

PLANNING COMMISSION REPORT



MEETING DATE: February 25, 2009

ITEM NO. _____

GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

**Southbeach Restaurant
18-UP-2008**

REQUEST

Request to consider the following:

1. Consider approval of case 18-UP-2008, a Conditional Use Permit for live entertainment on a property located at 9343 East Shea Boulevard Suite 135.

Key Items for Consideration:

- The establishment of 7,785 square feet is located within the 94 Hundred Shea office and retail development center.
- The nearest existing residential use is approximately 700 feet away to the northeast (Aventura Condominiums).
- The establishment has been issued a Notice of Violation by Code Enforcement for live entertainment without a Conditional Use Permit.
- There is no known opposition to this Conditional Use Permit request.

References:

- *11-ZN-2002*: An approval for a rezoning from Commercial Office, Planned Community District (C-O PCD) to Highway Commercial, Planned Community District (C-3 PCD).
- *8-DR-2004*: A development approval for the site plan, landscape plan, and elevations for an office and retail center (94 Hundred Shea).

OWNER

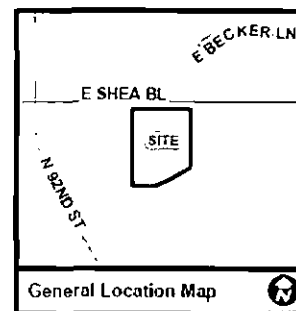
Westar 101 LLC
480-451-0248

APPLICANT CONTACT

Frank J. Tsikitas
602-722-5641

LOCATION

9343 East Shea Boulevard



BACKGROUND

Zoning.

The site is zoned Highway Commercial, Planned Community District (C-3 PCD). C-3 allows most types of commercial activities including the sale of commodities and performance of services for a large segment of the population. Live entertainment is allowed as a conditional use.

General Plan.

The General Plan Land Use Element designates the property as Commercial. These uses provide a variety of goods and services to the people who live in, work in, or visit Scottsdale and have been designated throughout the community at an appropriate scale and location. This category includes areas designated for commercial centers providing goods and services frequently needed by the surrounding residential population, and retail businesses, major single uses, and shopping centers, which serve community and regional needs.

Context.

The site is located on the south side of East Shea Boulevard between North 92nd Street and North 96th Street and is part of the 94 Hundred Shea commercial center. The site is surrounded by a cemetery to the north as well as retail and office uses on the east, west, and south.

Adjacent Uses and Zoning:

- North: Existing cemetery; zoned Single-Family Residential (R1-35)
- South: Existing offices; zoned Commercial Office District, Planned Community District (C-O PCD)
- East: PCS corporate headquarters; zoned Commercial Office District (C-O)
- West: Existing shopping center; zoned Highway Commercial District, Planned Community District (C-3 PCD)

**APPLICANT'S
PROPOSAL****Goal/Purpose of Request.**

The applicant is requesting approval of a Conditional Use Permit for live entertainment at an existing restaurant (Southbeach) located at 9343 East Shea Boulevard (within 94 Hundred Shea office and retail center). The live entertainment will typically consist of a live band or a DJ, with patron dancing.

Development Information.

- Existing Use: Restaurant
- Proposed Use: Restaurant with live entertainment
- Parcel Size: 7.77 acres
- Building Height Allowed: 36 feet
- Building Height Existing: 36 feet
- Parking Required: 77 spaces for live entertainment
209 spaces for shared uses in the evening
284 spaces for shared uses in the day
- Parking Provided: 389 spaces
- Open Space Required: 60,005 square feet
- Open Space Provided: 92,099 square feet
- Floor Area: .24

IMPACT ANALYSIS**Traffic.**

The proposed live entertainment will operate 8:00 p.m. to 2:00 a.m. Wednesday through Saturday with primary trip generation occurring in the evening hours when many of the other businesses in the center are closed. Existing access to the 94 Hundred Shea commercial center is from East Shea Boulevard. A trip generation analysis has been submitted that indicates no significant adverse traffic impacts are anticipated to be generated by the proposed use.

Parking.

The proposed live entertainment use is within an existing restaurant in an established commercial center. The proposed establishment opens in the afternoons with peak hours in the evenings, which will not be detrimental to the existing businesses that are largely in operation during daytime business hours (with some businesses open at night). The parking analysis took into consideration the night-time uses within the commercial center that might require parking spaces during the same operating hours as the proposed establishment. The study indicated sufficient parking spaces for all night-time uses. The study also indicated there will be surplus parking spaces to accommodate all the uses operating at the same time.

Water/Sewer.

There are existing water and sewer improvements on the property to serve the site. The proposal will not generate any additional impacts on the existing infrastructure.

Police/Fire.

All live entertainment uses are required to submit a Security Maintenance and Operations Plan. The Security Maintenance and Operations Plan was reviewed and approved by the Police Department (See Attachment 6). The nearest fire station is located on the south side of East Via Linda between 90th Street and 91st Street. The proposal is not anticipated to generate adverse impacts to the Fire department.

Use Permit Criteria.

Conditional use permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and the City Council has found as follows:

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 - **This use does not generate smoke, odor, or dust. Noise and**

- vibration will be minimized keeping doors closed while live entertainment is present, there will no exterior amplification, and music volumes will be attenuated so as to keep the noise and vibration to a minimum. Additionally, there will be no modifications to the exterior or interior illumination.**
2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 - **A trip generation analysis has been submitted that indicates no significant adverse traffic impacts are anticipated to be generated by the proposed use.**
 3. There are no other factors associated with this project that will be materially detrimental to the public.
 - **There are no other factors associated with this project that will be materially detrimental to the public.**
- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
- **The uses surrounding the subject property are primarily office and commercial with the closest residential property located approximately 700 feet away to the northeast. The proposed live entertainment will only take place in the evening hours on weekends. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.**
- C. The additional conditions for live entertainment specified in Section 1.403.C.1 have been satisfied as follows:
1. The site plan shall demonstrate that:
 - a. Buffering by a wall and/or landscaping will be provided in a manner which physically separates and restricts access from the establishment and its required parking area to residential districts.
No new driveways or access points are proposed, and the center's parking is already walled and does not provide access to existing residential subdivisions.
 - b. All patron entrances will be well lit and clearly visible to patrons from the parking lot or a public street.
Exterior lights exist at the entrance to the establishment which faces north towards the parking lot and East Shea Boulevard. Exterior lights also exist at the south entrance which is visible from the parking lot.
 2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted.
All noise generated by live entertainment will be contained within the building. Front and rear doors will remain closed except to admit patrons. External speakers are not part of this request, nor is the amplification of music outside of the establishment. Volume attenuation will also be used to assure compliance.
 3. The applicant has provided a written public safety plan which the city police and fire departments have approved as complying with the written guidelines of Planning and Development Department.
A Security, Maintenance and Operations Plan has been submitted and approved by the Police Department.

4. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with section 7.600 of the zoning ordinance and with the public safety plan guidelines.

The existing lighting for the commercial center meets the provisions of the zoning ordinance. No new lighting has been proposed for the subject property.

