

Staff Summary Report



Hearing Officer Hearing Date: October 7, 2008

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by 7TH LEVEL GREAT ROOM (PL080328) located at 115 West 6th Street, 7TH floor, for two (2) use permits.

DOCUMENT NAME: 20081007dssd02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **CENTERPOINT CONDOMINIUMS- 7th LEVEL GREAT ROOM (PL080328)** (Darin Sender/Sender Associates, applicant; Tempe Land Company, property owner) located at 115 West 6th Street, 7th Floor in the CC, City Center District for:

ZUP08147 Use permit to allow a restaurant/bar (Series 6).

ZUP08148 Use Permit to allow live entertainment (Indoors and Outdoors).

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

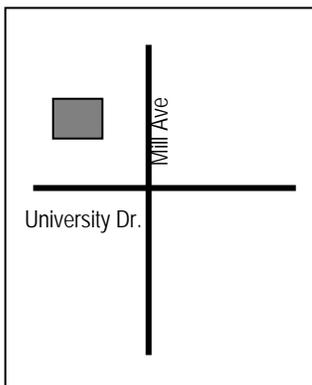
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions

ADDITIONAL INFO: The applicant is requesting (2) two use permits; one for a series 6 bar use and another to allow live entertainment at the Centerpoint Towers development located at 115 West 6th Street. The 7th Level Great Room; located on the 7th floor level will feature a professional demonstration kitchen studio with in-house chefs, intimate wine lounge, spacious fitness center, yoga studios, electronic lounge, private theaters, and house spa in the CC, City Center District. To date, no public input has been on this request. In that this existing use is not out of character with the area's existing retail and commercial businesses, staff recommends approval of the use permit request with attached conditions.



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)
- 3-9. Letter of Intent
10. Site plan
11. 7th Level Floor Plan
12. Staff Photograph(s)

COMMENTS:

The applicant is requesting (2) two use permits; one for a series 6 bar use and another to allow live entertainment at the Centerpoint Towers development located at 115 West 6th Street. The 7th Level Great Room; located on the 7th floor level between Towers One and Two will feature a professional demonstration kitchen studio with in-house chefs, intimate wine lounge, spacious fitness center, yoga studios, electronic lounge to showcase popular games such as Xbox, Playstation, and Game Cube, two private theaters, and in-house spa for massages and facials, business center and a 5 star concierge service.

To date, no public input has been on this request. In that this existing use is not out of character with the area's existing retail and commercial businesses, staff recommends approval of the use permit request with attached conditions.

Use Permit

The Zoning and Development Code requires a bar with live entertainment to obtain use permits in the CC, City Center District. The use permit requests meet 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 use is similar to others in the area; sound from music will have to conform to the noise ordinance.
- 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 requested use would not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed requested use would not contribute to neighborhood deterioration or downgrade property values.

Conclusion

Staff recommends approval of the use permit, subject to the conditions of approval.

REASON(S) FOR APPROVAL:

1. The business is a general commercial use (restaurant/bar), and is compatible with the other businesses on the property and within the area.
2. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
3. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.

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 permits are valid for "7th Level Great Room/ Aroma Café" and may be transferable. Should the business be sold, the new owners must contact the Development Services staff for a review of the use permits.
2. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
3. 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.
4. Any expansion or intensification of the use will require review of the use permit.
5. The use permit is valid for the plans as submitted within this application.
6. The business shall adhere to the City of Tempe Noise Ordinance.
7. The applicant shall work with the Tempe Police Department to implement a Security Plan for the business.

HISTORY & FACTS:

None Pertinent to this request

DESCRIPTION:

