

Staff Summary Report



Hearing Officer Hearing Date: November 17, 2009

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by **HUBBLY BUBBLY CAFE (PL090403)** located at 1400 South McClintock Drive, Suite Nos. 3 & 4, for one (1) use permit.

DOCUMENT NAME: 20091117dsng01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **KING PLAZA – H B TOBACCO - HUBBLY BUBBLY CAFE - (PL090403)** (Anis Ben Harzallah, applicant; King Plaza LLC, property owner) located at 1400 South McClintock Drive, Suite Nos. 3 & 4, in the CSS, Commercial Shopping and Services and TOD, Transportation Overlay Districts for:

ZUP09143 Use permit to allow live entertainment including D.J.'s, belly dancers and karaoke.

PREPARED BY: Nick Graves, Planning Intern (480-350-8690)

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

A handwritten signature in black ink, appearing to read 'SEA'.

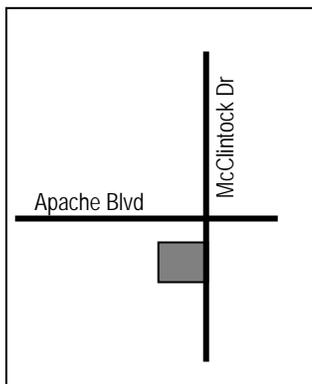
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO: The applicant is requesting a use permit to allow live entertainment, located at 1400 South McClintock Drive, Suite Nos. 3 & 4 in the CSS, Commercial Shopping and Services District and TOD, Transportation Overlay District. The live entertainment would be in the form of DJ's, belly dancers, and karaoke. To date no public input has been received. Staff supports approval of the use permit.



PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site Plan
5. Floor Plan
6. Staff Photograph

COMMENTS:

Hubbly Bubbly Café is requesting a use permit to allow live entertainment, located at 1400 South McClintock Drive, Suite Nos. 3 & 4 in the CSS, Commercial Shopping and Services District and TOD, Transportation Overlay District. The live entertainment would be in the form of DJ's, belly dancers, and karaoke. Live entertainment will take place every night of the week with something different occurring every night. Mondays, Tuesdays, and Wednesdays will be reserved for karaoke from 9:00 pm to 1:00 am. Thursdays and Saturdays will feature belly dancers performing twenty (20) minute shows at 10:30 pm and 11:30 pm and on Fridays and Sundays a D.J. will be present from 9:00 pm to 2:00 am. Both karaoke and the D.J. will have a space reserved at the southeast corner of the tenant space near the main entrance, while belly dancing will take place in the center of the room. Staff notes that the business will be open from 6:00 pm to 2:00 am Sunday through Thursday and will stay open from 6:00 pm to 4:00 am on Fridays and Saturdays.

To date no public input has been received. Staff supports approval of the use permit.

Use Permit

The Zoning and Development Code requires a use permit for live entertainment in the CSS, Commercial Shopping and Services 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 should 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;
 - The commercial 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 should not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed requested use appears to be compatible with the surrounding structures and uses.

Conclusion

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

REASONS FOR

- APPROVAL:**
1. Traffic generated by this use should not be excessive.
 2. This use will not result in the deterioration of the neighborhood or downgrading of property values.
 3. The use appears to be compatible with the surrounding structures and uses.

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

**CONDITIONS
OF APPROVAL:**

1. The use permit is valid for Hubbly Bubbly Café and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
3. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
4. Music generated from this use shall conform to the City of Tempe code requirements for noise control.
5. The live entertainment use shall take place inside only. No live entertainment will be allowed outside in the patio area.
6. No outdoor speakers will be allowed.
7. Remove pool table from outdoor patio to comply with (A.D.A.) Americans with Disabilities Act requirements.
8. 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.
9. The use permit is valid for the plans as submitted within this application.
10. The applicant shall work with the Tempe Police Department to implement/update a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6027.

HISTORY & FACTS:

- October 21, 2008 ZUP08155 – The Hearing Officer approved the request to allow a hookah lounge/tobacco retailer located at 1400 S McClintock Dr., Suites No. 3 & 4.
- January 30, 2009 DPR09012 – Outdoor patio fence approved administratively at 1400 S McClintock Dr., Suite Nos. 3 & 4.
- August 27, 2009 DPR09149 – Outdoor patio fence approved administratively at 1400 S McClintock Dr., Suite No. 5.
- September 1, 2009 ZUP09119 – The Hearing Officer approved the request to allow a hookah lounge/tobacco retailer located at 1400 S McClintock Dr., Suite No. 5.
- October 8, 2009 CM091793 – Violation notice posted on site, 1400 S McClintock Dr., Suite No. 3 & 4, for live entertainment without a use permit.

