

Staff Summary Report



Hearing Officer Hearing Date: 12/06/11

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by **BAJA COVE BAR & GRILL** located at 414 South Mill Avenue, Suite No. 118, for one (1) use permit.

DOCUMENT NAME: 20111206cdsl03 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **MILL AVENUE SHOPS - BAJA COVE BAR & GRILL (PL110365)** (Rick Anekgerb/ADR Associates LLC, applicant; Mill Avenue Shops, property owner) located at 414 South Mill Avenue, Suite No. 118 in the CC, City Center District for:

ZUP11101 Use permit to allow live entertainment.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

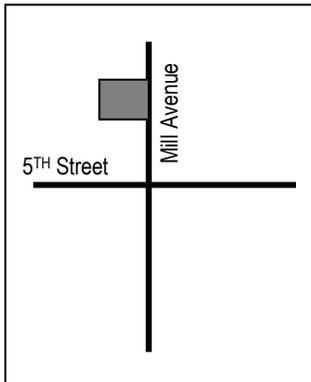
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Approval, subject to conditions**

ADDITIONAL INFO:



The site is located to the south of the corner 4th Street and Mill Avenue, in the Mill Avenue Shops in a tenant space along the Mill Avenue Street frontage. The use permit request is for live entertainment in the form of disc jockeys, dancing, small musical acts, live entertainment (comedy, impersonation, magician) primarily weekends, as well as special events or holidays.

PAGES:

1. List of Attachments
2. Comments; Reasons for Approval
3. Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor plan

COMMENTS:

The property is located at the southwest corner of 4th Street and Mill Avenue, in a building with other restaurants, outdoor patios and retail uses. An adjacent restaurant/bar has a live indoor entertainment use permit. They are requesting live entertainment for indoors only. To ensure that this use does not become a nuisance, a condition has been added that requires the doors and windows to be closed (not propped open) during entertainment hours; as is the standard practice in other venues with live indoor entertainment. The applicant requested the opportunity to provide dancing within the restaurant, and identified an interior area as the location of the dance floor. Building Safety staff has indicated that if the furniture is removed to accommodate the dance floor, it must not be stored inside the restaurant in conflict with accessibility and emergency egress; #10 of the conditions of approval addresses this issue. The proposed hours of entertainment will be from 8pm to 1am.

Use Permit

The Zoning and Development Code requires a use permit for live entertainment within the CC- City Central District. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
 - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.

- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
 - This is a commercial use, similar to others in the area; there should be no nuisances.

- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City’s adopted plans, or General Plan;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values.

- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding structures and uses.

- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;
 - The proposed use appears to have adequate control of disruptive behavior.

Conclusion

Staff recommends approval of the use permit.

REASON(S) FOR APPROVAL:

1. The project meets the General Plan Projected Land Use for this site.
2. The project will meet the development standards required under the Zoning and Development Code.
3. The proposed project meets the approval criteria for a Use Permit and is compatible with the downtown environment

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications must be submitted for review by planning.
2. The Use Permit is valid for Baja Cove and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
3. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit.
5. Live entertainment limited to indoor entertainment: disc jockeys, solo/duet musical performances, video projection, dance, comedy, small theatrical acts in association with special events; concert assembly and outdoor entertainment not allowed.
6. Allowable noise decibel levels to comply with the Tempe City Code – Chapter 20. Noise complaints arising from the open windows/doors shall require closure of all outdoor windows and doors to mitigate noise trespass to adjacent public or private spaces.
7. No outdoor speakers allowed.
8. Live entertainment to cease at or before 1:00 AM.
9. The applicant shall contact Tempe Police Department – Crime Prevention at 480-858-6333 to create a security plan.
10. Dancing is limited to the area defined on the floor plan. Furnishings currently located within this area must be stored in an area that does not conflict with required emergency exiting.

HISTORY & FACTS:

December 12, 2008

The Development Services Department staff has approved a transfer for Vintage Bar of existing use permits to allow a Series 6 bar/restaurant with live entertainment.