5. The applicant shall provide a written exterior refuse control plan which must be approved by the Planning and Development Department staff as complying with the written guidelines of the department, prior to the issuance of a business license. The review will be conducted as provided in Section 1.305.

This Conditional Use Permit is an application for an established restaurant whose business license has already been issued. Provisions for refuse control are included in the Security, Maintenance and Operations Plan and are in compliance with the city's written guidelines.

6. The applicant has provided a floor plan which identifies the areas for the primary use and for ancillary functions, which include but are not limited to patron dancing areas and/or stages for performances.

The floor plan has been provided for review as Attachment #9.

7. If access to the establishment is from a street other than one classified by the General Plan as minor collector or greater, or classified by the downtown General Plan as local street or greater, the applicant has provided a traffic analysis which complies with transportation planning department written guidelines. The plan shall demonstrate to the satisfaction of the transportation department that the level of service on all streets accessed by the use shall meet the standard set by the city.

The entrance to the subject establishment is provided by East Shea Boulevard which is a major arterial street.

8. If the Zoning Administrator determines that a study is necessary the applicant shall provide a parking study which complies with the written guidelines of the Planning and Development Department.

Based on the parking analysis submitted by the applicant, the Zoning Administrator has determined that the project meets the parking provisions of the zoning ordinance.

9. The applicant has provided any additional information required by city staff in order to evaluate the impacts of the proposed use upon the area.

The applicant provided a parking analysis to address potential in parking demand on the site and the analysis has been determined by the Zoning Administrator to be satisfactory.

10. The following operational standards must be met by the use throughout its operation:

- a. All external doors shall be closed but not locked during business hours.
All external doors shall be closed but not locked during business hours.

- b. No external speakers will be permitted on the premises of a use permitted under this section, which is located within five hundred (500) feet of a residential district.

There are no external speakers proposed with this application, and the applicant has agreed to a stipulation that no exterior speakers will be allowed.

- c. The applicant/operator shall comply with all plans approved as provided

herein.

The applicant/operator will comply with all plans approved as a part of this request.

Community Impact.

The proposed live entertainment use is located in an existing restaurant, within an existing commercial center. The applicant has submitted and obtained approval of a Security, Maintenance and Operations Plan that establishes maintenance and security operations for the use. The live entertainment will operate on from 8pm to 2am Wednesday through Saturday. No adverse community impacts are anticipated.

Community Involvement.

Property owners within a 750-foot radius of the subject site were notified. The site has been posted. There is no known opposition to this Conditional Use Permit request. One letter was received regarding the application (see Attachment 8A).

**STAFF
RECOMMENDATION**

Recommended Approach:

Staff finds that the Conditional Use Permit criteria have been met and recommends approval subject to the attached stipulations.


**RESPONSIBLE
DEPT(S)**


Planning and Development Services Department
Current Planning Services

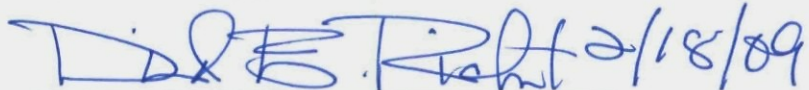
STAFF CONTACT(S)

Edmond Lamperez
Planner
480-312-7015
E-mail: elamperez@ScottsdaleAZ.gov

APPROVED BY

 1/28/09
Edmond Lamperez
Report Author Date

 2/18/09
Connie Padian Date
Chief Planning and Administration Officer

 2/18/09
David E. Richert Date
General Manager, Planning and Development Services

ATTACHMENTS

1. Stipulations
2. Applicant's Narrative
3. Context Aerial
- 3A. Aerial Close-Up
4. Land Use Map
5. Zoning Map
6. Security, Maintenance and Operations Plan
7. Traffic Impact Summary
8. City Notification Map
- 8A. Correspondence
9. Floor Plan

Conditional Use Permit – Live Entertainment

Stipulations:

Southbeach Restaurant

Case Number: 18-UP-2008

These stipulations are in order to protect the public health, safety, welfare, and the City of Scottsdale. Unless otherwise stated, the owner's completion of all requirements below is subject to the satisfaction of the Project Coordinator and the Final Plans staff.

OPERATIONS

1. **CONFORMANCE TO THE CONCEPTUAL FLOOR PLAN.** The interior layout of the premises shall be in substantial conformance with the conceptual floor plan submitted by Terrevolution and Eric Gerster with the city staff date of 12/22/08, Attachment #9. Any proposed significant change to the conceptual floor plan (including location and square footage of dance floor and staging area) as determined by the Zoning Administrator, shall be subject to additional action and public hearings before the Planning Commission and City Council.
2. **NO BAR USE.** This Conditional Use Permit is for live entertainment only, and a bar use is not approved as part of this request.
3. **HOURS OF LIVE ENTERTAINMENT.** The hours of the live entertainment for this establishment shall be limited to:

	Start	To	End
Wednesday through Saturday	8pm	To	2am

4. **SECURITY, MAINTENANCE, AND OPERATIONS PLAN.** The live entertainment shall conform to the Security, Maintenance, and Operations Plan approved by, and on record with the City of Scottsdale's Police Department and the Planning and Development Services Department. A copy of the approved Security, Maintenance, and Operations shall be maintained on site. Within 10 days after a request by the City Manager or designee, the owner shall provide an update of the Security, Maintenance, and Operations Plan to the Scottsdale Police Department and the Planning and Development Services Department. At least ten (10) days before any operational change of the live entertainment, or any promotional event (excluding Special Events), that modifies the requirements or contents of the Security, Maintenance, and Operations Plan, the owner shall submit a revised Security, Maintenance, and Operations Plan to the Scottsdale Police Department and the Planning and Development Services Department. Any revised Security, Maintenance, and Operations Plan shall be subject to approval by the City of Scottsdale's Police Department and the Planning and Development Services Department.
5. **NOISE.** Noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the

area during hours of operation, as determined by the Planning and Development Services Department's General Manager or designee.

6. EXTERNAL SPEAKERS. External speakers are not permitted.
7. EXTERNAL DOORS. All external doors shall be closed but not locked during business hours.

ADMINISTRATIVE PROCESS

8. CONDITIONAL USE PERMIT ADMINISTRATIVE REVIEW. Within ten (10) days after a request by the Planning and Development Services Manager or designee, the owner, shall submit a letter to the Planning and Development Services General Manager or designee demonstrating compliance with all stipulations. A deviation from any stipulations or change in the floor plan may be grounds for revocation of the Conditional Use Permit.
9. CHANGES IN OWNERSHIP. Within ten (10) days after a change in ownership, the owner shall provide notice to the Planning and Development Services General Manager in writing of any such ownership change.

**SOUTHBEACH RESTAURANT AND LOUNGE
USE PERMIT PROJECT NARRATIVE
18-UP-2008**

Updated December 17, 2008

Southbeach Restaurant and Lounge (Southbeach), located at 9343 E. Shea Boulevard, is requesting a Conditional Use Permit to allow "Live Entertainment." Southbeach is located on the south side of Shea Boulevard near 93rd Street, and is part of a larger 7-acre mixed-use commercial project that has been completed since 2007. Southbeach is primarily a restaurant, with over 3,400 s.f. of dining room area, but a portion of the facility (720 s.f.) is a bar/lounge. There is an outdoor patio area which is used for both types of service

REQUEST

This request is for a Conditional Use Permit to allow "Live Entertainment" within the existing Southbeach facility. The Live Entertainment Use Permit would allow DJs or musical acts to perform within the existing premises. A small portion of the bar area (less than 250 square feet) could be cleared in order to allow for patron dancing.