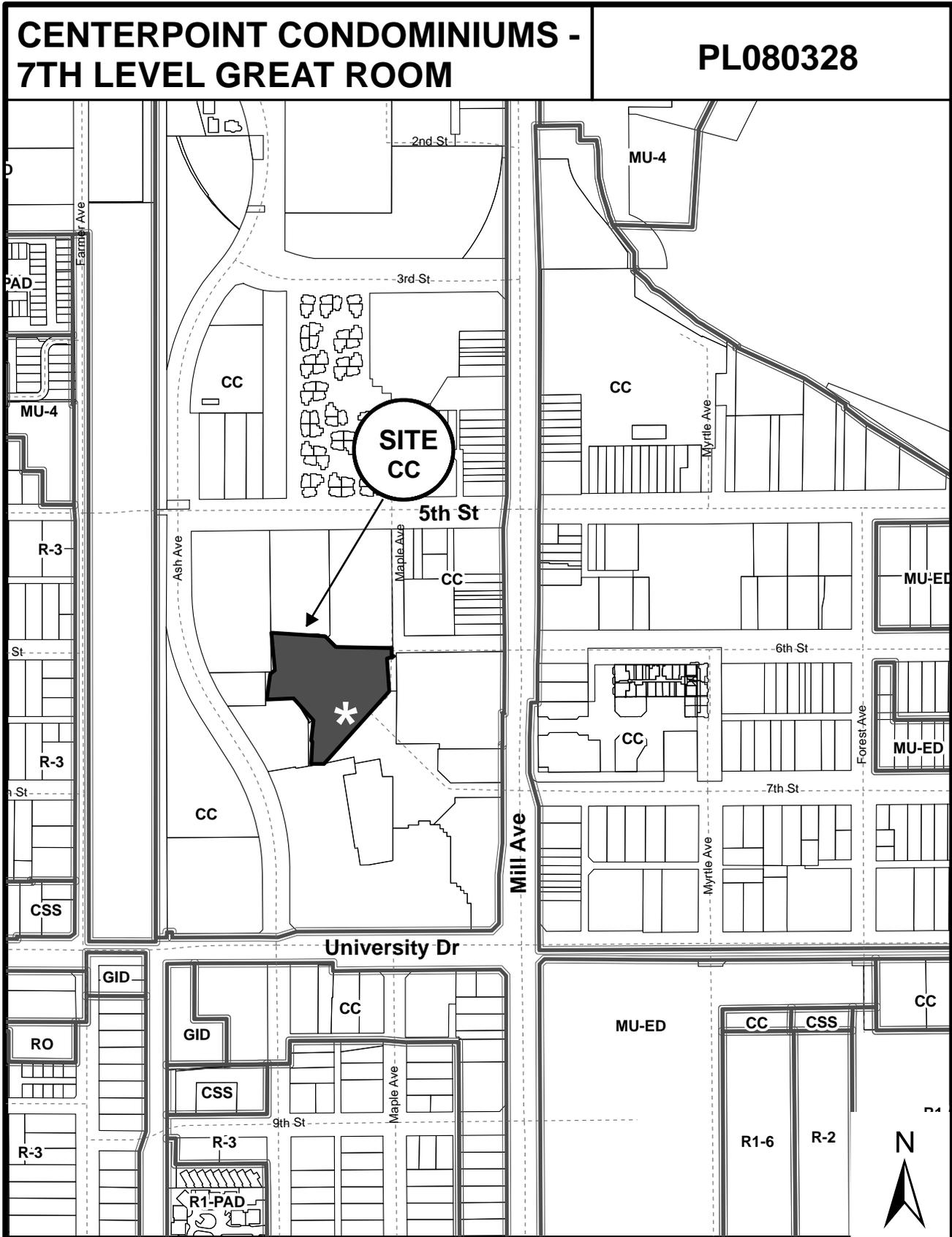
Owner – Tempe Land Company
Applicant – Darin Sender/Sender Associates
Existing Zoning – CC, City Center District
Tenant Space – 23,000 s.f.

