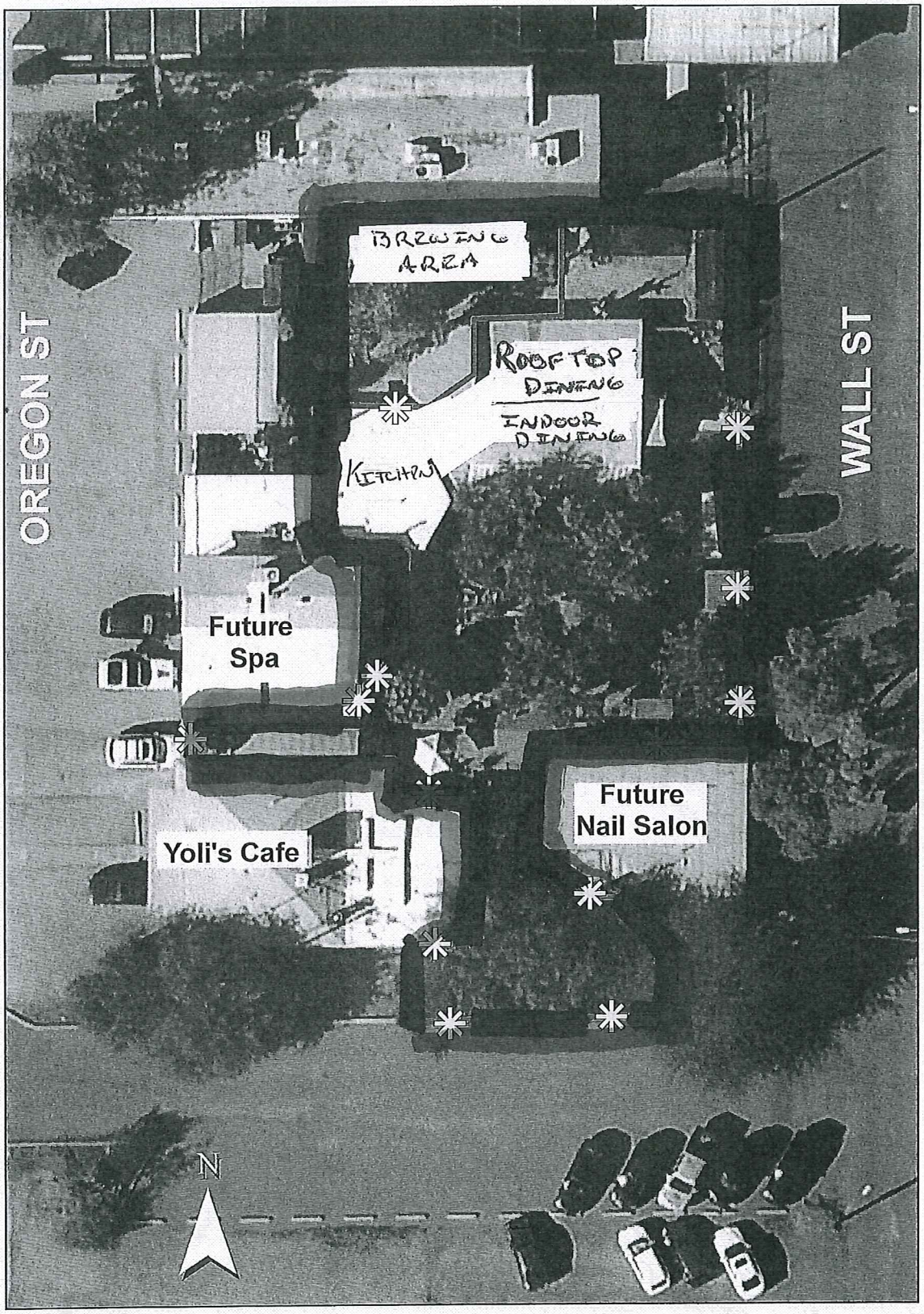