Because of the existing restaurant business, South Beach's request for live entertainment is only for Wednesday thru Saturday nights, and will be between the hours of 7:00 PM and 2:00 AM. A small bandstand will be built, but a permanent dance floor will not be installed; instead, 2-3 tables will be moved to provide a small area where patrons may dance. There will also be no exterior (patio) modifications, and no speakers will be added to the rear patio or outside the front doors. The applicant will also concede that all exterior doors will be remain closed while live entertainment is present.

The total shared dining/dance area will be only 245 square feet

LAND USE CONTEXT

The property is zoned C-3, Planned Community District (PCD), which allows bars and "Live Entertainment" with a Conditional Use Permit approval by the City Council. This Conditional Use Permit does not propose any new building modifications or additions to the building.

USE PERMIT FINDINGS

The City's Zoning Ordinance sets forth conditions for the granting of a Conditional Use Permit for "Live Entertainment." These conditions are as follows, along with responses specific to the applicant's request:

ATTACHMENT #2

**18-UP-2008
1st: 6/13/2008**

- A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include but not limited to the following factors:

1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.

This use does not generate smoke odor or dust.

Noise and vibration will be minimized in several ways. The doors will remain closed while live entertainment is present, there will be no exterior amplification, and music volumes will be attenuated so as to keep the noise and vibration to a minimum. The building's walls to the north and south front onto parking lots, and the western side of the premises is buffered by the establishment's kitchen. The eastern wall abuts another establishment, but is several feet away from the bandstand area and the walls are sufficiently insulated. This should not create noises louder than the televisions and sound system which are already in operation. Also, the store will be closed shortly after live entertainment starts, since the applicant is proposing that Live Entertainment will not be present until 7:00 PM.

Illumination will not be an issue since there will be no modifications to the exterior or interior illumination

2. Impact on surrounding areas resulting from an unusual volume or character of traffic.

There are no proposed changes to the current ingress or egress into the parking lot. The attached Shared Parking Calculation Table indicates that the volume of traffic during the proposed periods of Live Entertainment never exceeds the traffic volumes during the peak restaurant hours.

- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.

The area surrounding the subject property is primarily commercial, with a mixture of uses ranging from other restaurants and bars, as well as some retail uses. There is a cemetery to the north (across Shea) and an office complex directly to the east. The nearest residential is over 700 feet away to the northeast and to the south across an open tract that will be another commercial or office center. The granting of a Use Permit is reasonably compatible with the surrounding area.

- C. The additional conditions specified in Section 1.403, as applicable have been satisfied.

The proposed Use Permit for "Live Entertainment" meets these conditions:

1. The site plan shall demonstrate that:
 - a. Buffering by a wall and/or landscaping will be provided in a manner which physically separates and restricts access from the establishment and its required parking area to residential districts.

The proposed Live Entertainment Use Permit is for an established bar and restaurant which does not have a record of any disruptions during its daytime and nighttime uses. The parking lot is internal to a larger commercial center. No new driveways or access points are proposed, and the center's parking is already walled and does not provide access to existing residential subdivisions.

- b. All patron entrances will be well-lit and clearly visible to patrons from the parking lot or public street.

The Use Permit is for an established restaurant which already has exterior lights at its entrance, which faces north over an existing parking lot and Shea Boulevard.

2. The applicant has provided written evidence that all sound resulting from business activities will be contained within the building, except where external speakers are permitted.

Any noise generated by the "Live Entertainment" will be contained within the building. Live Entertainment is only proposed after ten PM, and at that time the front and rear doors of the restaurant/bar will remain closed except to admit patrons. External Speakers are not a part of this request, nor is the amplification of music outside of the establishment. Volume attenuation will also be used to assure compliance.

3. The applicant has provided a written public safety plan which the City Police and Fire Departments have approved as complying with the written guidelines of the Planning and Development Department.

A Public Safety Plan should have been provided to the City Police and Fire Departments as part of the original Use Permit application. A Plan of Operation and a Security, Maintenance and Operations Plan has been made as a part of this Use Permit application.

4. The applicant has provided a written lighting plan which addresses exterior lighting on and surrounding the property, in accordance with Section 7.600 of the zoning ordinance and with the public safety plan guidelines.

No additional lighting is proposed as part of this submittal.

5. The applicant shall provide a written exterior refuse control plan which must be approved by the Planning and Development Department staff as complying with the written guidelines of the department, prior to the issuance of a business license. The review will be conducted as provided in Section 1.305.

This Conditional Use Permit is an application for an established restaurant and bar, whose business license has already been issued. Southbeach Restaurant and Lounge has also submitted a Service Area Plan as a part of this application that indicates that trash hauling is done daily if necessary. The facility uses its own dumpster for trash removal, and employees monitor the clean up of trash which may have fallen out while dumping.

6. The applicant has provided a floor plan which identifies the areas for the primary use and for ancillary functions, which include, but are not limited to, patron dancing areas and/or stages for performers.

See the attached "Floor Plan Worksheet."

7. If access to the establishment is from a street other than one classified by the General Plan as minor collector or greater, or classified by the downtown General Plan as local street or greater, the applicant has provided a traffic analysis which complies with the transportation planning department's written guidelines. The plan shall demonstrate to the satisfaction of the transportation department that the level of service on all streets accessed by the use shall meet the standards met by the City.

There are no proposed changes to the established ingress and egress from Shea Boulevard. Shea Boulevard is a major arterial street. A trip generation estimation was prepared by Morrison Maierle, Inc., and was submitted with this application.

8. If the Zoning Administrator determines that a study is necessary, the applicant shall provide a parking study which complies with the written guidelines of the Planning and Development Department.

A parking study was prepared and submitted as a part of this application.

9. The applicant has provided any additional information required by City staff in order to evaluate the impacts of the proposed use upon the area.

This application has been through a first review, and comments have been addressed in a second submittal. If additional information is required and/or requested, the applicant will work with the City to provide that information as soon as possible.

10. The following operational standards must be met by the use throughout its operation:

- a. All external doors shall be closed but not locked during business hours.

The doors of the establishment shall remain closed except when allowing patrons to enter or exit.

- b. No external speakers will be permitted on the premises of a use permitted under this section, which is located within five hundred (500) feet of a residential district.

There are no residential districts within 700 feet of the premises where the use is requested.

- c. The applicant/operator shall comply with all plans approved as provided herein.

The applicant/operator will comply with all plans approved as a part of this request.

CONCLUSION

The issuance of a Live Entertainment permit will not significantly alter the character of the existing use, and will not create an undo burden on the site through increases in light, noise or traffic. Residential uses are more than seven hundred (700) feet away, and the absence of external speakers as well as the applicant's plans to keep the doors closed during periods of Live Entertainment, will combine to make this use almost unnoticeable. We respectfully request the approval of Conditional Use Permit No. 18-UP-2008.



