



**Chandler • Arizona**  
*Where Values Make The Difference*



**MEMORANDUM**                      **Transportation & Development – PZ Memo No. 10-121**

**DATE:**            NOVEMBER 8, 2010

**TO:**                PLANNING AND ZONING COMMISSION

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

**FROM:**            JODIE M. NOVAK, MEP, SENIOR CITY PLANNER *JMN*

**SUBJECT:**        LUP10-0039 TONIC

**Request:**        Liquor Use Permit approval to allow the addition of live music indoors and/or on the outdoor patio and games on the outdoor patio at an existing lounge/bar in conjunction with the sale of liquor (Series 6 Bar License) for on-premise consumption only indoors and within an outdoor patio

**Location:**        3400 W. Chandler Blvd., Suite 5, which is west of the Loop 101 Price Freeway and north of Chandler Boulevard

**Applicant:**        Michael Sherer, business owner

**RECOMMENDATION**

The application requests approval of a Liquor Use Permit to allow the addition of live music indoors and/or on the outdoor patio and games on the outdoor patio at an existing lounge/bar in conjunction with the sale of liquor (Series 6 Bar License) for on-premise consumption only indoors and within an outdoor patio. The lounge bar is located within the Chandler Gateway retail center. Staff, finding consistency with the General Plan and PAD zoning, recommends approval with conditions.

**BACKGROUND**

The lounge bar is located in an in-line shops building north of the Bank of America building off of Metro Boulevard. West of the building are additional retailers and restaurants including Baja Fresh and Stone Creek Furniture. A restaurant, Shabu Fondue, formerly occupied this tenant space. TONIC is a lounge bar which received Liquor Use Permit approval for a Series 6 Bar License in December 2009. A Series 6 Bar License allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the

original container for consumption on or off the premises. This lounge bar agrees to prohibit "To Go" packaged liquor sales. Under a Series 6 Bar License, the establishment does not have a requirement for percentage of food versus alcohol sales.

The previous Liquor Use Permit included a zoning condition that restricted noise. The condition reads, "No noise indoors or outdoors shall be emitted beyond the boundaries of the building so as not to disturb adjacent businesses and residential areas." See attached. This condition was added to mitigate any noise that may emanate from the outdoor patio and indoor/outdoor bar area. At the time of this approval, the business represented that it did not intend to operate as a nightclub or sports bar in that there was no live music, DJ's, karaoke, dancing, or sports related games such as pool tables and dartboards. The lounge bar represented there are indoor and outdoor speakers to provide background music as well as televisions viewable internally and from outside bar seating.

This application requests approval to allow the addition of live music indoors and/or on the outdoor patio and games on the outdoor patio in conjunction with the sale of liquor (Series 6 Bar License). Planning Staff was made aware of live music occurring in July 2010 through the attached news article. The live music is on the patio every Thursday and Saturday nights. The musician is a woman who plays an acoustical guitar and sings. The music is amplified by a microphone and a speaker. Staff advised that upon filing a new Liquor Use Permit, the music could continue during the processing of the Liquor Use Permit pending any complaints about noise. If Staff received noise complaints, the music needs to cease. Staff did receive three phone calls concerned with the music and advised the applicant to cease music pending Council's action on this request. Details of the calls are in the neighborhood notification section.

The requested live music/entertainment will be limited to a maximum of three (3) musicians with amplification via amplified instruments, speakers, and microphones. Instruments may be a guitar or keyboard. The live music occurs both indoors or on the outdoor patio. The narrative and neighborhood meeting notification letter include details of the proposal requesting live music between 6 p.m. and 12 p.m. and to occur on any days of the week versus just Thursday and Saturday. See attachments. The lounge bar is open from 4 p.m. to 2 a.m. every day.

In addition to live music, the application requests approval for sports games such as a bean bag toss and table pong. These games will be located on the outside patio only. Pool tables, video gaming machines, or like is not requested. During the sports games, a maximum of three tables and twelve chairs will be temporarily moved to accommodate the games.

The business is approximately 2,905 square feet in size. Interior seating is designed to accommodate approximately 70-80 seats including bar seats. The outside patio accommodates approximately 50 seats.

### **DISCUSSION**

Planning Staff is recommending zoning conditions to mitigate noise disruptions associated with the request for amplified live music/entertainment and sports games given there are surrounding residential subdivisions and recent noise complaints. Staff is recommending a one (1) year time

limit condition to further monitor compatibility of amplified live music and outdoor sports games as represented by the application.