DESCRIPTION:

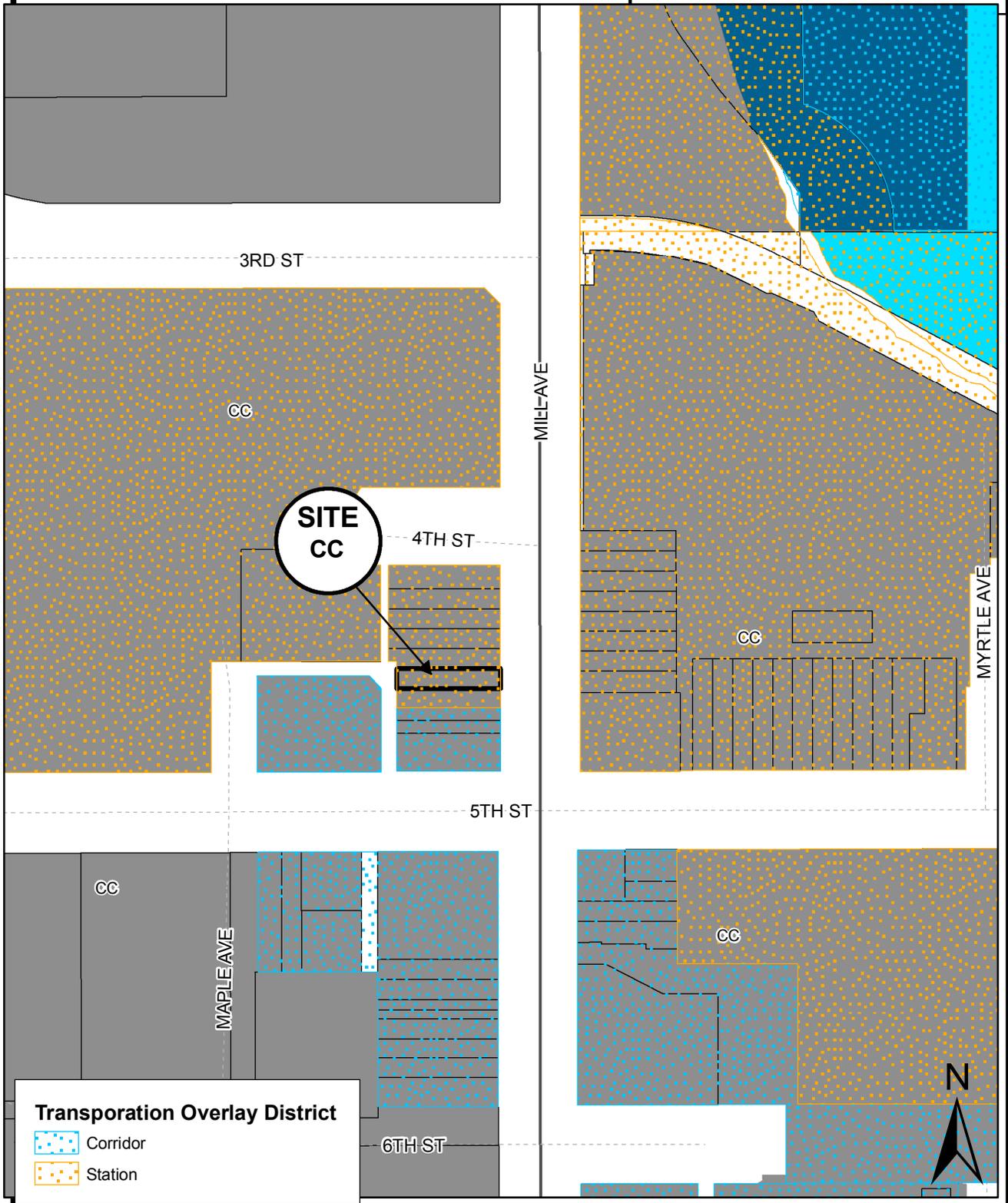
Owner – Mill Avenue Shops
Applicant – Rick Anekgerb/ADR Associates LLC
Existing Zoning – CC, City Center District