**ZONING AND
DEVELOPMENT**

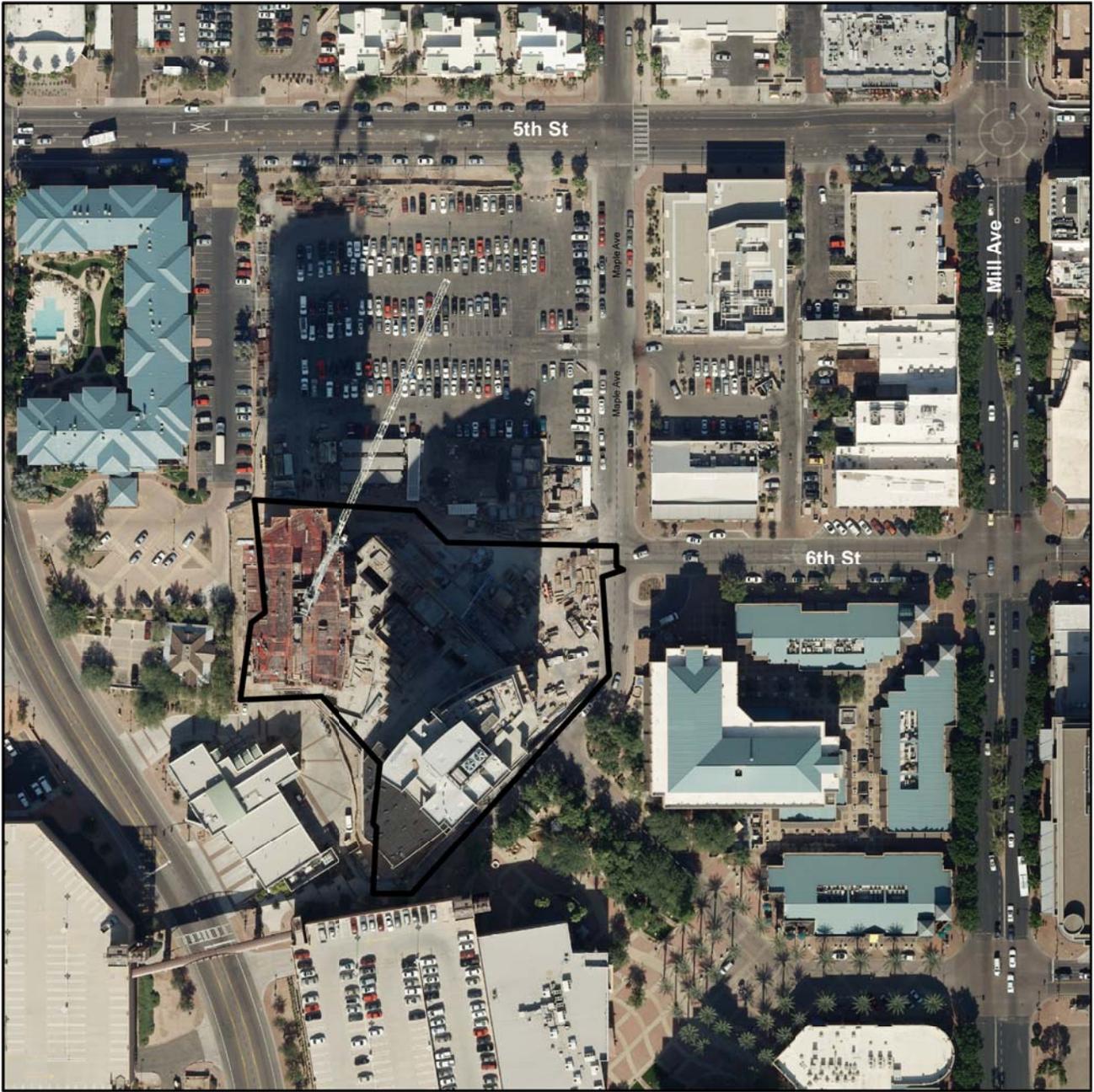
CODE REFERENCE:

Part 3, Chapter 2, Section 3-202, Table 3-202A – Permitted Land Uses in CC, City Center District.

Part 6, Chapter 3, Section 6-308 – Use Permit



Location Map



**CENTERPOINT CONDOMINIUMS -
7TH LEVEL GREAT ROOM (PL080328)**

Project Narrative
Centerpoint Residential
Use Permit Requests



Bar with Live Entertainment
(7th Floor & Plaza Level)

Applicant:

Law offices of
Sender Associates, Chartered
464 South Farmer Avenue, Suite 102
Tempe, Arizona 85281

Darin A. Sender, Esq.
darin@senderlaw.com
(480) 966-6735

August 15, 2008

PROJECT NARRATIVE

Centerpoint Residential Use Permit Requests

This Use Permit application pertains to the Centerpoint Development, Lot 7A, located at the southwest corner of 6th Street and Maple Avenue (the "Site"). This application requests use permit approval for a bar with outdoor patio seating on the main plaza level, as well as a bar on the 7th floor of Tower Two. This application also requests use permit approval for live entertainment associated with the 7th floor bar, as well as with the bar and restaurant on the plaza level.