DESCRIPTION:

Owner – King Plaza LLC
Applicant – Anis Ben Harzallah
Existing Zoning – CSS, Commercial Shopping & Services District and TOD, Transportation Overlay District
Parcel Size – 70,020 s.f. / 1.60 acres
Total Building Area – 20,325 s.f.
Tenant Area – 2,600 s.f.
Parking Required – 93 spaces
Parking Provided – 111 spaces

**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
Part 6, Chapter 3, Section 6-313 – Security Plan



Location Map



KING PLAZA - H B TOBACCO - HUBBLY BUBBLY CAFE (PL090403)

10/16/09

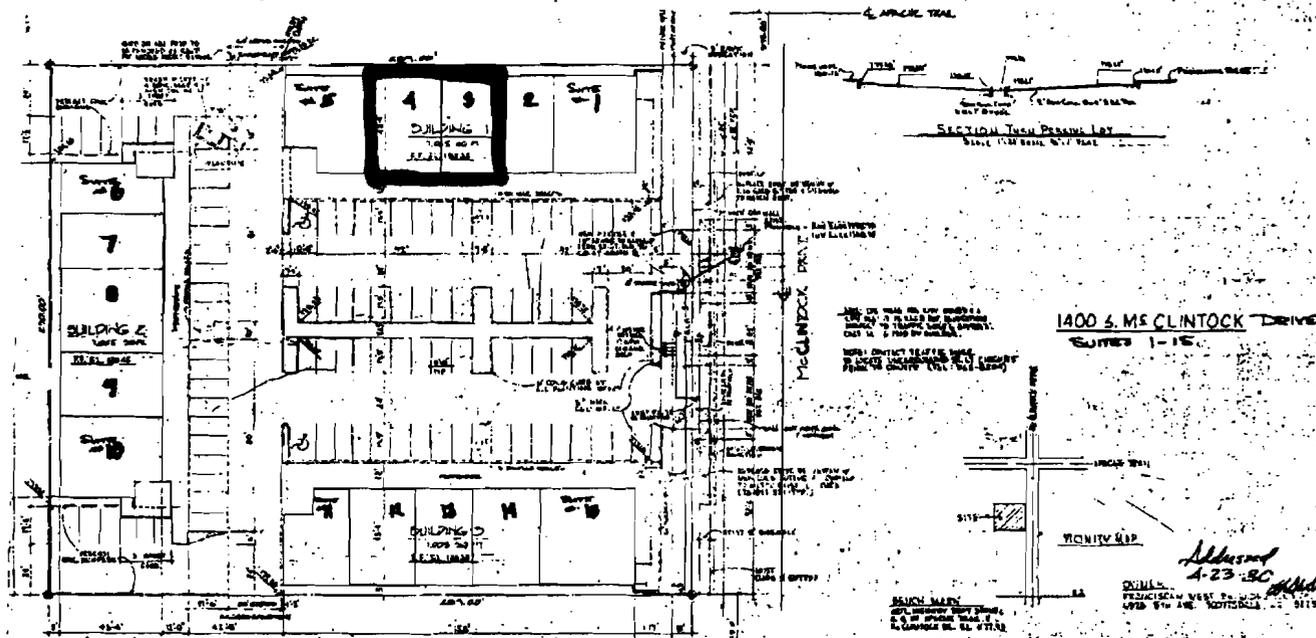
NOTE

This is Amir Ben Harzallah. owner of Hubbly bubbly
HOOKah lounge, I request live entertainment licence.
in my location at 1400 S McClintock, Tempe AZ 85281
suite 3 & 4 only; it's going to be for Belly dance
shows, Karaoke and Djs. I will appreciate that
if you guys approved and help out to get the
business going and it's not going to be any effect, as noises
on thank you

Amir

Scale: 1/8" = 1'-0" (Vertical Scale)
 1/4" = 1'-0" (Horizontal Scale)

DATE: 11/19/79
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 CHECKED BY: [Signature]



RONALD WALSH CE
 ARCHITECT
 1400 S. McCLINTOCK DRIVE
 SAN FRANCISCO, CALIF. 94116

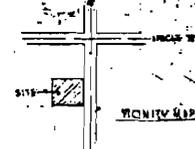
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 1400 S. McCLINTOCK DRIVE
 SAN FRANCISCO, CALIF. 94116