Southbeach Restaurant & Lounge

18-UP-2008

ATTACHMENT #3

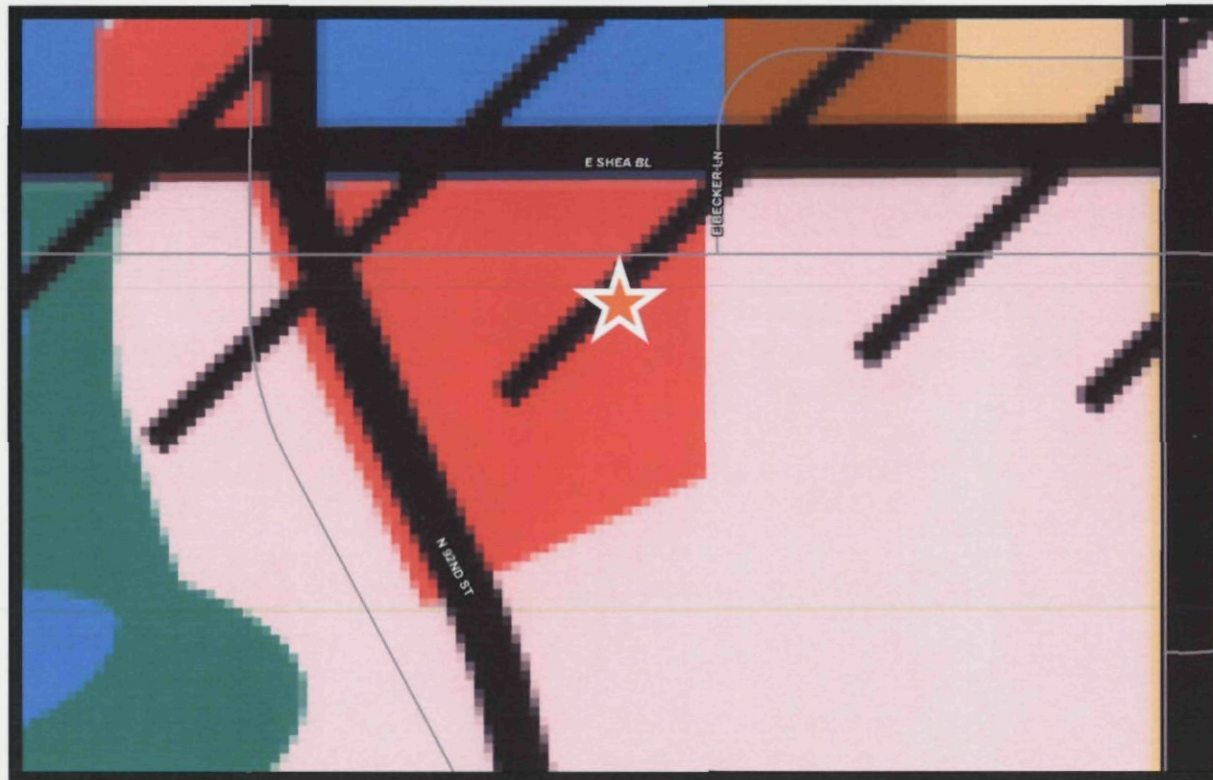


Southbeach Restaurant & Lounge

18-UP-2008

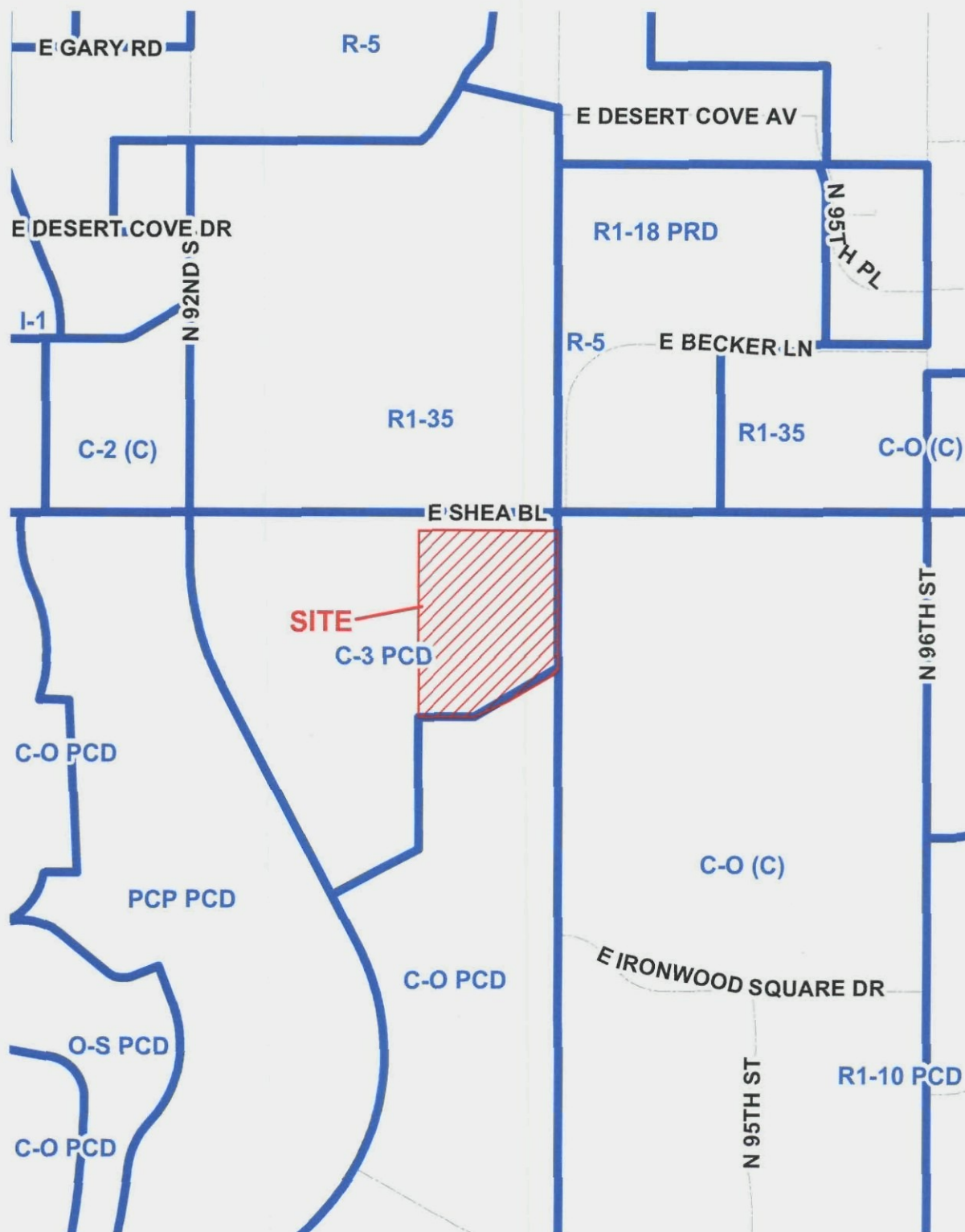
ATTACHMENT #3A

General Plan



18-UP-2008

ATTACHMENT #4



18-UP-2008

ATTACHMENT #5



SECURITY, MAINTENANCE AND OPERATIONS PLAN

For Bars and Live Entertainment Use Permits



Scottsdale Police Department, 3700 North 75th Street, Scottsdale, AZ 85251

480.312.5000

FAX 480.312.7701

City of Scottsdale Planning, 7447 E. Indian School, Scottsdale AZ 85251

480-312-7000

FAX 480-312-7088

Assigned Planner:

Edmond Lamperez

Police Detective:

Establishment:

South Beach Restaurant

Address:

9343 E. Shea Blvd.

Business Phone:

480-990-1777

Business FAX:

480-551-1777

Maximum Occupancy:

210 Under Roof

Effective Date of the Plan:

2/5/09

Date of Plan Review:

2/25/09

Use Permit Issue Date:

Liquor License Number:

12077108

Contact Person (1):

Angela Rana

Home Phone:

480-614-1383

Contact Person (2):

Frank Tsikitas

Home Phone:

480-661-7313

Purpose of the Plan

To address security measures, maintenance/refuse and operations for an establishment whose use shall require a Security Plan pursuant to Scottsdale Revised Codes. These uses typically include a Bar Use Permit and a Live Entertainment Use Permit. The contents of this plan will address the listed concerns as well as community concerns regarding:

- Any significant increase in vehicular or pedestrian traffic, including effects on parking, traffic and circulation in the area.
- Adequate control of disruptive behavior both inside and outside the premises to include property damage and refuse issues.
- Compatibility with surrounding structures and uses.

It is the intent of the City of Scottsdale to provide an environment that enhances the safeguarding of property as well as public welfare and to limit the need for law enforcement involvement.

The Permittee agrees that successful execution and enforcement of this Plan are a required condition of the use permit. Termination, cancellation, deviation or non-approval of the Plan constitutes a breach of the Plan and could result in the revocation of the use permit.

Operations and Hours

1. Permittee: South Beach Restaurant & Lounge

Type of Organization: ☒ Arizona Corporation ☐ Corporation
☐ Sole Proprietorship ☐ LLC
☐ Partnership ☐ Other

2. Managing Agents Name: Angela Rana

Title: President

Address: 9343 E. Shea Blvd.

Phone Numbers: 480-694-8499 (Cell)

Fax or Other Numbers: 480-990-1777 (Office)

3. Business Owner(s) (if different than Managing Agent) Name, Address, Phone: Frank Tsikitas 602-722-5641

4. Property Owner or Property Manager (if different from Managing Agent)
 Name, Address, Phone: John Rosso, 9400 E. Shea L.L.C., 602-740-4588

5. Hours of Operation:

	<u>Peak/Non-Peak Night</u>	<u>Open to Customers</u>	<u>Liquor Sale Begin</u>	<u>Liquor Sale Ends</u>	<u>Closed to Customers</u>
Monday	11:00 AM - 11:00 PM	11 AM	11 AM	10:45 PM	11 PM
Tuesday		11 AM	11 AM	10:45 PM	11 PM
Wednesday	7:30 PM - 2 AM	11 AM	11 AM	10:45 PM	11 PM
Thursday	7:30 PM - 2 AM	11 AM	11 AM	10:45 PM	11 PM
Friday	7:30 PM - 2 AM	11 AM	11 AM	1:45 AM	2 AM
Saturday	7:30 PM - 2 AM	10 AM	10 AM	1:45 AM	2 AM
Sunday		10 AM	10 AM	10:45 PM	11 PM

6. Promotional Events: (Attach an addendum which describes week to week promotional events you plan to have throughout the year i.e. "Ladies night." Do not include special events)

7. Program Format/Entertainment/Advertising: (Complete for Live Entertainment Use Permit Only. Attach addendum that describes

entertainment format i.e. DJ, Live music, Comedy acts etc.) See Scottsdale Revised Code – Appendix B, Zoning Ordinance for definitions.

8. Special Events:

Permittee must give notice to City of Scottsdale Planning and Development at least forty-five (45) days prior to conducting Special Events on the premises. "Special Events" are any program formats varying from the regular format and audiences described or provided above organized or planned by Permittee. Scottsdale requires separate licenses for outdoor special events.

9. Cooperation/Complaints/Concerns:

Permittee will maintain communications with establishments located on and adjacent to the premises, and with residents and other businesses that may be affected by patrons or operations of the Permittee. Permittee designates the following person to receive and respond to concerns or complaints from other residents or businesses:

Steve Borchew
Name: _____ Address: 9343 E. Shea Phone: 602-390-8889

Permittee, managing agents, on-duty managers, supervisors and security personnel will cooperate closely with Scottsdale Police, City of Scottsdale Code Enforcement staff or other City staff as well as business and residential neighbors in addressing and investigating complaints, criminal acts, refuse issues and any other concerns.

Security and Maintenance

Security Attire

Security personnel must be readily identifiable to police, patrons, and other employees to ensure the safety of the security staff when engaged with patrons. Security personnel should wear an appropriate styled shirt with the word "security" on both the front and back, in two (2) inch lettering and clearly visible. During cold weather, a jacket with the same inscription should be worn.

The use of radios should be employed between security staff and management when the size of the establishment limits communication efforts.

Security Officer Responsibilities

The Permittee or management must clearly delineate the below responsibilities to all new security personnel and ensure these responsibilities are explained and understood.

Civilian Security Officers will be responsible for patrolling the full property of the liquor establishment during all hours when patrons are in the establishment, outside the establishment, and in the establishment parking areas.

On peak nights, there will be a minimum of Ø uniformed security officer(s). (Wearing the above-described uniform). The following responsibilities shall be agreed upon and adhered to:

1. Ø Security officer(s) will be responsible for roaming the interior of the business and identifying hazards, problems, and maintaining guest safety.
2. Ø Security officer(s) will be responsible for checking identifications at the front door. Acceptable identification are those listed in Arizona Revised Statutes Title 4, section 241A and apply to patrons accessing any area of the licensed premises, including the time period of After-Hours, if applicable. Additional responsibilities shall include: access control, counting of patrons, and prevention of intoxicated persons from entering the business.
3. Ø Security officer(s) will be responsible for conducting roaming patrol of the exterior in an effort to prevent criminal behavior, maintain the peace and prevent refuse issues. This patrol shall include all parking areas to prevent a gathering of patrons during business hours and up to thirty (30) minutes after closing.

In addition, security officers will report all acts of violence to management personnel, complete a written report, log the act of violence, and contact Scottsdale Police Department immediately. Liquor establishment management and/or ownership has the ultimate responsibility for the recording of the act of violence, logging of the act of violence, and reporting the act of violence to the police department and the State Department of Liquor Licenses.

Management Responsibilities

The Permittee must clearly delineate the below responsibilities to all managers, assistant managers, and person(s)-in-charge and ensure these responsibilities are understood and followed.