I. INTRODUCTION/BACKGROUND

Centerpoint Condominiums is a mixed-use development featuring one 22-story and three 30-story residential buildings. The main development is located on approximately five acres bordered by Ash Avenue to the west, Maple Avenue to the east, Fifth Street to the north and Centerpoint Plaza to the south in the heart of the Mill Avenue Downtown District. Upon completion, Centerpoint Condominiums will feature over 800 condominium homes and over 2,000 residents.

The first two phases of Lot 7a are currently under construction and are the subject of this use permit request. Tower one, (the first phase and the easternmost building), at 22-stories will also include the construction of 171 condominium residences, with floor plans ranging from innovative studio-style plans averaging just under 500 square feet, to three bedrooms, three-and-one-half bath homes with over 2,800 square feet of living space. Tower two, (the second phase and the westernmost building), at 30-stories will include an additional 204 condominium residences for a total of 375 homes within the first two Lot 7a phases.

The project will include Avenue Communities' distinctive real.life.style® program, an amenities-rich living experience unique to North America. At Centerpoint, real.life.style will be incorporated in Tower Two's entire seventh level, encompassing 23,000 square feet. The seventh level of Tower Two is known as the "Great Room" and will feature a professional demonstration kitchen studio with in-house chefs, an intimate wine lounge, a spacious fitness center designated for free weights, stationary equipment, as well as studios for yoga and Pilates classes, lavishly furnished men's and women's locker rooms complete with steam room and showers, an 'electronic lounge' to showcase popular games such as Xbox, PlayStation and Game Cube, two private theaters, an in-house spa for massages and facials, a business center and concierge services on par with five-star resorts.

In addition, the plaza level under and between both Towers will feature a 23,150 square-foot public plaza and 20,000 square feet of retail space. The retail portion will include the unique Aroma Market Caffé and signature, urban Italian restaurant, named Trattoria M, in partnership with locally renowned Chef Michael DeMaria, as well as a partnership wine-making facility, called PürVine, in conjunction with Signorello Vineyards in Napa Valley, California.

The Great Room bar located on the 7th Floor, the crosinti bar on the plaza level, and the restaurant Trattoria M on the plaza level are currently proposed to open at 11:00am and close at 2:00am. Exact times may change with operational or seasonal fluctuations.

Chef DeMaria and his business partner, Brandon Maxwell of M Culinary Concepts, formed a unique partnership with Avenue Communities to open their signature urban Italian restaurant, Trattoria M, and their groceria with artisan foods and products from around the globe called Aroma Market Caffé, in 6,500 square-feet of the public plaza level of Avenue Communities' Centerpoint Condominiums development. Avenue Communities designs and develops innovative urban living communities with a strong focus on unique lifestyle considerations. Chef Michael and his core business team decided to join forces with Avenue Communities in a rare developer-chef partnership because of Avenue Communities' recognition for amenity-rich community focus, as evident in their unique real.life.style® program which is a ground-breaking lifestyle service tailored to establish an authentic sense of community.

Aroma Market Caffé will be a one-of-a-kind market and caffè featuring epicurean quality and convenience. The eclectic groceria will include a deli that will use organic products whenever possible, an "Old-World market-style" bakery with rustic breads that will supply Aroma and Trattoria M, a magnificent Italian coffee bar, a pasta exhibition kitchen serving homemade pasta, a hot kitchen serving meat and fish dishes, plus a crostini wine bar and a gelateria spooning up sorbets and gelato with a walk-up window next to the plaza patio. Additionally, Aroma Market Caffé will feature a variety of seating in-and-outdoors, everyday food staples, a florist shop and a retail component that will sell various items such as gift baskets, wine decanters, crystal wine glasses and much more.

One of the most unique services of Aroma will be the "Recipe Concierge" that will feature seasonal and weekly recipe cards and include a shopping list of items found in the market to create, for example, olive roasted sea bass with thyme and garlic on tabouli salad. An alternative to cooking for residents is "Home Delivery," a residence delivery service similar to room service you find at fine hotels.