The applicant does not want restrictions for outdoor amplified live music but given the recent resident complaints he would agree to indoors only if that is the desire of the Planning Commission and City Council.

**PUBLIC / NEIGHBORHOOD NOTIFICATION**

- The request was noticed in accordance with the requirements of the Chandler Zoning Code.
- The applicant's neighborhood meeting was held November 1, 2010. There were no attendees other than the applicant.
- The Police Department has been informed of the application and has responded with no issues or concerns.
- Phone calls regarding music - Planning Staff did receive three phone calls in regards to the live music. One resident called to say they could not attend the neighborhood meeting and did not have problems with this business so far and had not heard the music. However, he conveyed the business should have volume limitations so as not to disturb area homeowners. This resident lives north of the commercial center. Another caller conveyed she did not appreciate loud music coming from this place. She said she heard live music and someone was singing at midnight on a Saturday. She said she drove to the commercial center and realized the music was coming from TONIC. She does not support amplified music. This resident's home abuts the commercial center's west boundary. Another resident who also abuts the commercial center's west boundary called to convey she cannot attend the neighborhood meeting and does not want live music allowed to occur in the evening. She is okay if the music is indoors only but not outdoors. She said when her house windows are open she hears a woman singing all night and this disturbs her family with kids trying to sleep.

The applicant conveyed that in early October on a Saturday the police responded to a noise complaint in the area and determined the music could not be heard from the surrounding neighborhood but could plainly hear full band music with drums coming from Majerles across the street. Planning Staff contacted a Majerles representative and learned that the new manager did hire a band and was not aware they have no approval to do so and would cease immediately. Staff further asked the two callers who heard music if it was coming from Majerles and they said no. One caller conveying it was definitely TONIC because she drove to TONIC to confirm the music was coming from there. The other caller heard one woman singing, which is the woman who was advertised and performs at TONIC on Thursdays and Saturdays.

**RECOMMENDED ACTION**

Planning Staff, upon finding consistency with the General Plan and PAD zoning, recommends approval of LUP10-0039 TONIC Use Permit, subject to the following conditions:

1. 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.
2. The Use Permit is granted for a Series 6 Bar License only, and any change of license shall require reapplication and new Use Permit approval.
3. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, Narrative, and Neighborhood Meeting Notification Letter) shall void the Use Permit and require new Use Permit re-application and approval.
4. Any substantial change in the floor plan to include such items as, but not limited to, additional bar serving area or additional entertainment or sporting game related uses shall require re-application and approval of the Use Permit.
5. The Use Permit is non-transferable to other restaurant locations.
6. The site shall be maintained in a clean and orderly manner.
7. The patio shall be maintained in a clean and orderly manner.
8. The rear door to this business shall remain closed and not propped open during business hours and shall not be used as a customer entrance or exit.
9. No noise shall be emitted from amplified instruments, speakers, microphones, or the musician(s) on the patio so that it 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.