The manager(s) shall ensure that all employees, security staff and off-duty officers (if applicable) be trained and knowledgeable about the contents of this plan. The following shall be agreed upon and adhered to:

1. There will be a minimum of 1 manager(s) available during peak nights.
2. There shall be a general manager and one assistant manager on duty all hours while open for business and for thirty minutes after closing.
3. A manager shall be identified as the "Security Manager" for the establishment and be responsible for ensuring that a safe environment exists; for the supervision of all security personnel and that all security personnel as identified here shall meet or exceed the requirements established by A.R.S. 32-2621 through A.R.S. 32-2636, as amended, relating to security personnel and guards, and any regulation issued pursuant thereto.
4. At least one security manager will be on duty until one hour after closing or the last security officer is off duty, whichever occurs last.

Uniformed Sworn Officer Responsibilities:

If Off-duty law enforcement is used for security, it is the responsibility of the Permittee or management to clearly delineate the following responsibilities, which include at a minimum the following:

1. Conduct traffic control as needed.
2. Assist civilian security officer(s) in removal of disorderly and/or intoxicated guests and maintain the peace outside the establishment.
3. If necessary, patrol the exterior portions of the business to maintain the peace as well as prevent criminal acts.
4. If a valet is utilized, maintain the peace in the area of the valet.
5. Assist Security Officers with maintaining order in the entrance line and assist in discovery of underage patrons attempting admittance.

- ☐ I plan to hire 0 officer(s) during peak nights from (name of agency) _____.
- ☒ I do not plan to hire off-duty law enforcement.

Parking

In order to reduce criminal activity that negatively affects the nearby businesses, the Permittee is responsible for the designated parking area to include any lots used by the Permittee's contracted valet company. It is the Permittee's responsibility to ensure that parking areas utilized by patrons and employees will be routinely patrolled by security staff so parking areas are not used: as a gathering place; for consumption of spirituous liquor; for violations of state or city law; for acts of violence, or disorderly conduct. Management will ensure that all patrons have left the parking areas within thirty minutes after the designated closing time.

If valet is used, it is the Permittee's responsibility to ensure the valet company meets all the requirements of the City of Scottsdale and has a valid valet license and permit prior to conducting valet business.

Refuse Plan

It is the Permittee's responsibility to ensure refuse containers are properly used and the area in and around the business is kept clean. Failure to do so will result in an investigation and possible citation from the City of Scottsdale Code Enforcement or other governmental agencies.

At closing, management will be responsible for refuse pick-up and any appropriate cleaning, for any refuse found within a 300 foot (three hundred) radius of the business. This will also include patron parking lot(s), valet parking lot(s) and employee parking lot(s). All bottles, trash, bodily fluids or secretions and refuse found on streets, sidewalks, private property, and empty lots within the above designated areas will be placed in the refuse container or cleaned appropriately.

Enforcement of Security Plan

Violations of this Security Plan will be enforceable by City of Scottsdale Police Officers and/or Code Enforcement employees and may constitute grounds for revocation of applicable use permits relating to the establishment.

Violation, amendment, revocation, as defined in Scottsdale City Zoning Code Sec. 1.402.

Conditional use-permits, which have been approved by the City Council, shall be subject to the following procedures and criteria regarding any violation, amendment, or revocation.

- The violation of any condition imposed by the conditional use permit shall constitute a violation of this ordinance and shall be subject to the requirements of Section 1.1400 et seq.
- Conditional uses shall be developed in conformance to the approved plans as determined by the Zoning Administrator. An amendment to a conditional use permit is required before implementation of any material change in the scope and nature of an approved conditional use, material change in any conditions or stipulations to a conditional use permit or material change in the physical size, placement or structure of property subject to a conditional use permit. The Zoning Administrator shall have the discretion to determine if a proposed change warrants an amendment. An amendment must be approved as provided in Section 1.400 et seq. for the approval of conditional use permits.
- The Zoning Administrator may recommend to the City Council and the City Council may affect revocation of a conditional use permit pursuant to Section 1.402 of the Scottsdale Zoning Code for acts including but not limited to:
 1. A violation of the Plan.
 2. Violation of the conditions of the Use Permit.
 3. Violation of Scottsdale ordinances or law.
 4. Repeated acts of violence or disorderly conduct as reflected by police calls for service or offenses occurring on premises utilized by patrons of the Permittee, or failure to report acts of violence
 5. Failure of the Permittee to take reasonable steps to protect the safety of persons entering, leaving or remaining on the premises when the Permittee knew or should have known of the danger to such person, or the Permittee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence or an altercation occurring on the premises or on premises utilized by patrons and employees of the Permittee when the Permittee knew or reasonably should have known of such acts of violence or altercations.
 6. Any enlargement or expansion of the premises, plan of operation or program format without appropriate approval from the City.
 7. Misrepresentations or material misstatements of the Permittee, its agents or employees.

Dissemination of the Security Plan

- A copy of this security plan must be provided to each security officer and off-duty sworn law enforcement officer as well as the manager(s) and assistant manager(s) employed by the permittee.
- A reading log will be maintained and will be signed by each of the above persons, stating they have read and understood this plan. Each security employee must read the plan once per year, or when there are any changes to the plan.
- A current copy of this plan will be maintained on the premises at all times, and a copy of this plan must be made available upon request of any code enforcement officer or police officer.
- Failure to conform to this plan will be considered a violation of the use permit.

Termination of the Plan

This plan terminates on the date that the permittee's use permit terminates, or two (2) years from the security plan's effective date, whichever occurs first.

Enclosures

☐ Addendums attached

☒ No enclosures

APPLICANT/MANAGEMENT:

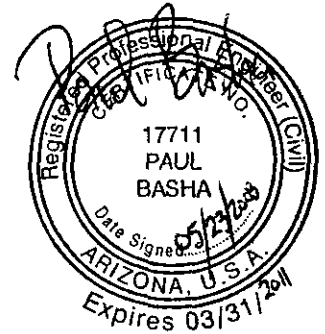
Name: *Frank James Tsikitas*
 Address: *9343 E. Shea Blvd., Scottsdale, AZ*
 Phone: *480-661-7313*
 Date: *2/5/09*
 Signature: _____

APPROVED BY:

Detective: *JOHN MULLER*
 Phone: *480-312-3652*
 Date: *2/17/09*
 Signature: _____

TO: Phil Kercher, P.E., P.T.O.E., City of Scottsdale

**FROM: Paul E. Basha, P.E., PTOE
Yung Cossar, E.I.T.**



**RE: South Beach Restaurant (M-M 8695.001)
Trip Generation Estimation**

DATE: 22 May 2008

INTRODUCTION:

South Beach Restaurant, in the southeast corner of the intersection of 94th Street and Shea Boulevard in Scottsdale, Arizona, proposes to provide live entertainment for their patrons. Twenty seats will be removed from the dining area to provide space for a dancing area. Morrison-Maierle has been selected to prepare a trip generation study for the proposed increase in patrons and associated number of vehicles due to the provision of live entertainment.

RESULTS:

The South Beach Restaurant with current and proposed conditions is anticipated to generate the traffic volumes provided in Table 1.