The ambiance of Trattoria M will feature Old-World Italy juxtaposed with contemporary urban flare. Trattoria M will have a diversity of venues within the restaurant to cater to any desired experience from casual, urban Italian dining to social lounging. The main dining room will feature wood-top tables, with a blue, mustard and sage color design palette, and urban, upbeat music. Possibly the most unique element of Trattoria M will be the chef-manned antipasto kitchen. Restaurant patrons can easily surround the antipasto kitchen and place orders as they watch the chef making Italian fare, such as tuna tartar "meatballs" rolled in black olive dust on oven-dried tomato to Burrata mozzarella with pesto, pepperoni, onion and red pepper caponata.

Another distinctive element of Trattoria M is the "Chef's Table," a concept Chef DeMaria pioneered in North Scottsdale that is a truly fun dining experience in a private room. One wall of this private room is all glass and provides a glimpse into the kitchen where culinarians will be hard at work. The Chef's Table is Chef DeMaria's signature dining room in

1. Advertising or signs of any sort in the right-of-way or on site shall conform to the requirements pursuant to Part 4, Chapter 9, Signs, as applicable;
2. The outdoor seating area shall be a clearly defined area, which creates a clear and continuous division between the use area and the public portion of the sidewalk; and
3. Shall not obstruct sidewalk pedestrian traffic or create public health and safety hazards and shall leave a minimum clear distance of six (6) feet of sidewalk pedestrian area in all places. All walkways within the confines of the seating shall be level with the public sidewalk and accessible for the physically disabled.

IV. FULFILLMENT OF USE PERMIT CRITERIA FOR BAR AND LIVE ENTERTAINMENT REQUESTS

The requested uses fulfill all use permit criteria. This Site is more than capable of supporting the traffic demands generated by the bar and live entertainment uses. Since these uses will generally attract the residents living within the Centerpoint community, as well as Downtown Tempe visitors, a large amount of the bar guests will not be arriving to this Site by vehicle. For those who do, the on-site parking areas are highly capable of handling the small amounts of additional vehicular traffic which these uses will potentially generate. As far as pedestrian traffic, this project and the uses requested by this use permit will hopefully generate significant amounts of desired pedestrian traffic in order to support the vibrant urban Downtown Tempe lifestyle. Significant amounts, yet not overwhelming to the surrounding uses or property owners. Overall, we do not anticipate significant negative vehicular or pedestrian traffic impacts on the adjacent streets.

Live entertainment is proposed to consist of occasional live bands in both bar locations, as well as additional live piano music in the crosinti bar on the plaza level, and occasional outdoor live entertainment on the plaza patios. The occasional outdoor live entertainment on the plaza patios will add to the vibrancy within the plaza and the overall Downtown Tempe experience. Hours of operation for the live entertainment will coincide with the bar and restaurant operational hours in both locations. Additionally, the outdoor plaza patios will be contained within the over 4 acres of property owned by the Centerpoint development and located on the north and east sides of the Towers facing out to the energetic Mill Avenue. The nearest residential neighbor is over 500' away. On those occasions when live entertainment is planned for the patios, it will create very little negative impact on the surroundings. As such, these uses will not significantly increase vehicular or pedestrian traffic in adjacent areas, nor create a nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions.

Centerpoint is dedicated to providing more than adequate control of any potential disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public. Safety and security for guests, residents, employees and neighbors is of prime concern as is maintaining a safe, clean and entertaining business. Consideration and dedication to safety and security will be upheld in the security plan for the proposed location with continued cooperation with the Tempe Police Department and surrounding businesses. This exciting, new, urban mixed-use development will enhance the

which he personally plans to create exquisite seasonal four-course menus with antipasto and wine for intimate events.

II. USE PERMIT REQUEST

The 7th floor Great Room bar, the plaza level crosinti bar with outdoor patios, and the live entertainment associated with both the bars and the Trattoria M restaurant are the focus of this Use Permit request. An application has been filed with the State Liquor Board for a Series 6 Bar liquor license pertaining to the 7th floor Great Room bar and the plaza level crosinti bar with outdoor patio. An application has also been filed for a Series 13 Domestic Farm Winery license for the PūrVine winemaking business on the plaza level. This use permit application requests approval of the aforementioned bars including live entertainment accessory to the bars and restaurant. We understand that the winemaking operation, PūrVine, does not require a use permit due to its similarity to a brewery, ancillary to a bar, which is a permitted land use in the CC zoning district.