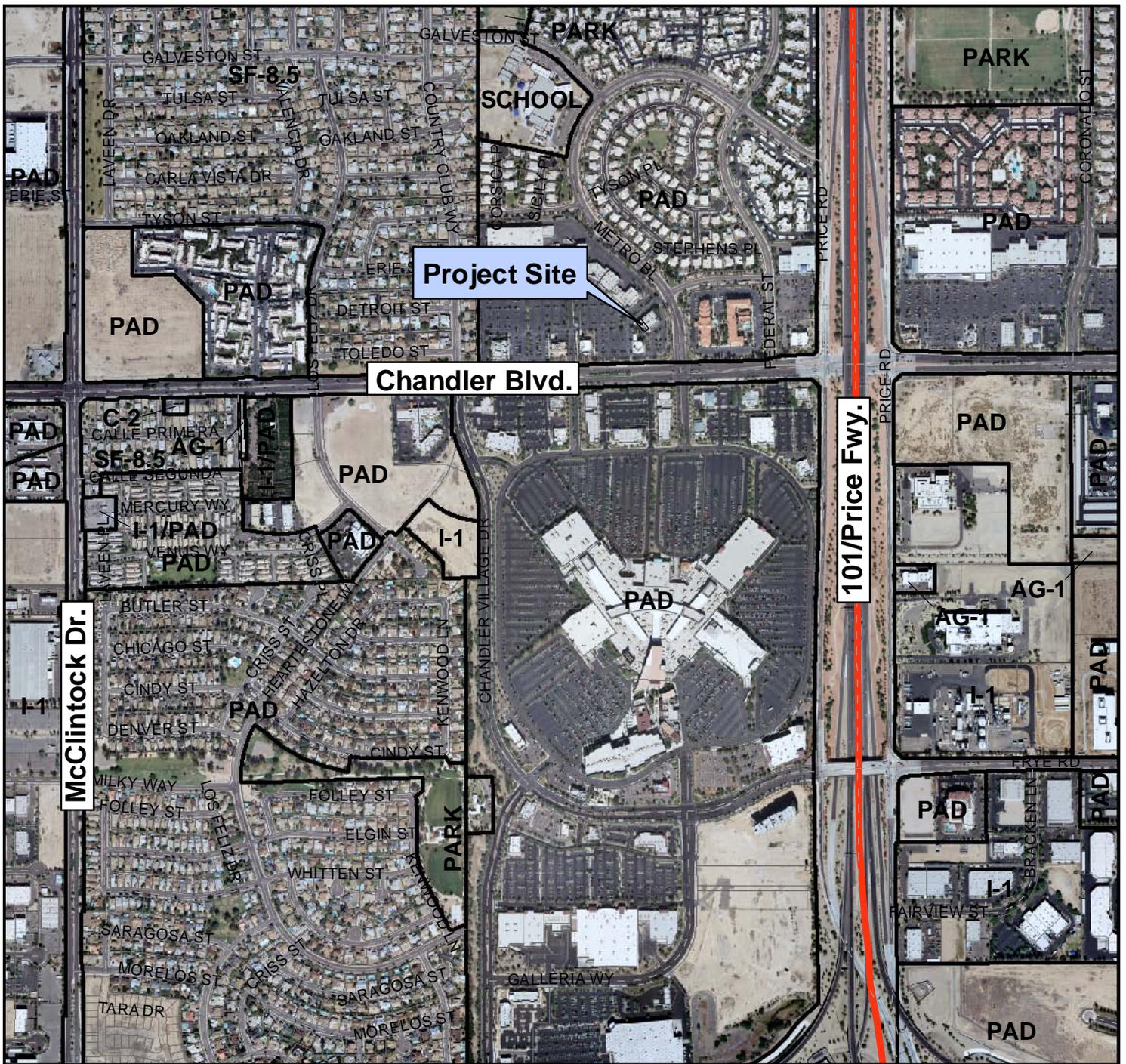
**PROPOSED MOTION**

Motion to recommend approval of Use Permit case LUP10-0039 TONIC, subject to the conditions recommended by Planning Staff.

**Attachments**

1. Vicinity Maps
2. Narrative
3. Neighborhood Meeting Notice
4. Site Plan
5. Floor Plan
6. Zoning conditions, LUP09-1005
7. News article
8. Appetizer/Dessert Menu





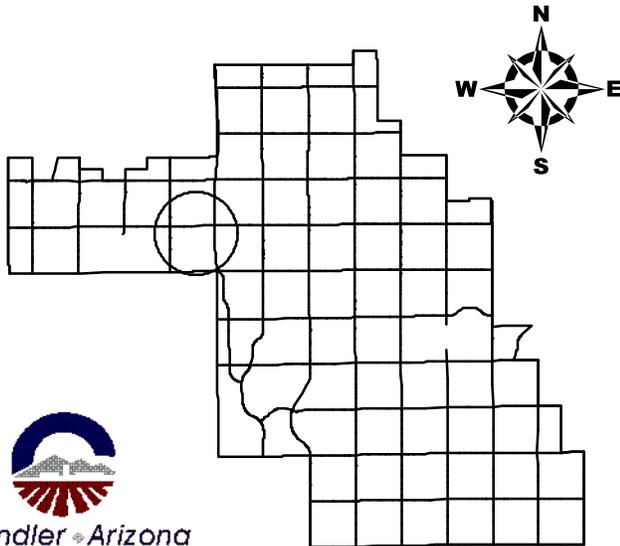
McClintock Dr.

Chandler Blvd.

101/Price Fwy.

Project Site

## Vicinity Map



LUP10-0039

**Tonic  
Liquor Use Permit**



3400 W. Chandler Blvd. Suite 5  
Chandler, AZ 85226  
Michael Sherer – 480-216-8875

## **LIQUOR USE PERMIT RENEWAL APPLICATION**

### **Requesting a Series 6 Liquor License Renewal**

Located in Chandler Gateway on the NW corner of Chandler Blvd. and Metro Blvd.