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

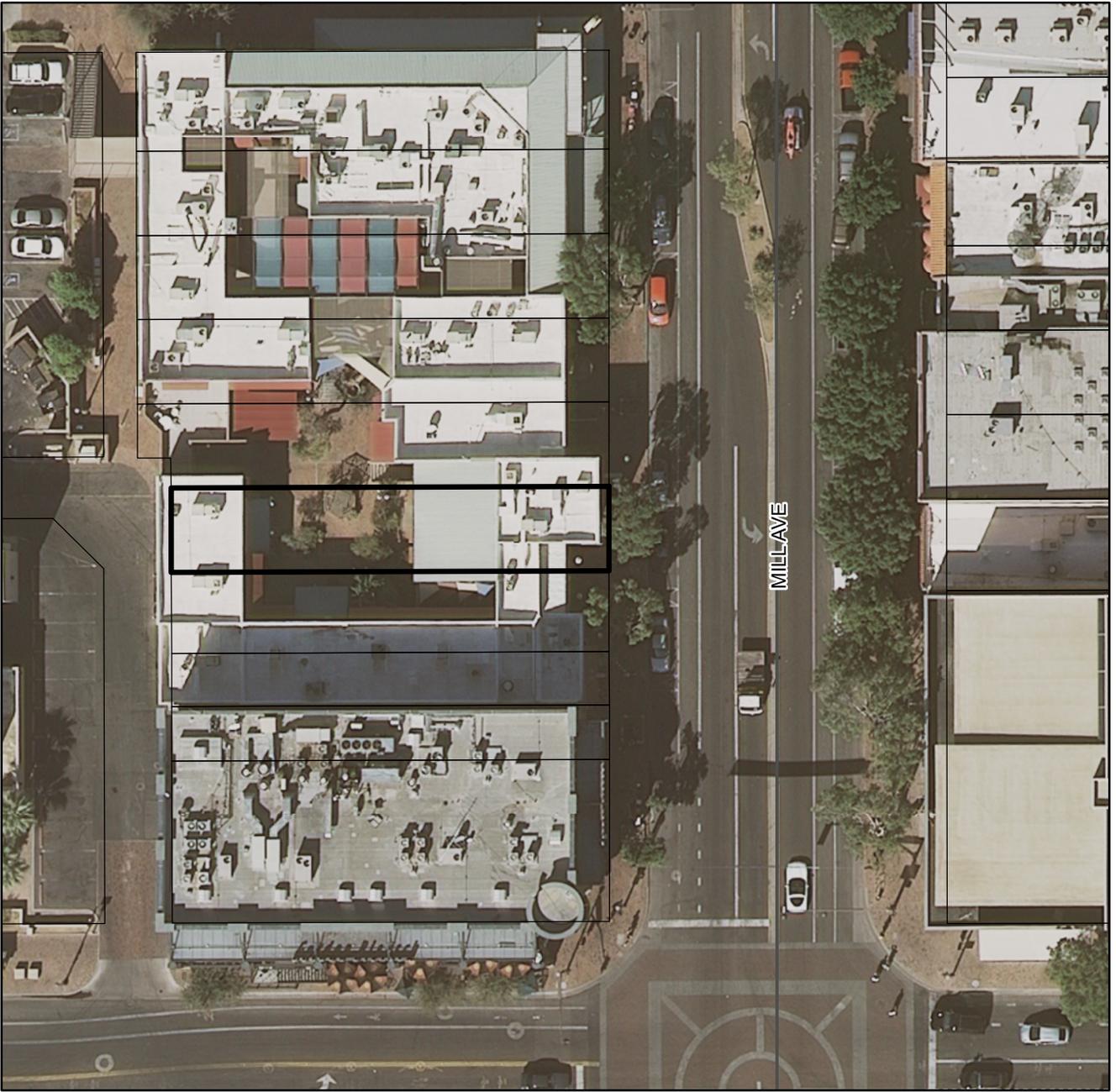
Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts
Part 6, Chapter 3, Section 6-308 – Use Permit

**MILL AVENUE SHOPS-
BAJA COVE BAR & GRILL**

PL110365



Location Map



MILL AVENUE SHOPS- BAJA COVE BAR & GRILL (PL110365)

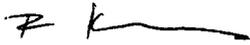
Baja Cove Bar & Grill
414 S Mill Ave. #118
Tempe, AZ 85281

05 November 2011

To whom it may concern:

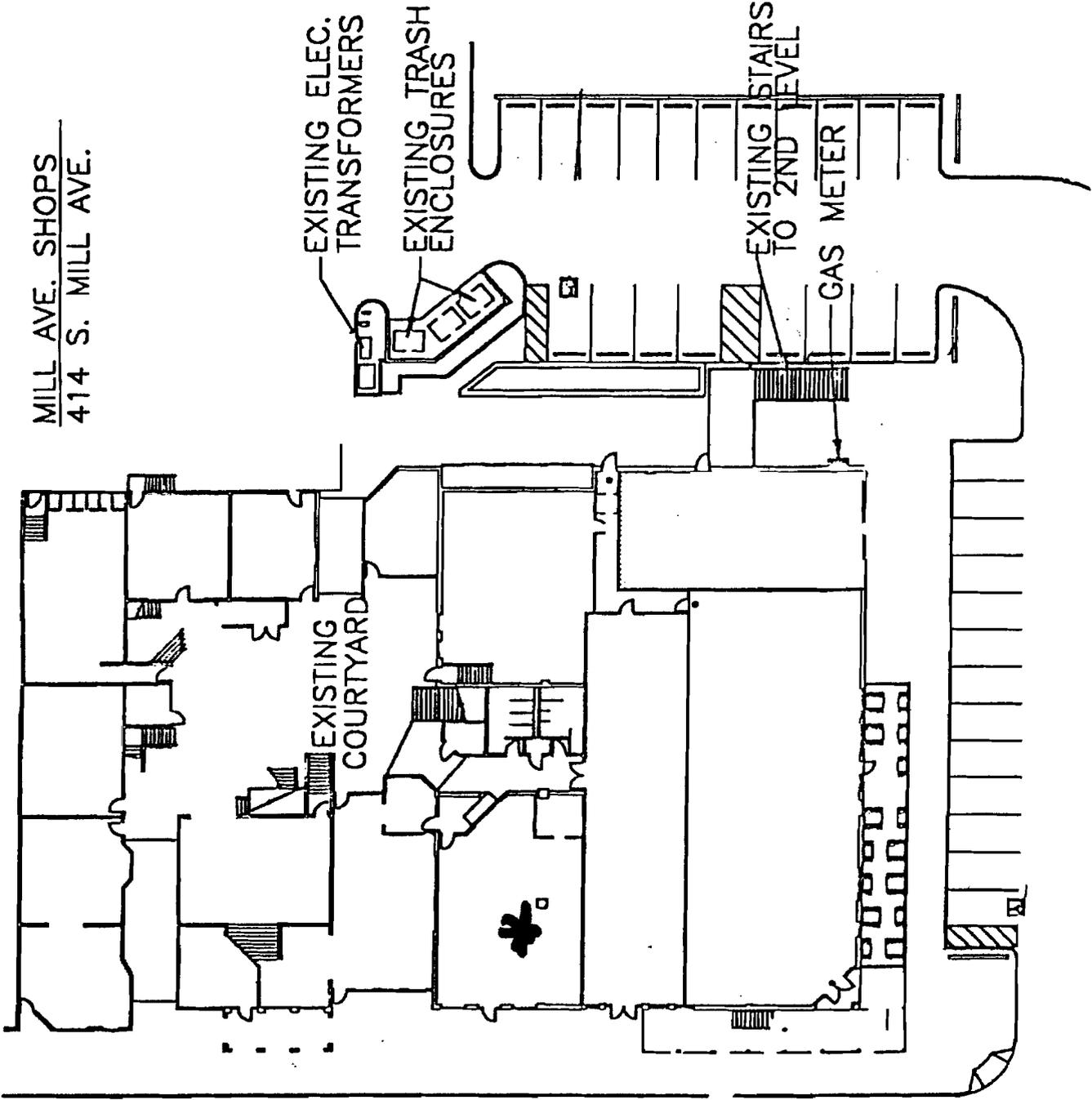
This is in regards to a request for a Live Entertainment Use Permit at 414 S Mill Ave #118 Baja Cove Bar & Grill. The hours of entertainment would be from 8pm-1am in accordance to an agreement with the Landlord. Bands would be light acoustic or electric with two (2) to four (4) member bands playing a mixed blend of music. Also we would offer karaoke, comedy night and occasionally DJ's and a small dance floor.

Thank you

A handwritten signature in black ink, appearing to read 'R Kanekeberg', with a stylized flourish at the end.

Rick Kanekeberg

MILL AVE. SHOPS
414 S. MILL AVE.



CENTERLINE OF MILL AVENUE

414 S. Mill Ave. #118

