

# Staff Summary Report



Hearing Officer Hearing Date: August 4, 2009

Agenda Item Number: 3

**SUBJECT:** This is a public hearing for a request by **PHO THANG LONG (PL090246)** located at 414 South Mill Avenue, Suite No. 115 for one (1) use permit.

**DOCUMENT NAME:** 20090804dsdp01 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by **MILL AVENUE SHOPS – PHO THANG LONG (PL090246)** (Lam Ngo, applicant; Mill Avenue Shops, property owner) located at 414 South Mill Avenue, Suite No. 115, in the CC, City Center District for:

**ZUP09105** Use permit to allow live entertainment.

**PREPARED BY:** Derek Partridge, Planner I (480-350-8867)

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

**LEGAL REVIEW BY:** N/A

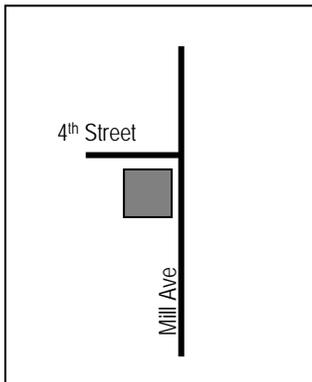
**DEPARTMENT REVIEW BY:** N/A

**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 414 South Mill Avenue, Suite No. 115 in the CC, City Center District. The entertainment would be in the form of live music and DJ. Staff supports approval of the use permit.



**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. Site plan
4. Floor plan
5. Staff Photograph(s)

## COMMENTS:

The applicant is requesting a use permit to allow live entertainment, located at 414 South Mill Avenue, Suite No. 115 in the CC, City Center District. The entertainment would be in the form of live music and DJ. Live entertainment will take place during regular business hours primarily on the weekends. The live entertainment will take place fully within the restaurant. Staff supports approval of the use permit.

## Use Permit

The Zoning and Development Code requires a use permit for live entertainment in the CC, City Center 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 restaurant use is similar to others in the area; sound from music must 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 use would not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
  - The proposed use is compatible with surrounding 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 will be fully contained within the building.

## Conclusion

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

## REASON(S) 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.**

**CONDITION(S)  
OF APPROVAL:**

1. The use permit is valid for Pho Thang Long 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. Music generated from the use shall conform to the City of Tempe code requirements for noise control.
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. No outdoor speakers associated with the live entertainment use will be allowed.
6. Live entertainment is approved during regular business hours.
7. The applicant or business owner shall contact the City of Tempe Police Department, Crime Prevention Unit to implement/update a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6027.

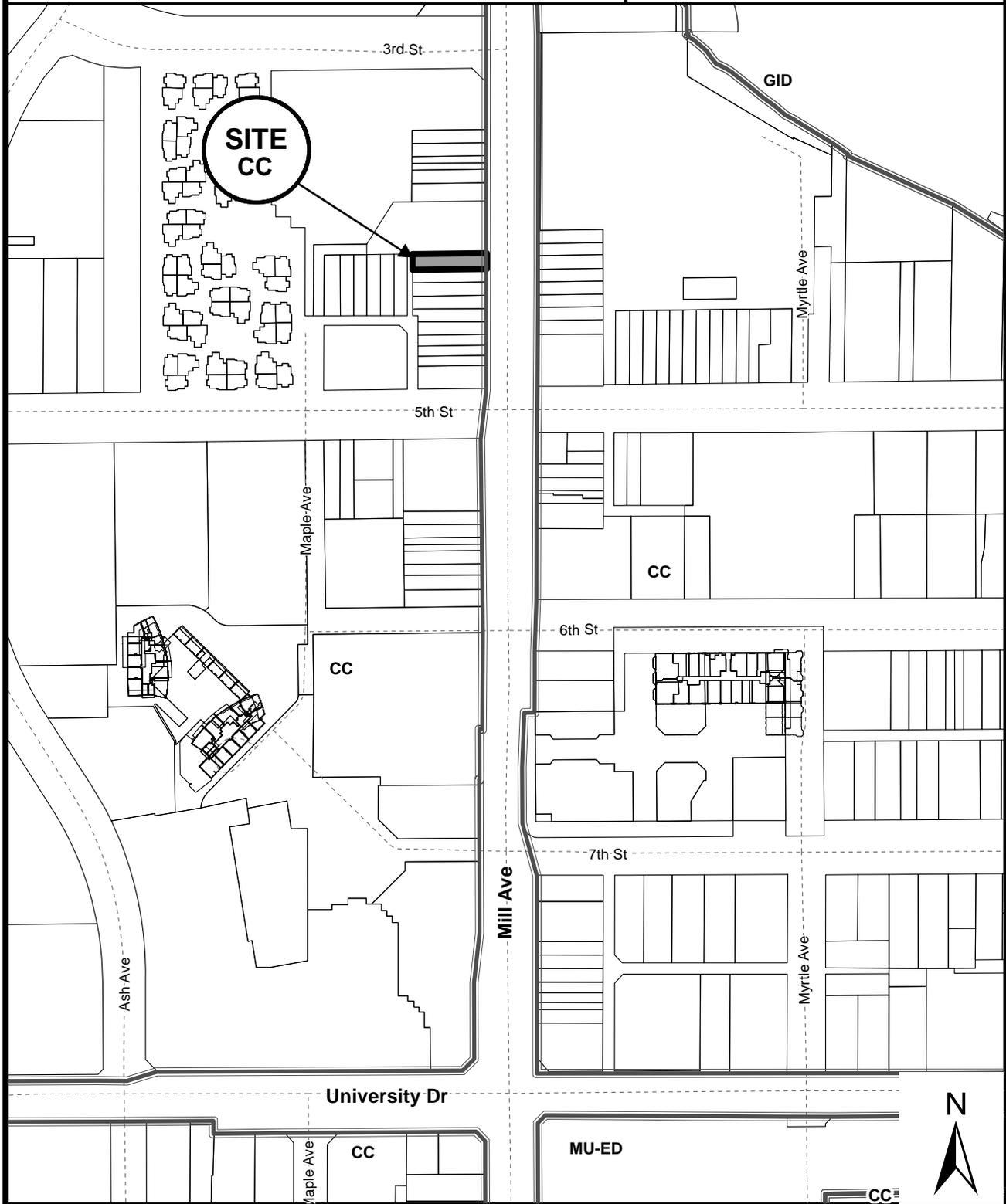
**HISTORY & FACTS:** None pertinent to this case.