The following narrative contains the same information as our original application dated 9-15-09 # LUP09-1005. The only changes refer to the section requesting allowance for limited live music and designated sport games. The requested changes would provide our guests with some additional quality entertainment for their enjoyment while visiting our establishment.

TONIC is a privately owned entity operated by TMAC Ventures, Inc. The principals of TMAC Ventures, Inc. collectively, have over 60 years in the restaurant/service industry combined with over 65 years in senior management roles.

- Hours of operation are 4:00pm – 2:00am 7 days a week
- We employ 18 people.
- Facility is 2,905sf.
- Indoor lounge type seating for 43. Hi-top table seating for 12, and bar top seating for 8.
- Patio area with table seating for 28. Hi-top table seating for 12, and bar top seating for 10.
- We have planted a 5' tall oleander hedge around the patio seating area to make it more intimate and to create a natural privacy screen.
- There are 6 big screen TV's for quiet viewing from every part of the lounge.
- There are air curtains above the windows leading from the patio to the indoor bar area to eliminate any smoke from the smoking portion of the patio entering the facility.
- There are beautifully designed, halo lit sign on both the front and back of the building.
- We have spoken to the other tenants in the building regarding compatibility of Tonic with their businesses, since our opening in January, 2010. They have absolutely no

*Narrative*

complaints regarding our presence as a neighbor. Tonic's primary business hours are in the evenings after their closing hours.

- TONIC IS NOT A NIGHTCLUB.
- TONIC is requesting a change to allow live music in the following manner:
  - Not to exceed (3) acoustical musicians with amplified music (no percussion type).
  - Music volumes will be carefully monitored so as to not create undesirable neighborhood noise levels.
  - Music will be performed indoors or on adjacent patio, depending on space availability and/or weather. (Locations noted on attached floor plan)
- TONIC WILL NOT HAVE POOL TABLES, DART BOARDS, etc.
- Tonic is requesting allowance for specific sports games: "bean bag toss" and "table pong"

Tonic is requesting the above changes to allow our guests some additional quality entertainment to enjoy while visiting our establishment.

- Our intent, as always, is to create a business that will be well accepted by all the other tenants and neighbors and will be an asset to the intended plan of the City of Chandler and the landlord.

Following are a few excerpts from our business plan which should help describe our vision.

#### *Mission Statement*

TONIC will offer our guests the ultimate lounge experience. All of our exceptionally trained employees will continuously strive to provide our patrons with a stimulating, yet relaxing, fun atmosphere in which to enjoy our unique combination of heavy appetizers, desserts and beverages, all designed to entice frequent visits.

#### *Business Goals and Objectives*

- To open an upscale lounge with the goal of creating an inviting atmosphere where guests can gather to relax, unwind, socialize, meet new people and/or conduct business.
- To become a popular lounge that will compliment the growing population of Chandler and the surrounding area.
- Have a clientele return rate of 80% by the end of the first year.
- Become an established community destination by the end of the first year.

#### *Brief Company Summary*

TONIC is a lounge that will cater to guests who appreciate the finer things in life, yet enjoy a surrounding that is fun, as well as affordable. The Chandler area is ready for an upscale destination lounge with an environment that is appealing to all guests.

#### *Our motto:*

To provide our guests with an experience that exceeds their expectations.

*Narrative*

October 13, 2010

**NEIGHBORHOOD MEETING NOTICE**  
**REQUEST FOR A NEW LIQUOR USE PERMIT TO ALLOW THE ADDITION OF**  
**LIVE MUSIC/ENTERTAINMENT**

**Zoning Case # LUP10-0039 TONIC**

Dear Area Property Owner:

We are the owners of TONIC, an upscale lounge which has been operating since January 2010 in the tenant space located at 3400 W Chandler Blvd, Suite 5. In December 2009, City Council approved our business a "Liquor Use Permit" to operate under a Series 6 Bar License, which allows the sales and consumption of alcohol on-premises only. At the time of the Liquor Use Permit, we did not request approval for any live music, entertainment, gaming, and the like.

For the past several months, we have been providing live music both indoors and on the outdoor patio and sports games. The music has been ongoing for approximately (3) months. The sports games will be limited to those shown in paragraph (4) of this letter. We need City Council approval of a new Liquor Use Permit to allow live entertainment/music and sports gaming in conjunction with liquor at this establishment; therefore, we have filed a new Liquor Use Permit application with the City of Chandler's Planning Division, zoning case # LUP10-0039 TONIC.