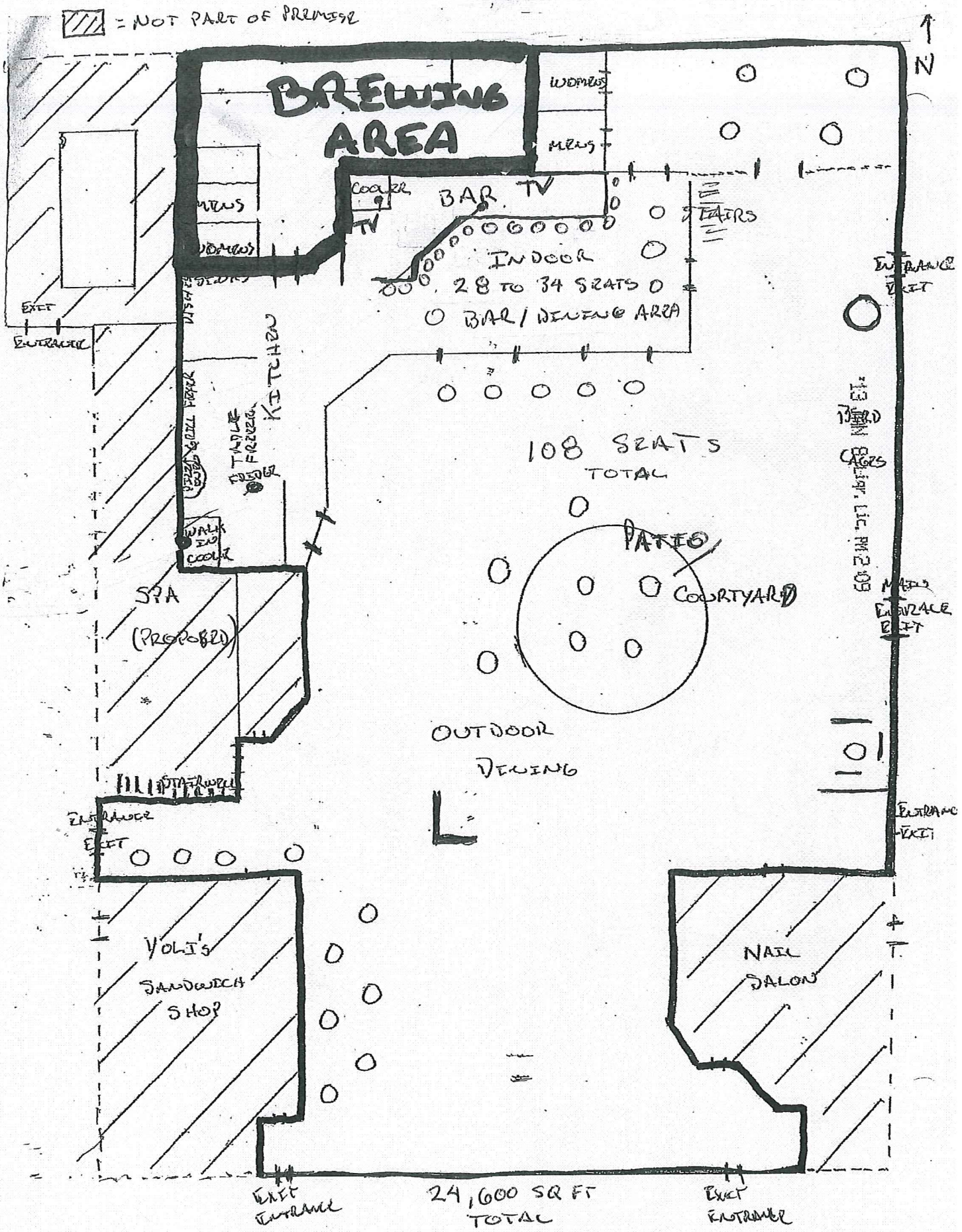
AERIAL PHOTOGRAPH