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APPROVAL FOR OFFSITES ONLY
 DATE: 11/19/79

FRANCISCAN PLAZA

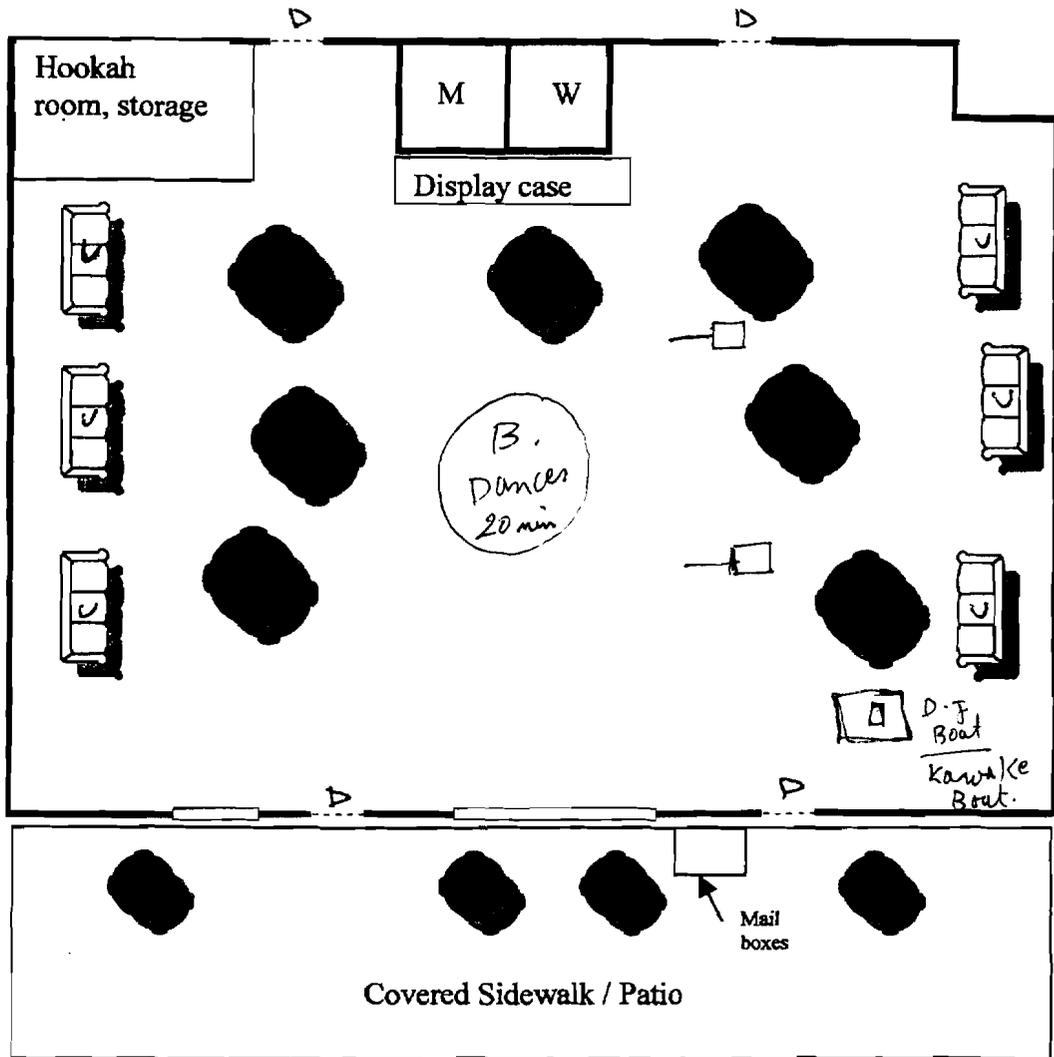
1400 S. McCLINTOCK DRIVE
 SUITES 1-15



Addressed
 4-23-80

SE ESTIM
 1400 S. McClinton

Floor Plan
HB Place Hookah Lounge
1400 S McClintock (King Plaza), Suite 3, ~2600+/-SF



- * C = couch
- * T = TABLE
- * D = door
- * M = Man restroom
- * W = Woman restroom



**KING PLAZA – H B TOBACCO - HUBBLY
BUBBLY CAFE**

**1400 SOUTH MCCLINTOCK DRIVE,
SUITE NOS. 3 & 4**

PL090403

FRONT OF BUSINESS