The live music/entertainment will be limited to a maximum of three (3) musicians with amplified instruments, which will be amplified by speakers and microphones. The musician's instruments include Acoustic guitars and (possible keyboard). Live entertainment and music will occur both indoors or on adjacent outdoor patio depending on space availability and/or weather. Music volumes will be closely monitored and we agree that no noise shall be emitted from outdoor speakers or acoustical musicians on the patios so that it 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. Live music will be restricted to the hours between 6 p.m. and 12 p.m. on any days of the week. Tonic presently has live music on Thursday and Saturday evenings. TONIC will remain open from 4 p.m. to 2 a.m. every day as currently operating. \*

Sports games will be limited to "bean bag toss" and "table pong". These will be located on the outside patio due to indoor space constraints. There will be no pool tables, video gaming machines, or the like indoors or outdoors.

Indoor and outdoor seating capacities will remain unchanged. During use of sport game on patio, a maximum of (3) tables and (12) chairs will be temporarily removed to allow for separation meeting ADA guidelines.

As part of the Liquor Use Permit zoning process, we are having a neighborhood meeting to address any comments or questions you may have about our request to add live music/entertainment and sports games.

*Neighborhood Meeting letter*

The neighborhood meeting is scheduled as follows:

**DATE:** THURSDAY, OCTOBER 28, 2010  
**TIME:** 6:00 P.M.  
**LOCATION:** DOWNTOWN CHANDLER COMMUNITY CENTER  
125 E. COMMONWEALTH AVE.  
ROOM #205 (2<sup>ND</sup> FLOOR)  
See attached location map

If you are unable to attend this meeting and have questions or comments, please feel free to call me directly at (480-216-8875), or Jodie Novak, Senior City Planner with City of Chandler at (480) 782-3060 who is managing our Liquor Use Permit application.

Sincerely,

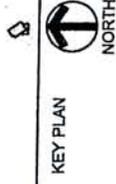
Michael Sherer

*Neighborhood Meeting letter*



# CHANDLER GATEWAY

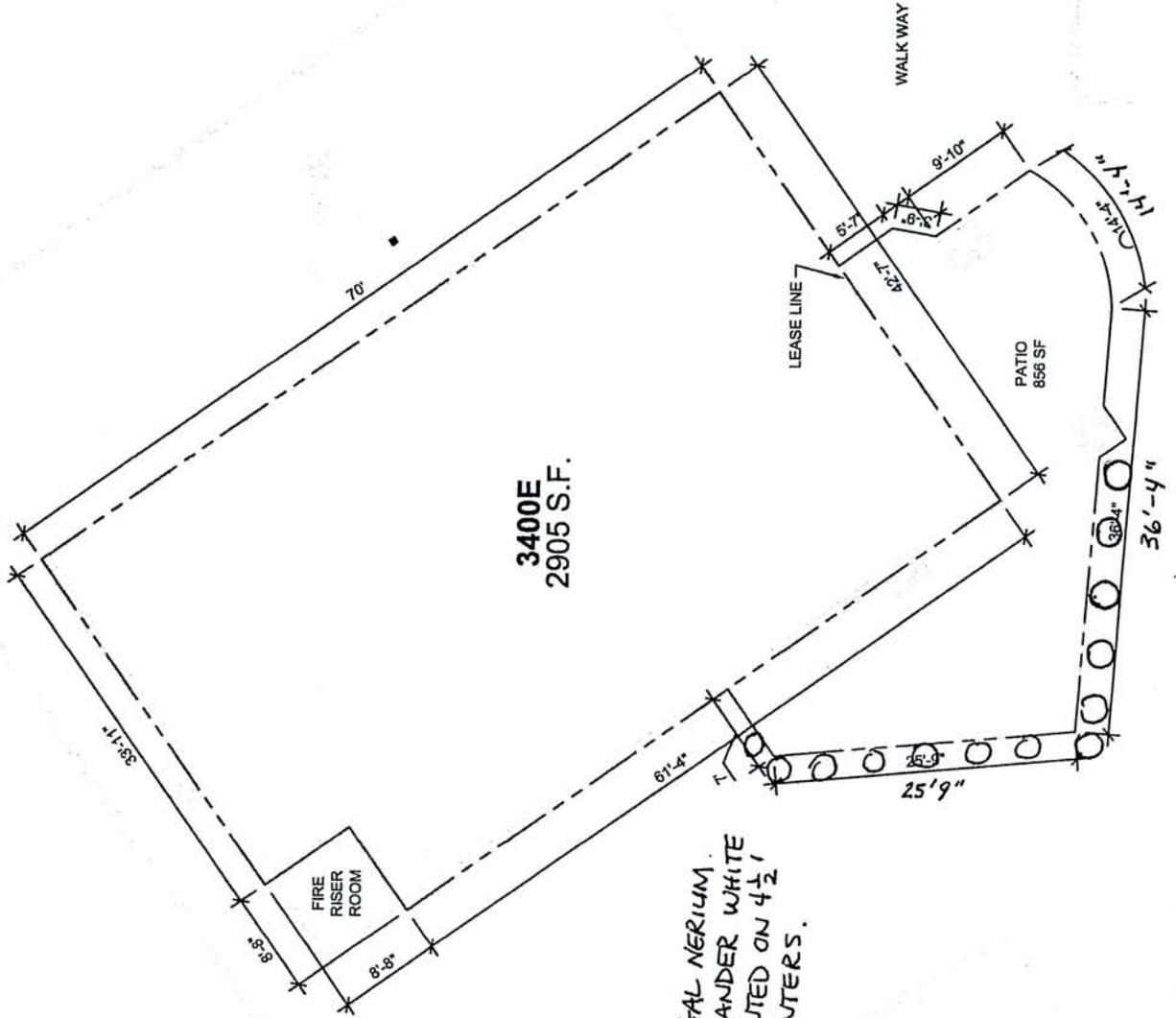
TONIC  
SPACE: 3400E  
S.F.: 2905  
DATE: 10-05-09  
SCALE: 1" = 15'