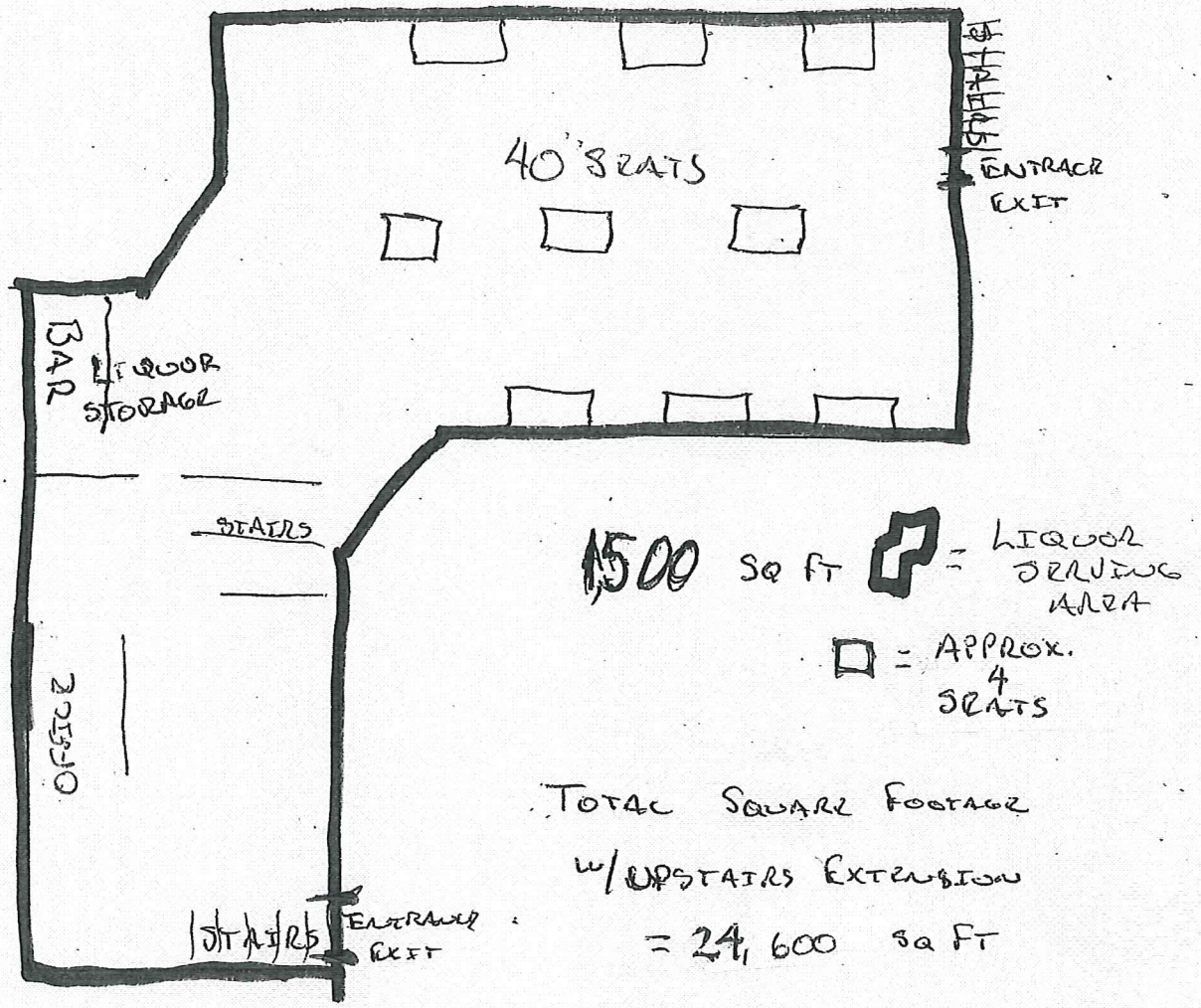
Liquor Serving Premises

Entrance/Exit


= NOT PART OF PREMISE
N
BREWING AREA
WOMENS
MENS
COOLER
BAR
TV
STAIRS
INDOOR
28 TO 34 SEATS
BAR / DINING AREA
ENTRANCE EXIT
EXIT ENTRANCE
KITCHEN
TABLE FREEZER
FRIDGE
WALK IN COOLER
108 SEATS TOTAL
PATIO
COURTYARD
SPA (PROPOSED)
MAIN ENTRANCE EXIT
OUTDOOR DINING
STAIRWELL
ENTRANCE EXIT
YOLI'S SANDWICH SHOP
NAIL SALON
EXIT ENTRANCE
24,600 SQ FT TOTAL
EXIT ENTRANCE

UPSTAIRS EXTENSION.

SECOND FLOOR / ROOFTOP DINING / SEATING



TOTAL SQUARE FOOTAGE W/ UPSTAIRS EXTENSION = 24,600 SQ FT

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
Laveneue L.L.C.

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

Re: **LUP12-0012 THE PERCH**

Date: **September 4th, 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
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cell: 602 330-6888