Table 1: South Beach Trip Generation Comparison

	CURRENT	PROPOSED
	Total	Total
WEEKDAY DAILY	804	796
PM GENERATOR	94	86
SATURDAY DAILY	790	783
GENERATOR	93	85

CONCLUSIONS:

The South Beach Restaurant with proposed conditions is anticipated to generate approximately the same traffic volumes as current conditions.

18-UP-2008
1st: 6/13/2008

Table 2 provides a list of the existing facilities within the South Beach Restaurant without the provision of live entertainment, as well as their corresponding characteristics pertinent to this study.

Table 2: Existing South Beach Facilities

SOUTH BEACH RESTAURANT					
FACILITY	SIZE	UNITS	FACILITY	SIZE	UNITS
RESTAURANT	4,302	square feet	BAR	2,055	square feet
	206	seats		75	seats
Private Dining	704	square feet	Bar	1,053	square feet
	38	seats		49	seats
Dining	351	square feet	Patio	477	square feet
	23	seats		7	seats
Elevated Dining	535	square feet	Sushi Bar	525	square feet
	37	seats		19	seats
Outdoor Dining	1,263	square feet	OTHER	3,429	square feet
	66	seats	Reception	599	square feet
Back Entry Reception	1,449	square feet	Ladies Room	192	square feet
	42	seats	Mens Room	178	square feet
			Kitchen	2,460	square feet

Adding live entertainment to South Beach Restaurant reduces the square footage of the restaurant area by approximately 754 square feet and reduces the total restaurant seating by 24. This area will be a dance floor with live entertainment. A density of one (1) person per five (5) square feet and 2.5 people per vehicle was assumed.

Table 3 provides a list of the proposed facilities within the South Beach Restaurant with the provision of live entertainment, as well as their corresponding characteristics pertinent to this study.

Table 3: Proposed South Beach Facilities

SOUTH BEACH RESTAURANT					
FACILITY	SIZE	UNITS	FACILITY	SIZE	UNITS
RESTAURANT	3,548	square feet	BAR	2,055	square feet
	182	seats		75	seats
Private Dining	704	square feet	Bar	1,053	square feet
	38	seats		49	seats
Dining	351	square feet	Patio	477	square feet
	23	seats		7	seats
Elevated Dining	535	square feet	Sushi Bar	525	square feet
	37	seats		19	seats
Outdoor Dining	1,263	square feet	OTHER	3,429	square feet
	66	seats	Reception	599	square feet
Back Entry Reception	695	square feet	Ladies Room	192	square feet
	18	seats	Mens Room	178	square feet
LIVE ENTERTAINMENT	754	square feet	Kitchen	2,460	square feet
	151	people			

ANALYSIS WITHOUT LIVE ENTERTAINMENT:

The estimated trip generation for South Beach Restaurant was determined through the procedures and data contained within the Institute of Transportation Engineers (ITE) *Trip Generation*, 7th Edition, published in 2003. This document provides traffic volume data from existing developments throughout North America that can be utilized to estimate vehicle trips that might be generated from proposed developments. The traffic data are provided for 152 different categories. The estimated traffic volume is dependent upon independent variables defined by the characteristics and size of each land use category.

Traffic volumes can be estimated for nine different time periods: weekday day, weekday morning and evening peak hour of adjacent street, weekday morning and evening peak hour of generator, Saturday day, Saturday peak hour of generator, Sunday day, and Sunday peak hour of generator.

The ITE land code use code and category utilized for the restaurant is 931 – Quality Restaurant. The independent variable of 1,000 square feet of facility area and number of seats was utilized. The most appropriate land use code and category for the bar was 936 – Drinking Place. The independent variable of 1,000 square feet of facility area was utilized. The data for 936 – Drinking Place provided rates for the evening peak hour of the adjacent street and evening peak hour generator only. Therefore 931 – Quality Restaurant was utilized for the seven additional time periods with an independent variable of 1,000 square feet of facility area.

Attachment A to this memorandum provides the complete results of the calculation of trip generation for South Beach Restaurant without live entertainment. The results are summarized in **Table 4**.

Table 4: Current South Beach Restaurant Trip Generation

	BAR			RESTAURANT			TOTAL		
	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
WEEKDAY DAILY	108	108	215	295	295	589	402	402	804
AM ADJACENT STREET	1	1	2	3	3	6	4	4	8
AM GENERATOR	8	4	12	22	11	33	30	15	45
PM ADJACENT STREET	15	8	23	36	18	54	51	26	77
PM GENERATOR	22	10	32	36	25	62	58	36	94
SATURDAY DAILY	106	106	211	289	289	579	395	395	790
GENERATOR	15	10	25	40	28	68	55	38	93
SUNDAY DAILY	81	81	162	221	221	443	302	302	605
GENERATOR	11	7	18	31	18	49	43	25	67

ANALYSIS WITH LIVE ENTERTAINMENT:

South Beach restaurant proposes to provide live entertainment. There are no land use categories and codes within *Trip Generation* for this provision. Therefore assumptions for trip generation were necessary. The trip generation was estimated dependent on the number of square feet per person. It was assumed that during the peak hours of adjacent street, the restaurant and bar would be completely full and twenty-four (24) seats from the back entry reception area would be removed to create a dance floor. It was assumed this 754 square foot area would be filled with a density of one (1) person per five (5) square feet and that there would be 2.50 people per vehicle. This 754 square foot area was removed from the restaurant, and the trip generation for the restaurant was recalculated.

Attachment B to this memorandum provides the complete results of the calculation of trip generation for South Beach Restaurant with live entertainment. The results are summarized in **Table 5**.

Table 5: Proposed South Beach Restaurant Trip Generation

	BAR			RESTAURANT			LIVE ENTERTAINMENT			TOTAL		
	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
WEEKDAY DAILY	108	108	215	260	260	521	NA	NA	60	368	368	796
AM ADJACENT STREET	1	1	2	3	3	5	NA	NA	NA	4	4	8
AM GENERATOR	8	4	12	20	10	29	NA	NA	NA	28	14	41
PM ADJACENT STREET	15	8	23	32	16	47	NA	NA	NA	47	24	71
PM GENERATOR	22	10	32	32	22	55	NA	NA	NA	54	33	86
SATURDAY DAILY	106	106	211	256	256	511	NA	NA	60	361	361	783
GENERATOR	15	10	25	35	25	60	NA	NA	NA	50	35	85
SUNDAY DAILY	81	81	162	196	196	391	NA	NA	60	277	277	613
GENERATOR	11	7	18	28	16	44	NA	NA	NA	39	23	62