## LEASE OUTLINE DRAWING

**NOTE:** Required doors and frames shall be provided and installed by each tenant (any doors shown in plans are suggested only, final determination is by tenant). It is required that the tenant, contractor, architect or representative must visit the site and familiarize and verify all dimensions and sizes of major items such as structural elements, electrical runs, plumbing locations and items not covered by this drawing. This shall be done at Tenant's expense. When exit passageways are present to provide a secondary exit from a Tenant's space, doors shall be self-closing and be so maintained or shall be automatic closing by smoke detector actuation. Prior to finalizing terms and conditions, Leasing and Center Management must resolve existing per applicable codes. Service area, empty electrical conduit, sewer, water, and empty telephone conduit located within the lease line. Tenant must field verify all dimensions and conditions.

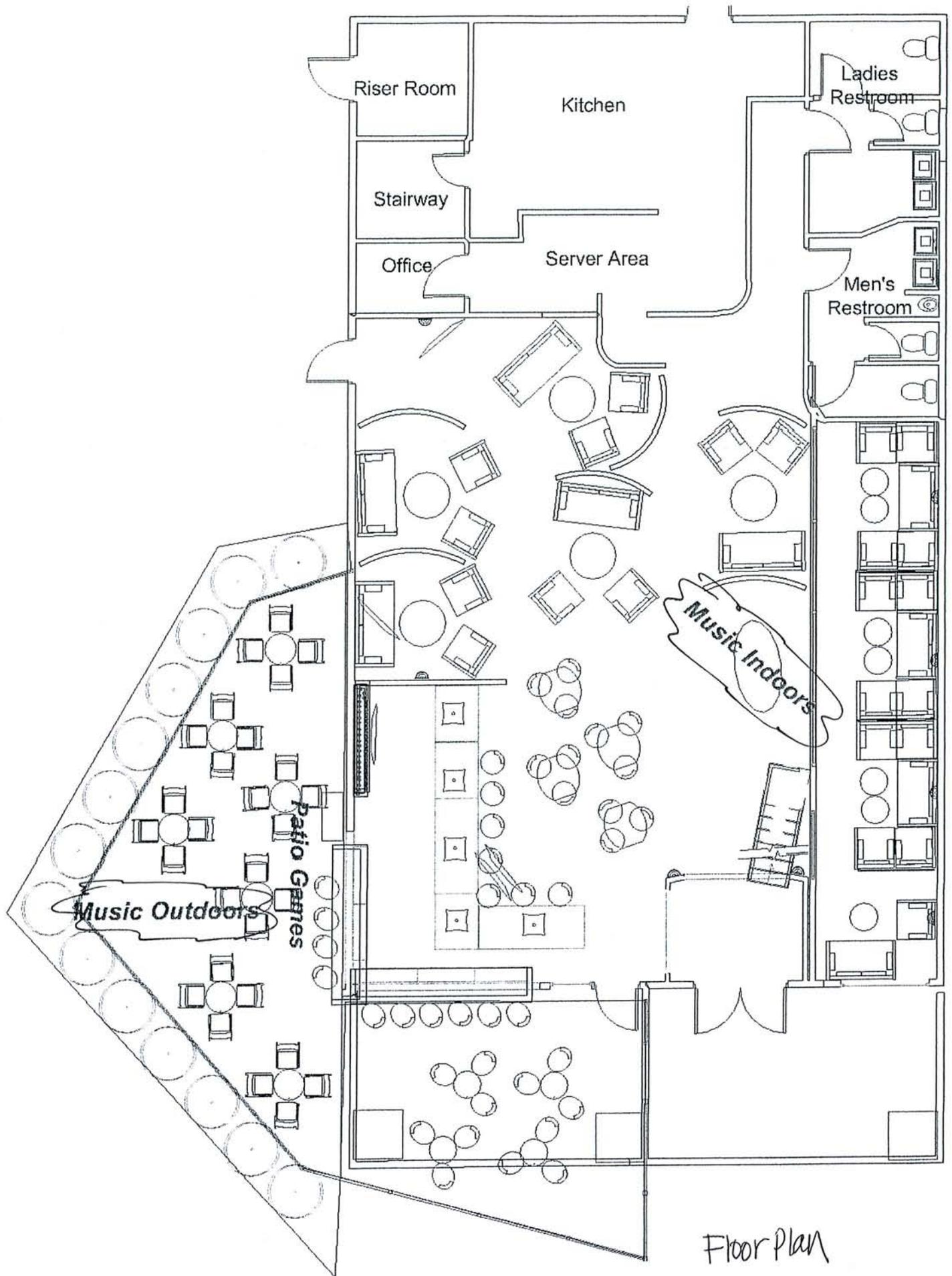
Drawn by: G2 T.C.: JC



3400E  
2905 S.F.

15 GAL NERIUM  
OLEANDER WHITE  
PLANTED ON 4 1/2'  
CENTERS.

Site Plan



Floor Plan



Chandler + Arizona  
Where Values Make The Difference

**APPLICANT:**

MICHAEL SHERER  
TMAC VENTURES, INC.  
900 S. 94<sup>TH</sup> ST., #1049  
CHANDLER, AZ 85224

**NOTICE OF  
COUNCIL ACTION  
CITY OF CHANDLER,  
ARIZONA**

**CASE: LUP09-1005 TONIC**

**MEETING DATE: THURSDAY, DECEMBER 10, 2009**

<b>APPROVAL:</b> <input checked="" type="checkbox"/>	<b>REZONING:</b> <input type="checkbox"/>
<b>DENIAL:</b> <input type="checkbox"/>	<b>VARIANCE:</b> <input type="checkbox"/>