**DESCRIPTION:** Owner – Mill Avenue Shops  
Applicant – Lam Ngo  
Existing Zoning – CC, City Center District

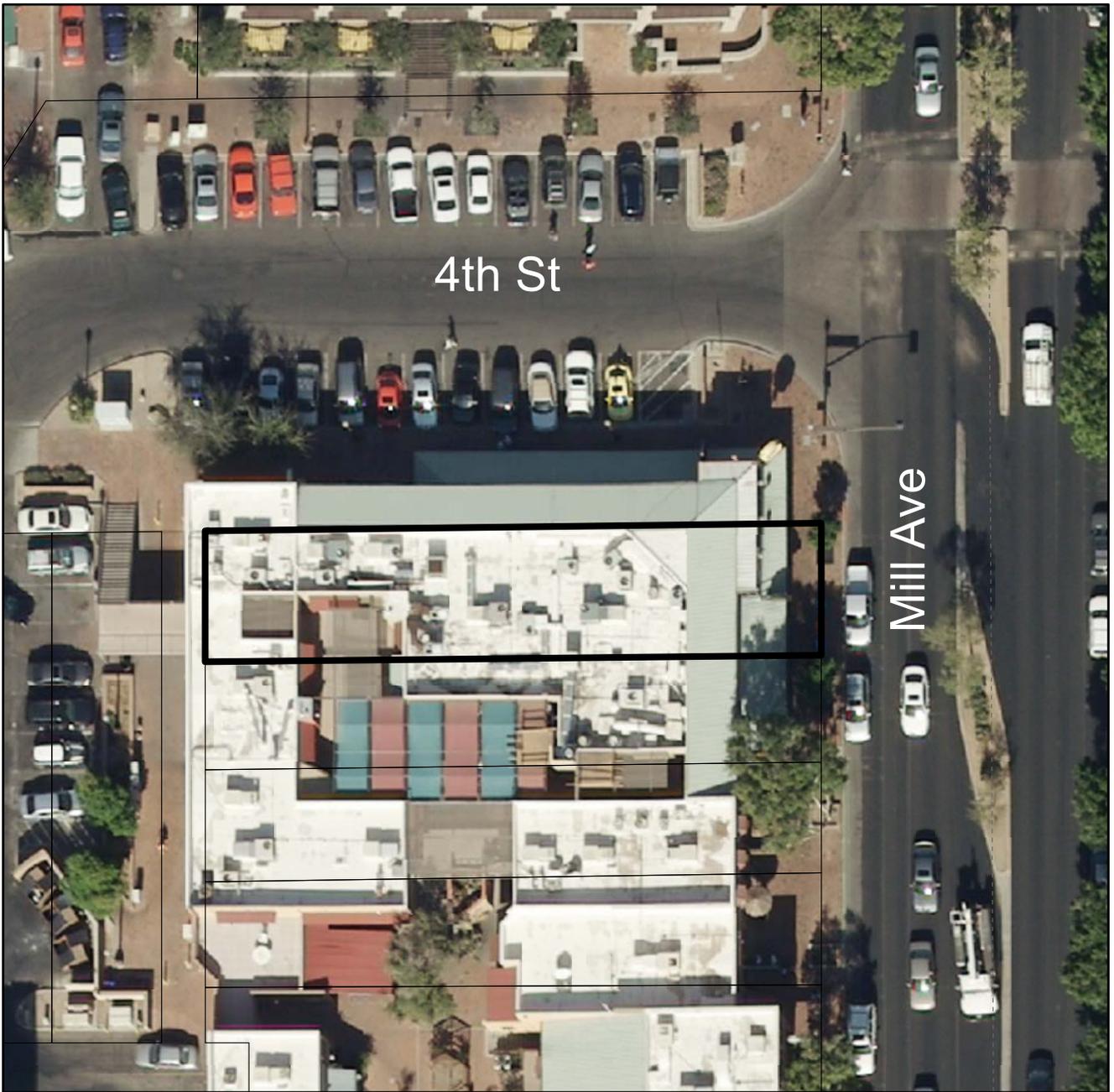
**ZONING AND  
DEVELOPMENT  
CODE REFERENCE:** Part 3, Chapter 2, Section 3-202: Permitted Uses in Commercial and Mixed Use Districts.  
Part 6, Chapter 3, Section 6-308: Use Permit

