

Staff Summary Report



Hearing Officer Hearing Date: April 7, 2009

Agenda Item Number: 7

SUBJECT: This is a public hearing for a request by the **SIGN OF THE WHALE (PL090098)** located at 1706 East Warner Road, Suite No. 3 for one (1) use permit.

DOCUMENT NAME: 20090407dsdp02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **SIGN OF THE WHALE (PL090098)** (Gregory Arrington/ABM Development Services, applicant; JDS Countryside LLC, property owner) located at 1706 East Warner Road, Suite No. 3 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP09049 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)

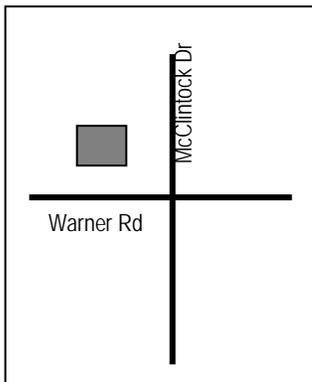
A handwritten signature in black ink, appearing to read 'SEA'.

LEGAL 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 1706 East Warner Road, Suite No. 3 in the PCC-1, Planned Commercial Center Neighborhood District. The entertainment would be in the form of live music, acoustic, electric keyboards with amplified voice. 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/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Intent
5. Site plan
6. Floor plan
7. Staff Photograph(s)

COMMENTS:

The applicant is requesting a use permit to allow live entertainment, located at 1706 East Warner Road, Suite 2 in the PCC-1, Planned Commercial Center Neighborhood District. The entertainment would be in the form of live music, acoustic, electric keyboards with amplified voice. Live entertainment will take place on Friday and Saturday, from 7:00pm to 12:00am. The live entertainment will take place in the restaurant (see floor plan).

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 PCC-1, Planned Commercial Center Neighborhood 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 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 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 Sign of the Whale and may be transferable with approval from the Development Services staff. Should the business be sold, the new owners must contact the Development Services staff for review of the business operation.
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 will be allowed.
6. Live entertainment is approved for the hours of 7 PM to Midnight on Friday and Saturday; and from 7 PM to 11 PM on Sunday thru Thursday.
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:

August 28, 2008 DSM08044 – Shared Parking Model/Analysis approved for Countryside Shopping Center.

January 21, 2009 CM090074 –Sign of the Whale holding live entertainment without a use permit.

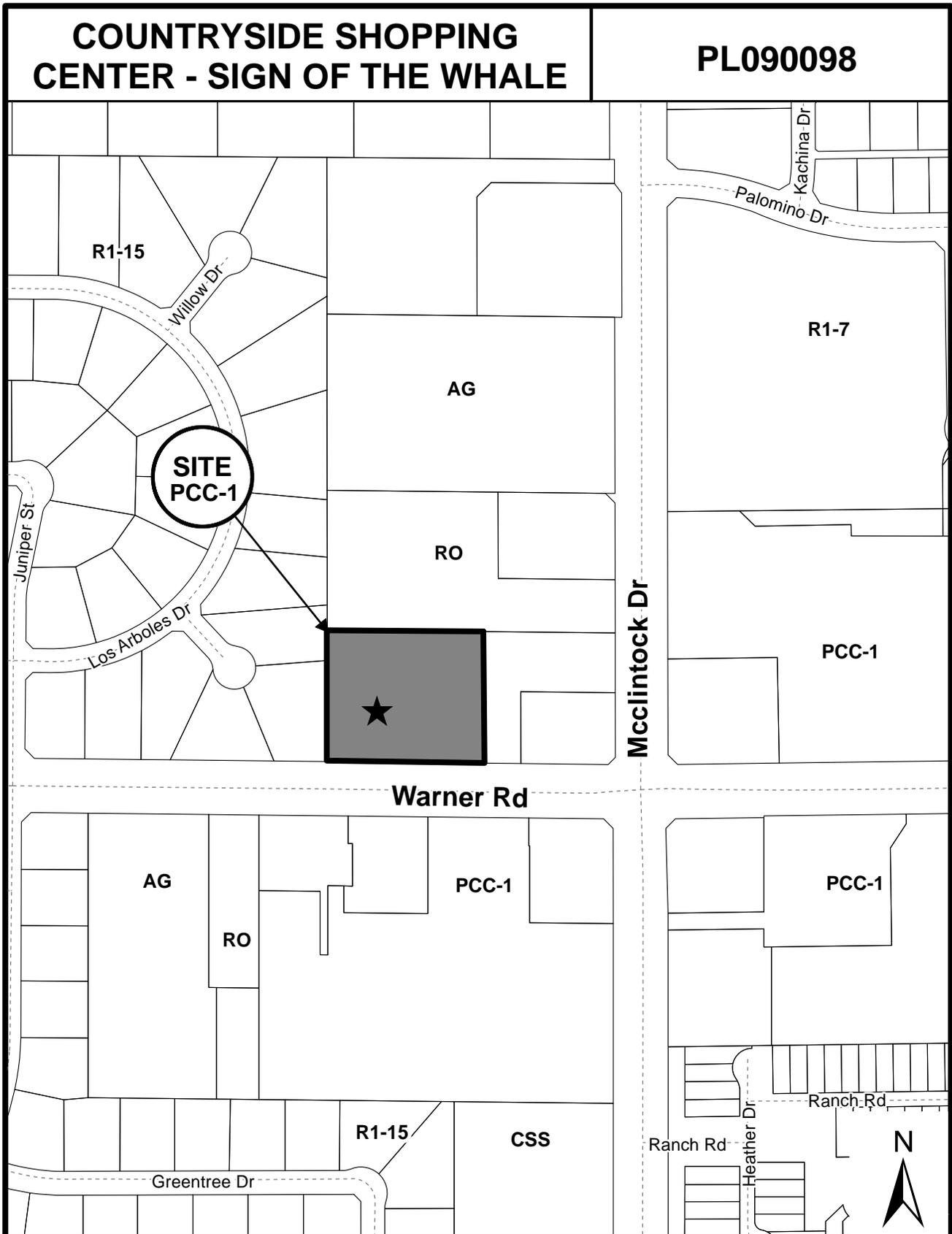
DESCRIPTION:

Owner – JDS Countryside LLC
Applicant – Gregory Arrington/ABM Development Services
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District
Suite Size – 3,997 s.f.