<b>WITHDRAWAL:</b> <input type="checkbox"/>	<b>USE PERMIT:</b> <input checked="" type="checkbox"/>
<b>CONTINUED:</b> <input type="checkbox"/>	<b>LIQUOR, SERIES 6</b>
	<b>SUBDIVISION:</b> <input type="checkbox"/>
<b>PRELIMINARY DEVELOPMENT PLAN</b> <input type="checkbox"/>	<b>PRELIMINARY PLAT</b> <input type="checkbox"/>

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Use Permit is granted for a Series 6 Bar License only, and any change of license shall require reapplication and new Use Permit approval.
2. Expansion, modification, or relocation beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit re-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 additional entertainment related uses shall require re-application and approval of the Use Permit.
4. The Use Permit is non-transferable to other restaurant locations.
5. No noise indoors or outdoors shall be emitted beyond the boundaries of the building so as not to disturb adjacent businesses and residential areas. \*

*2009 conditions*

6. The rear door to this business shall remain closed and not propped open during business hours and shall not be used as a customer entrance or exit.
7. The site shall be maintained in a clean and orderly manner.
8. The patio shall be maintained in a clean and orderly manner.

## SEV BPW network in July, August

Area business women are invited to the South East Valley Business and Professional Women's Organization networking, leads group and dinner meeting at 6 p.m. on the fourth Thursday of every month.

On July 22, the group meets at Iguana Mack's at 371 N. Alma School Rd. in Chandler. Cost for guests is \$18 per person.