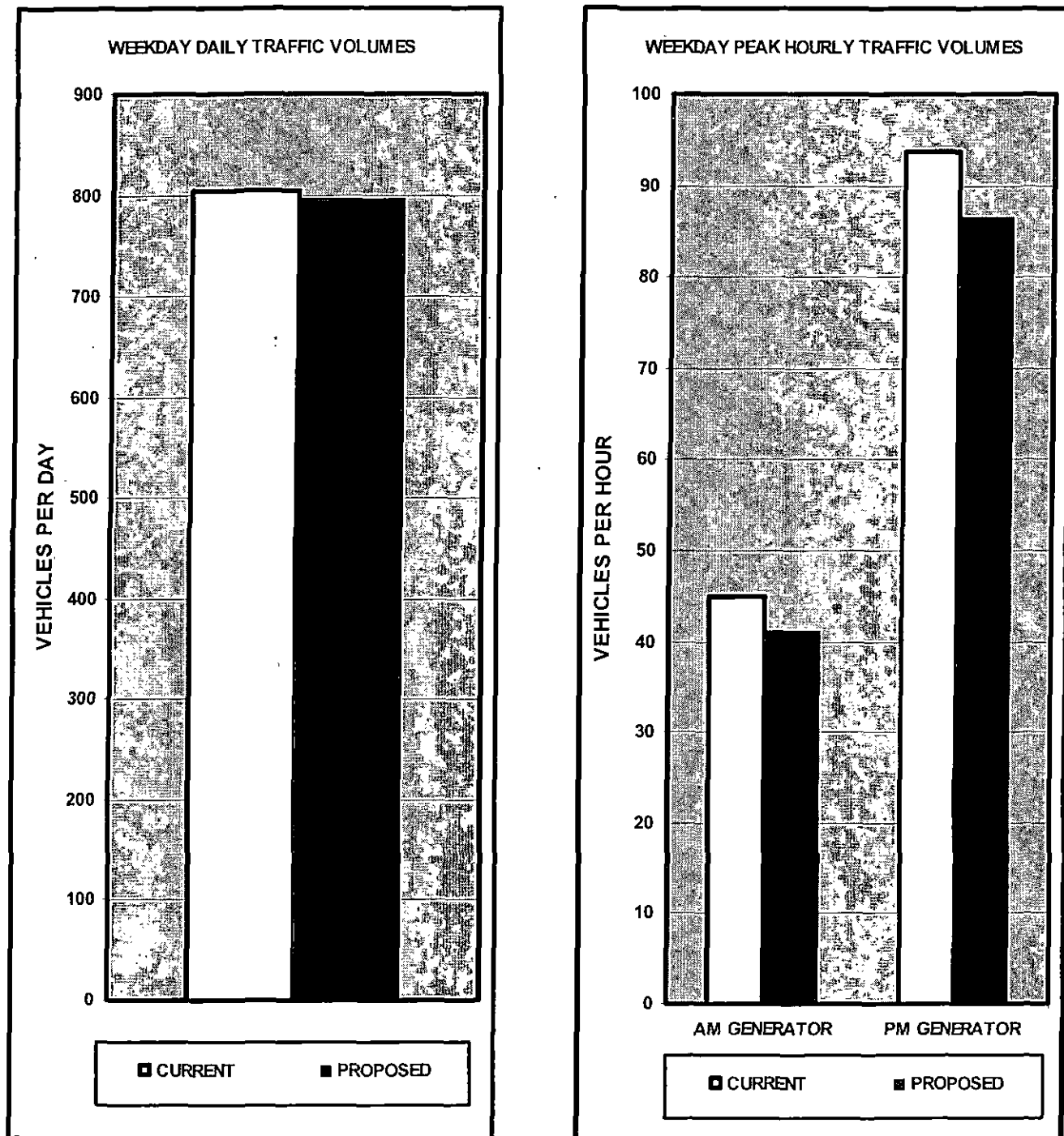
South Beach Restaurant current conditions versus proposed conditions are summarized in Table 6. A graphical comparison is provided on the next page.

Table 6: Current and Proposed South Beach Restaurant Trip Generation

	CURRENT			PROPOSED		
	Enter	Exit	Total	Enter	Exit	Total
WEEKDAY DAILY	402	402	804	368	368	796
AM ADJACENT STREET	4	4	8	4	4	8
AM GENERATOR	30	15	45	28	14	41
PM ADJACENT STREET	51	26	77	47	24	71
PM GENERATOR	58	36	94	54	33	86
SATURDAY DAILY	395	395	790	361	361	783
GENERATOR	55	38	93	50	35	85
SUNDAY DAILY	302	302	605	277	277	613
GENERATOR	43	25	67	39	23	62

Proposed conditions have essentially no difference in trip generation compared to current conditions. Weekday daily and Saturday daily trips decrease approximately 1% for proposed conditions.

Figure 1: Current and Proposed South Beach Restaurant Trip Generation



Phil Kercher, P.E., P.T.O.E.
South Beach Restaurant
Trip Generation Estimation, Page 7 of 7
22 May 2008

Please contact me at (480) 449-4686 if you would like to discuss this analysis or this information.

Attachment A: Current Trip Generation Calculations
Attachment B: Proposed Trip Generation Calculations

City Notifications – Mailing List Selection Map



Map Legend:



Site Boundary



Properties within 750-feet

Additional Notifications:

- Interested Parties List
- Adjacent HOA's

South Beach Restaurant

18-UP-2008

ATTACHMENT #8



MESSINGER MORTUARIES
CEMETERIES AND CREMATORIES

Mr. Edmond Lamperez
City of Scottsdale
3939 Drinkwater Blvd.,
Scottsdale, AZ 85251

Re: Case Number 18-UP-2008 – Live entertainment at 9325 E.
Shea Blvd., Scottsdale, AZ

Dear Mr. Lamperez:

Paradise Memorial Gardens is not opposed to the above noted Use Permit, provided the live entertainment occurs inside their building, and the sound is not piped outside or amplified off of their property.

We certainly do not want to inhibit their use of their property, except that the sound should not exceed their property. We do not perceive any detriment to us or families visiting our memorial park.

Respectfully

Paul R. Messinger, CEO & Chairman
Paradise Memorial Gardens, Inc.

PRMp

Messinger ☐
Indian School Mortuary
7601 E. Indian School Rd.
Scottsdale, AZ 85251
(480) 945-9521
Fax: (480) 946-9362

Messinger ☐
Pinnacle Peak Mortuary
8555 E. Pinnacle Peak Rd.
Scottsdale, AZ 85255
(480) 502-3378
Fax: (480) 502-9947

Messinger ☐
Fountain Hills Mortuary
12065 N. Saguaro Blvd.
Fountain Hills, AZ 85268
(480) 837-5588
Fax: (480) 837-9383

Messinger ☐
Payson Funeral Home
302 W. Aero Drive
P. O. Box 379
Payson, AZ 85547
(928) 474-2800
Fax (928) 474-1658

Mountain Meadows Memorial Park ☐
(Cemetery & Crematory)
Round Valley - Payson
P. O. Box 379
Payson, AZ 85547
(928) 474-2800
Fax (928) 474-1658

Paradise Memorial Gardens ☒
9300 East Shea Blvd.
Scottsdale, AZ 85260
(480) 860-2300
Fax (480) 860-2339

Paradise Memorial Crematory ☐
9300 East Shea Blvd.
Scottsdale, AZ 85260
(480) 451-4255
Fax (480) 451-4408

Members:
Selected Independent Funeral Homes
National Funeral Directors Association
Arizona Funeral Directors Association

ATTACHMENT #8A