# MILL AVENUE SHOPS - PHO THANG LONG

PL090246



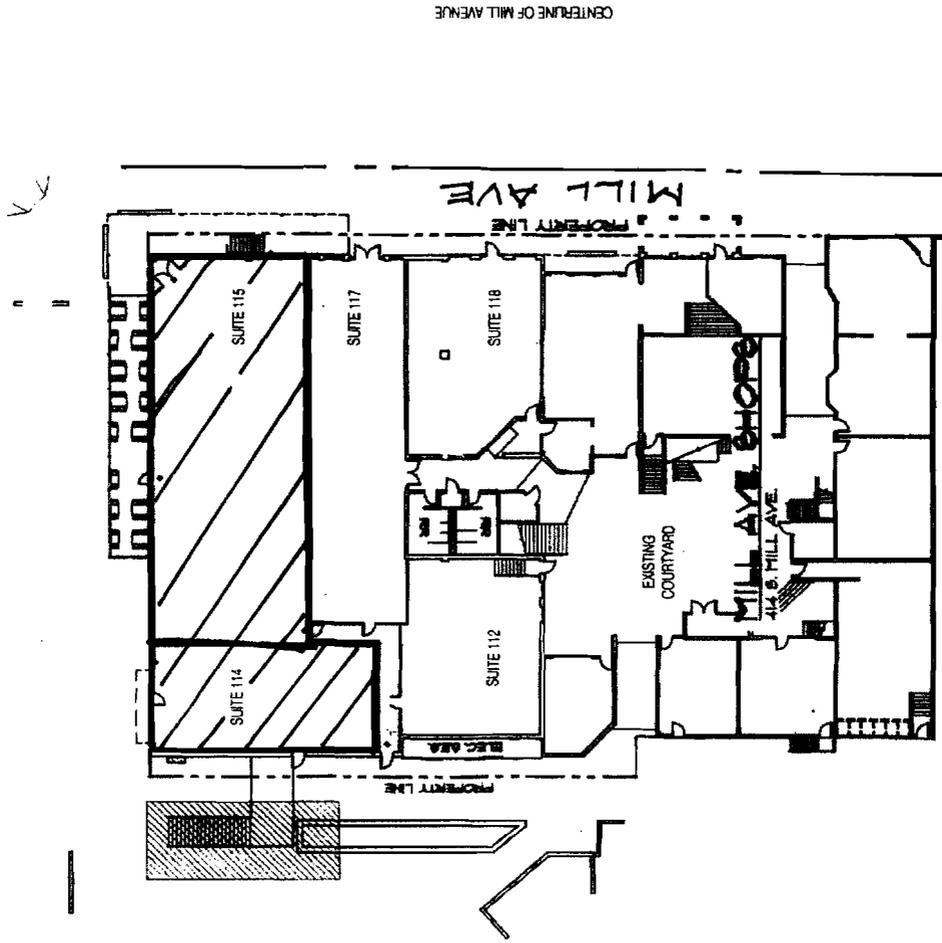
**Location Map**



**MILL AVENUE SHOPS - PHO THANG LONG (PL090246)**

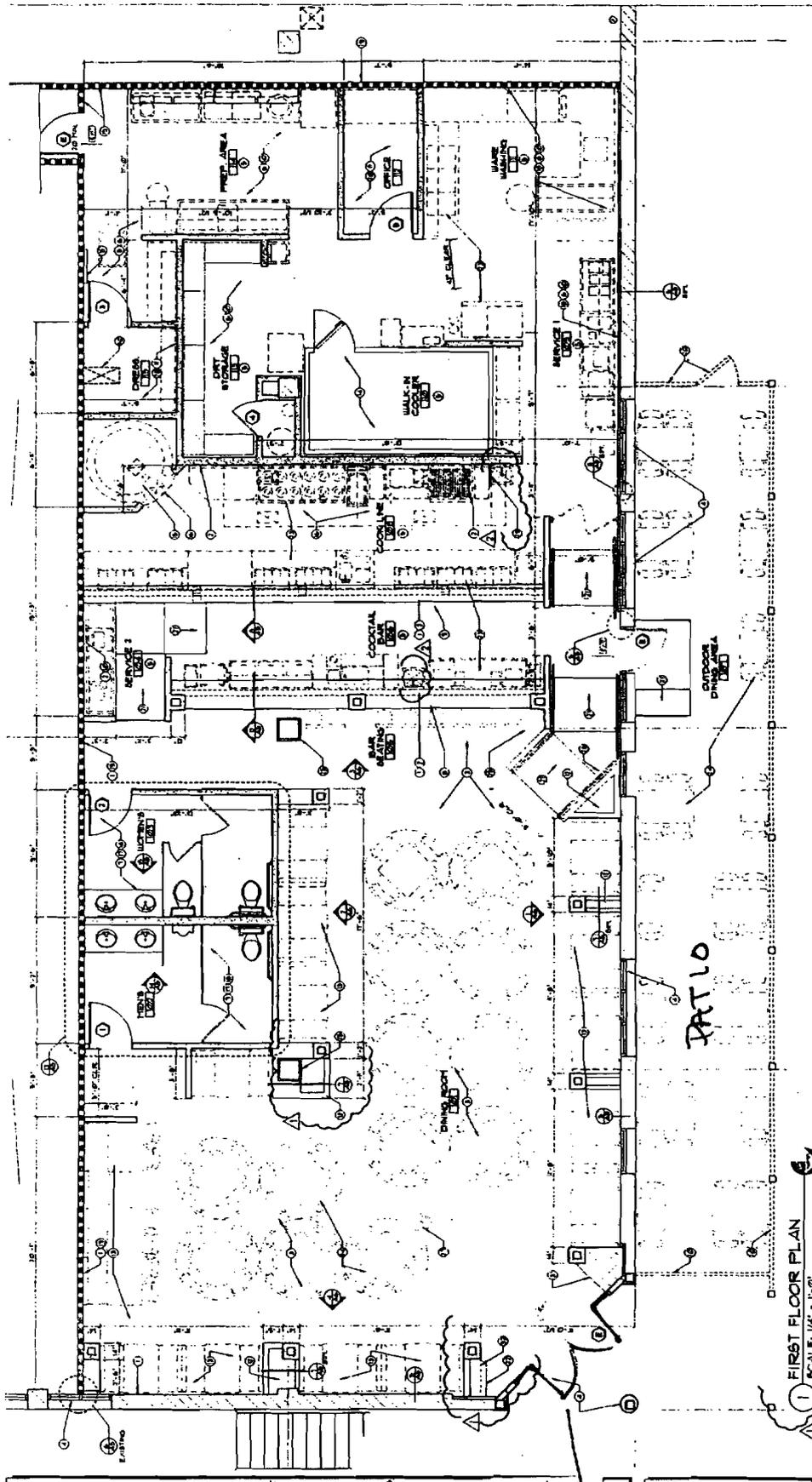
SYMBOL:  SITE LOCATION

CENTERLINE OF FOURTH STREET



1 | site plan

# FLOOR PLAN



FIRST FLOOR PLAN  
SCALE: 1/4" = 1'-0"

ENTRANCES



# **MILL AVENUE SHOPS – PHO THANG LONG**

**414 SOUTH MILL AVENUE, SUITE NO. 115**

**PL090246**

**FRONT OF BUSINESS**