On Thu., Aug. 26, business owner Betty White is the guest speaker at the meeting to be held at Iguana Mack's. Networking starts at 6 p.m. with dinner and the program at 6:30 p.m.

For more information, call Rose Pachura at 480-802-0775.

## Tonic opens in Chandler with music

Tonic, a new and trendy "ultra lounge," is now open near the Chandler Fashion Center and offers music every Thursday and Saturday evenings on the misted patio.

With contemporary décor highlighted by comfortable furniture groupings accented with privacy partitions, owners Michael and Arlene Sherer say Tonic's unique atmosphere provides guests with "a fun place to relax with friends, meet up with business associates or just hang out."

"We pride ourselves on being big enough to accommodate our guests, yet small enough that our guests are recognized," Arlene says.

The affordable fare includes hearty appetizers with an array of specialty drinks, martinis and an extensive wine list. Premier "bottle service" is provided upon request, and the location can accommodate group and private parties from 10 to 100 people.

"Our indoor/outdoor bar opens out onto an inviting mist-covered patio for our guests' open-air enjoyment," adds Arlene. "The patio is very comfortable during the heat of the summer months!"

Performing on Thursday is Holly Kirsten, an acoustical guitar player and vocalist. Saturday groups will be announced weekly.

Tonic, family owned and operated, is opened from 4 p.m. to 2 a.m. nightly, and offers Happy Hour discounts from 4 to 8 p.m. every night.

Tonic is located at 3400 W. Chandler Blvd., Suite 5 in the former Shabu Fondue, two blocks west of the Loop 101 Freeway, next to the Men's Wearhouse and across from Chandler Fashion Center.

Tonic is on Facebook, Twitter and online at [www.tonicaz.com](http://www.tonicaz.com). Call 480-899-9382 for details.



## Corporate Chronicles

**Fat Cat**, a restaurant at 98 S. San Marcos Pl. in downtown Chandler has closed. The building, owned by Tom Bliss, has been Razzberries, 98 South under two owners and most recently Fat Cat.

**SanTan Brewing Company** will have beer in cans, kegs, torpedo kegs and growlers sold at select accounts in Arizona including hotels, resorts, golf courses, bars, restaurants, convenience stores and retail outlets serviced by Crescent Crown Distributing, the fifth-largest distributor in the country. The distribution deal coincides with SanTan's facility expansion, which includes the installation of a CASK Automatic Canning System to be complete by the end of July. The canning system is capable of producing 30 12-ounce cans per minute. SanTan Brewing Company is located at 8 S. San Marcos Pl in downtown Chandler. Info: 480-917-9700, [www.santanbrewing.com](http://www.santanbrewing.com).

**Chandler Chamber of Commerce Golf Challenge** is at 7:30 a.m. Sept. 14 at Ocotillo Golf Resort in Southern Chandler, featuring breakfast, goodie bags for golfers, raffles, a silent auction, team photos, golfer gift and awards luncheon.

Tournament fees are \$75 for individual players or \$700 for a foursome. Corporate sponsorship foursomes are also available. Proceeds are returned to the community through the business development programs and events that are presented by the Chandler Chamber. Registration forms are available on the Chamber's website at [www.chandlerchamber.com](http://www.chandlerchamber.com) or by calling 480-963-4571.

**Pet Butler**, a pet waste cleanup and removal service, is expanding service into the central Phoenix area. Servicing residences, HOAs, apartment communities and dog parks in the East Valley, Ahwatukee, Scottsdale and North Phoenix for more than five years, local owner and operator Sandy Aaron says they will now provide service for Zip Codes 85005, 85016, 85018, 85020, 85028 and 85040. Info: 1-800-PET-BUTLER (738-2885), [thescoop@petbutler.com](mailto:thescoop@petbutler.com), [www.petbutler.com](http://www.petbutler.com).

News article



# TONIC

## APPETIZERS

Bruschetta

Sizzling Steak Bites

Scorching Chicken Rolls

Sweet Chicken Bacon Wraps

Zesty Ranch Sliders

*Appetizer menu*

Alfredo Dip  
Cheese & Bacon Bowl  
Roasted Red Pepper Hummus  
5-Spice Edamame  
Simply Cheese & Crackers  
Pita Pizza – 6" personal size  
Crispy Tonic Rolls  
Bloody Mary Shrimp Cocktail  
Wings  
Surf & Turf Sampler

*Appetizer menu*