III. USE PERMIT AND OUTDOOR SEATING APPROVAL CRITERIA

Section 6-308 of the Zoning Ordinance indicates the criteria for approval of a use permit:

... that the use covered by the permit, the manner of its conduct, and any *building* which is involved, will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and that the use will be in full conformity to any conditions, requirements, or standards prescribed therefore by this Code.

The following factors shall be considered in approval of a use permit:

- a) Any significant increase in vehicular or pedestrian traffic;
- b) Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
- 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;
- d) Compatibility with existing surrounding *structures* and uses; and
- e) Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.

Additionally, Section 3-425 of the Zoning Ordinance pertaining to outdoor seating areas requires the following standards be met:

experience of the Downtown Mill Avenue District and create new opportunities for retail and commercial development in the area. As such, no negative impacts on the nearby neighborhoods or businesses is foreseen which could contribute to the deterioration of the neighborhood or to the downgrading of property values in this area.

The bars and live entertainment uses requested herein are also highly compatible with the mix of commercial businesses and residential uses in the area. The Centerpoint Condominium development is located in the heart of the Downtown Mill Avenue District which contains many similar bar and live entertainment venues mixed within a fabric of commercial, office and residential uses.

<u>ZONING</u>	<u>LAND USES</u>
<u>Site:</u> CC PAD	<u>Site:</u> Mixed-Use Residential / Commercial
<u>North:</u> CC TOD (Station Area)	<u>North:</u> Hayden Square Condominiums
<u>South:</u> CC PAD	<u>South:</u> Centerpoint Commercial shops
<u>East:</u> CC PAD	<u>East:</u> Centerpoint Commercial shops
<u>West:</u> CC PAD	<u>West:</u> Centerpoint Commercial hotel/office

To the south and east of the Site is a mix of retail, restaurant and office uses including Z-Tejas, M&I Bank, Coffee Plantation, Fat Tuesday's, Chase Bank headquarters and the soon to be redeveloped Harkin's Theater site. To the north and west are many compatible uses including Gordon Biersch, Starbuck's, Hayden Square Condominium, the Courtyard Marriott hotel, the forthcoming Tempe Arts District mixed-use development, and across the railroad tracks, commercial office and residential uses. The mix of these uses combine in Downtown Tempe to create the energetic Mill Avenue which Centerpoint will embrace and enhance with its unique style and amenities. The location of this Site makes the requested bar and live entertainment uses highly compatible with existing surrounding structures and uses.

Therefore, the requested Great Room bar located on the 7th Floor, the crosinti bar on the plaza level and any live entertainment associated with the bars and restaurant will meet all required use permit criteria.

V. FULFILLMENT OF OUTDOOR PATIO SEATING CRITERIA

The patio portions of the plaza bar will also comply with Section 3-425 of the Zoning Ordinance regarding outdoor seating areas. First, we anticipate that any advertising or signs of any sort in the right-of-way or on site shall conform to the requirements pursuant to Part 4, Chapter 9, Signs, as applicable. Second, the outdoor seating area is located within a clearly defined area, which creates a clear and continuous division between the use area and the public portion of any sidewalk. As you can see from the barrier site plan, the plaza bar patio is physically separated from the other more public portions of the plaza by permanent and moveable barriers. The moveable barriers allow occasional use of Plaza Area 2 when needed. Normal operations will generally require use of only Plaza Area 1 and 1a, but inclusion of Plaza Area 2 in this request insures the availability of space for those occasional dining and

entertainment activities. This barrier and separation requirement is also mandated by the state liquor license regulations and it is anticipated that these barriers fulfill those requirements as well.

Finally, the outdoor patio seating will not obstruct sidewalk pedestrian traffic or create public health and safety hazards and shall leave a minimum clear distance of six (6) feet of sidewalk pedestrian area in all places, and all walkways within the confines of the seating shall be level with the public sidewalk and accessible for the physically disabled.

VI. CONCLUSION

For the above reasons, we respectfully request approval of the 7th Floor bar within Tower 2, the plaza level bar with outdoor patio, and live entertainment associated with the bars and plaza level restaurant.

Site Plan / Site Layout

(E)
BUILDING

(E)
BUILDING

Maple Avenue

6th St.