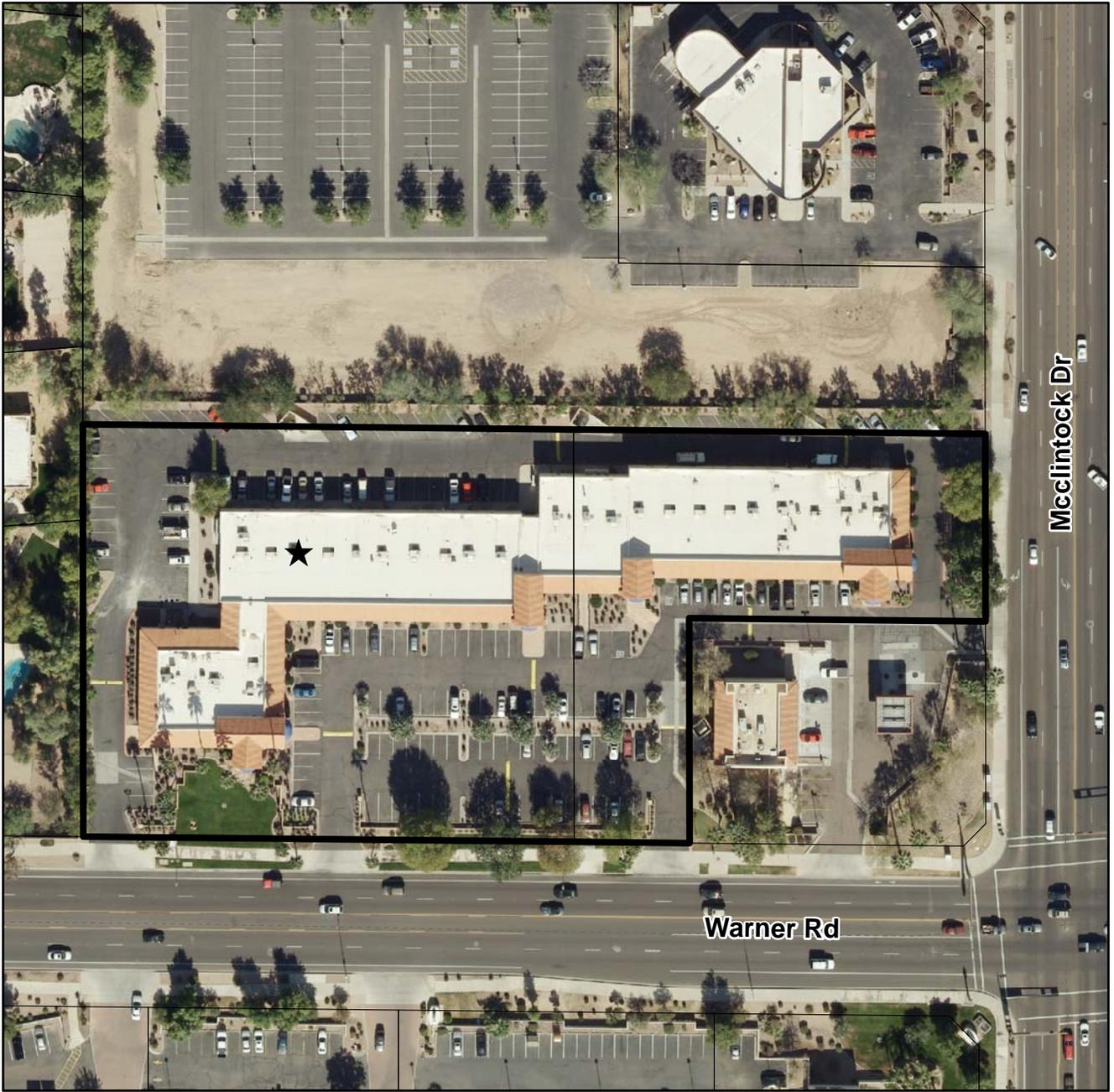
**ZONING AND
DEVELOPMENT**

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



Location Map



SIGN OF THE WHALE (PL090098)



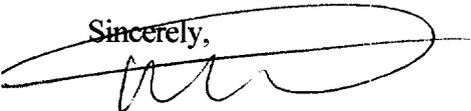
Sign of the Whale Burgers & Seafood
1706 E Warner Rd, # 3
Tempe, AZ 85284
480-777-1414
Fax 777-3873
www.signofthewhaleaz.com

February 13, 2009

Dear Sir;

Please grant my restaurant a Live Entertainment Permit. We plan on having single performer acts on weekends.

Sincerely,



Bruce Sandground
Owner



**COUNTRYSIDE SHOPPING CENTER –
SIGN OF THE WHALE**

1706 EAST WARNER ROAD, SUITE NO. 3

PL090098

FRONT OF BUSINESS