Tower
2

Patios &
6th Street Plaza

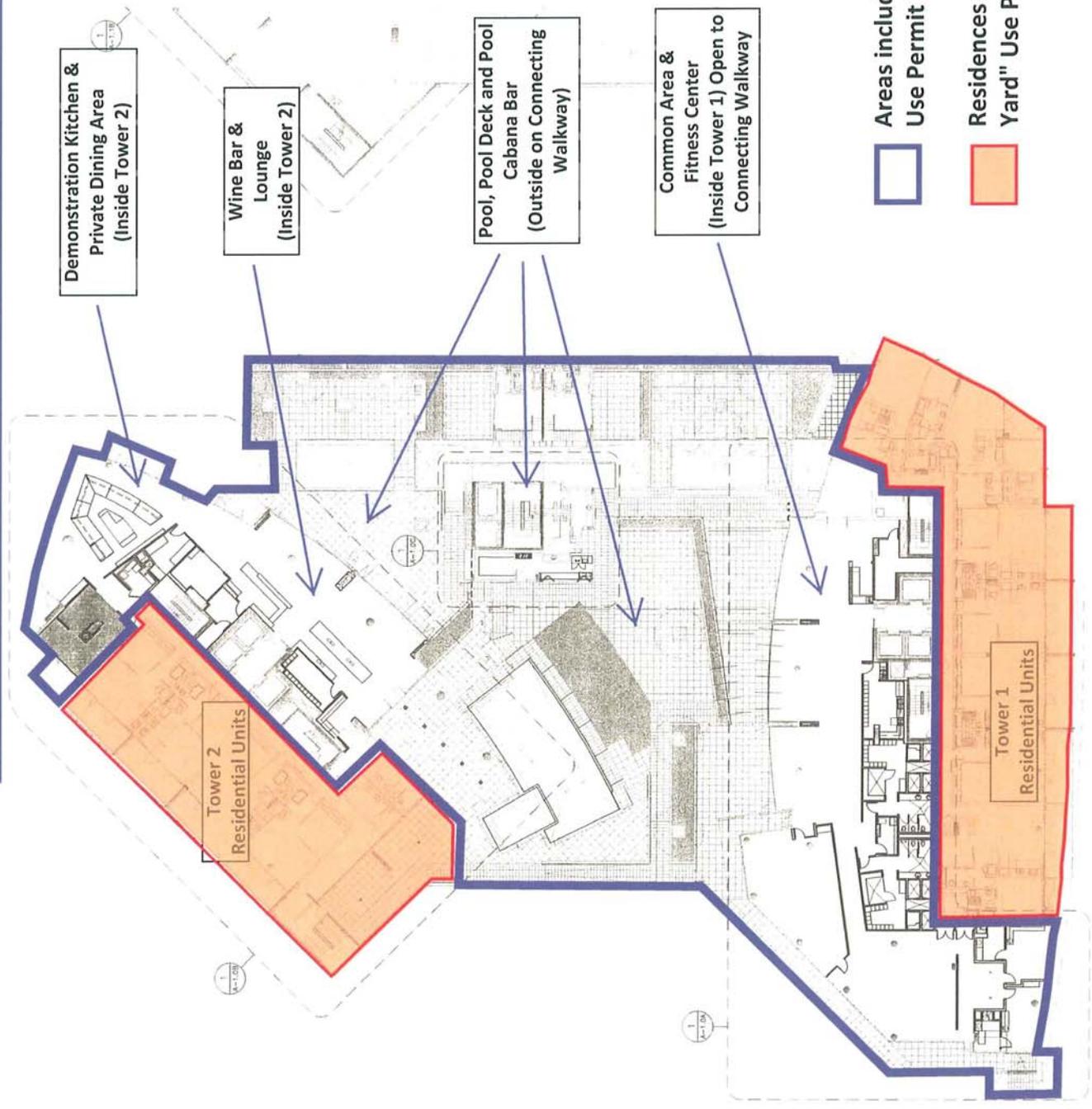
Restaurant
& Bar

Tower
1

E)
DING



Areas Included in "Back Yard" Use Permit Requests



 Areas included in "Back Yard" Use Permit Requests.

 Residences - NOT included in "Back Yard" Use Permit Requests.

OVERALL FLOOR PLAN - LEVEL 7 



CENTERPOINT CONDOMINIUMS – 7TH LEVEL GREAT ROOM

115 WEST 6TH STREET, 7TH FLOOR

PL080328

**LOCATION OF BUSINESS – VIEW TO
SOUTHWEST**