

Staff Summary Report



Hearing Officer Hearing Date: May 4, 2010

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by **TEEN DANCE CLUB** located at 1290 North Scottsdale Road, Suite No. 120, for one (1) use permit.

DOCUMENT NAME: 20100504dsng01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **RIO SALADO CENTER - TEEN DANCE CLUB (PL100060)** (Thomas George, applicant; Rio Salado Center LLC, property owner) located at 1290 North Scottsdale Road, Suite Nos. 120 – 122 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP10020 Use permit to allow a teen dance hall with live indoor entertainment (live bands, DJ).

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

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

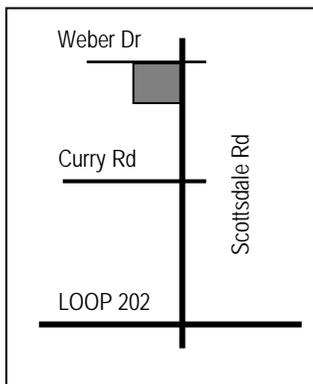
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO: The applicant is requesting approval of a use permit to allow a teen dance hall with live indoor entertainment (live bands, DJ, dancing) located at 1290 North Scottsdale Road, Suite Nos. 120-122 in the PCC-1, Planned Commercial Center Neighborhood District. Staff supports the use permit as requested with the finding it meets the criteria for approval of a use permit. Staff notes that this case was continued by the Hearing Officer on April 20, 2010 in order to obtain more input from the Tempe Police Department concerning safety issues. Several neighbors in opposition to the request were also in attendance on April 20th. To date, staff has received two phone calls of opposition and nineteen signatures stating opposition along with one phone call and one email of support regarding this request.



PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site Plan
5. Floor Plan
6. E-Mail of Support
7. Signatures in Opposition
- 8-9. HO Minutes, dated 4/20/10
10. Staff Photograph

COMMENTS:

The applicant is requesting approval of a use permit to allow a teen dance hall with live indoor entertainment (live bands, DJ, dance) located at 1290 North Scottsdale Road, Suite Nos. 120-122 in the PCC-1, Planned Commercial Center Neighborhood District. This will be strictly an under twenty-one club allowing only those ages sixteen to twenty to enter. To be in conformance with City Code and Tempe's midnight curfew for minors, the applicant has indicated that he will only be open until 11:30 p.m. seven days a week to allow time for those under the age of eighteen to return home. Private parties have also been indicated as a possibility during the week, but the club will mostly be open on the weekends; Thursday through Sunday from 6:00 p.m. to 11:30 p.m. The applicant has also mentioned in his letter of explanation that only water, non-alcoholic beverages, and pre-packaged snacks will be served.

Staff notes that this case was continued by the Hearing Officer on April 20, 2010 in order to obtain more input from the Tempe Police Department concerning safety issues. Several neighbors in opposition to the request were also in attendance on April 20th.

To date staff has received two phone calls of opposition and one phone call and one email of support regarding this request.

Use Permit

The Zoning and Development Code requires a use permit for teen night clubs 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 teen night club/live entertainment 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 use appears to be 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;
 - Provisions will be proposed to maintain adequate control of disruptive behavior.

Conclusion

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

REASONS FOR APPROVAL:

1. The business is a general commercial use, 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.
4. The proposed use appears to have adequate control of disruptive behavior.

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

CONDITIONS OF APPROVAL:

1. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective.
2. The use permit is valid for Teen Dance Club and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
3. Any intensification or expansion of this use shall require the applicant to return to the appropriate decision-making body for a new use permit.
4. Music/sound/noise generated from the 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.
6. 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.
7. All required permits and clearances shall be obtained from the Audit and Licensing Division of the City of Tempe prior to the use permit becoming effective.
8. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
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 a Security Plan for the business. Please contact the Crime Prevention Department at 480-858-6330.
11. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
12. Replace all missing trees along the north landscape area and in the north landscape islands; along with any other missing landscape material.
13. All rear exit doors require a lexan vision panel. Details to be approved through Building Safety Plan Review.
14. Provide ten inch (10") vinyl suite/address numbers on proper suites.
15. Replace bicycle parking racks per City of Tempe Public Works Department bicycle rack detail T-578 standard.
16. Hours of operation to end no later than 11:30 p.m. on a daily basis.

HISTORY & FACTS:

- October 17, 1996 SGF-96.78 – The City Council approved the request by Studebakers for the following:
- a. Use Permit to allow a 7,900 s.f. restaurant/nightclub with entertainment (including 350 s.f. outdoor patio) to be located in the PCC-1 District
 - b. Use Permit to allow parking to be provided based on demand
 - c. Variance to allow a center with less than 100,000 s.f. in gross floor area to request permission to provide parking based on demand.
- October 5, 2000 SGF-2000.58 – The City Council denied the request by Metropolis for a transfer of ownership and time extension of a previous council condition for a bar with live entertainment at 1290 N Scottsdale Rd.
- February 27, 2001 SGF-2000.76 – The Planning & Zoning Commission accepted the withdrawal of the request by Club G for a use permit of a nightclub with live entertainment, DJ and dancing at 1290 N Scottsdale Rd.
- April 30, 2009 PL090156 – The Development Services Department Board of Adjustment staff approved the request by Mijana located at 1290 N Scottsdale Rd., Suite Nos. 107-110 for the transfer of an existing use permit to allow a restaurant with live entertainment.
- June 2, 2009 PL090171 – The Hearing Officer approved the request by Athena's Temple LLC located at 1290 N Scottsdale Rd., Suite No. 101 for a use permit to allow a massage therapy establishment.
- December 1, 2009 PL090423 – The Hearing Officer approved the request by Goodwill of Central Arizona located at 1290 N Scottsdale Rd., Suite Nos. 113-119 for a use permit to allow a resale retailer (Goodwill of Arizona).
- January 5, 2010 PL090448 – The Hearing Officer approved the request by Hookahmania located at 1290 N Scottsdale Rd., Suite Nos. 111 & 112 for a use permit to allow a hookah lounge.
- April 13, 2010 DSM10009 – Shared Parking Approved.
- April 20, 2010 PL100060 – The Hearing Officer continued the request by Rio Salado Center – Teen Dance Club to the May 4, 2010 Hearing Officer Hearing to allow for more input to be provided by the Tempe Police Department concerning safety issues.

DESCRIPTION:

Owner – Rio Salado Center LLC
Applicant – Thomas George
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District
Parcel Size – 237,055 s.f. / 5.442 acres
Building Area – 56,205 s.f.
Tenant Area – 5,953 s.f.
Parking Required for Use per ZDC – 119 spaces
Parking Required for Entire Center per ZDC – 331 spaces
Parking Provided on Site – 271 spaces
Parking Required per Parking Study – 270 spaces
Bicycle Parking Required - 6

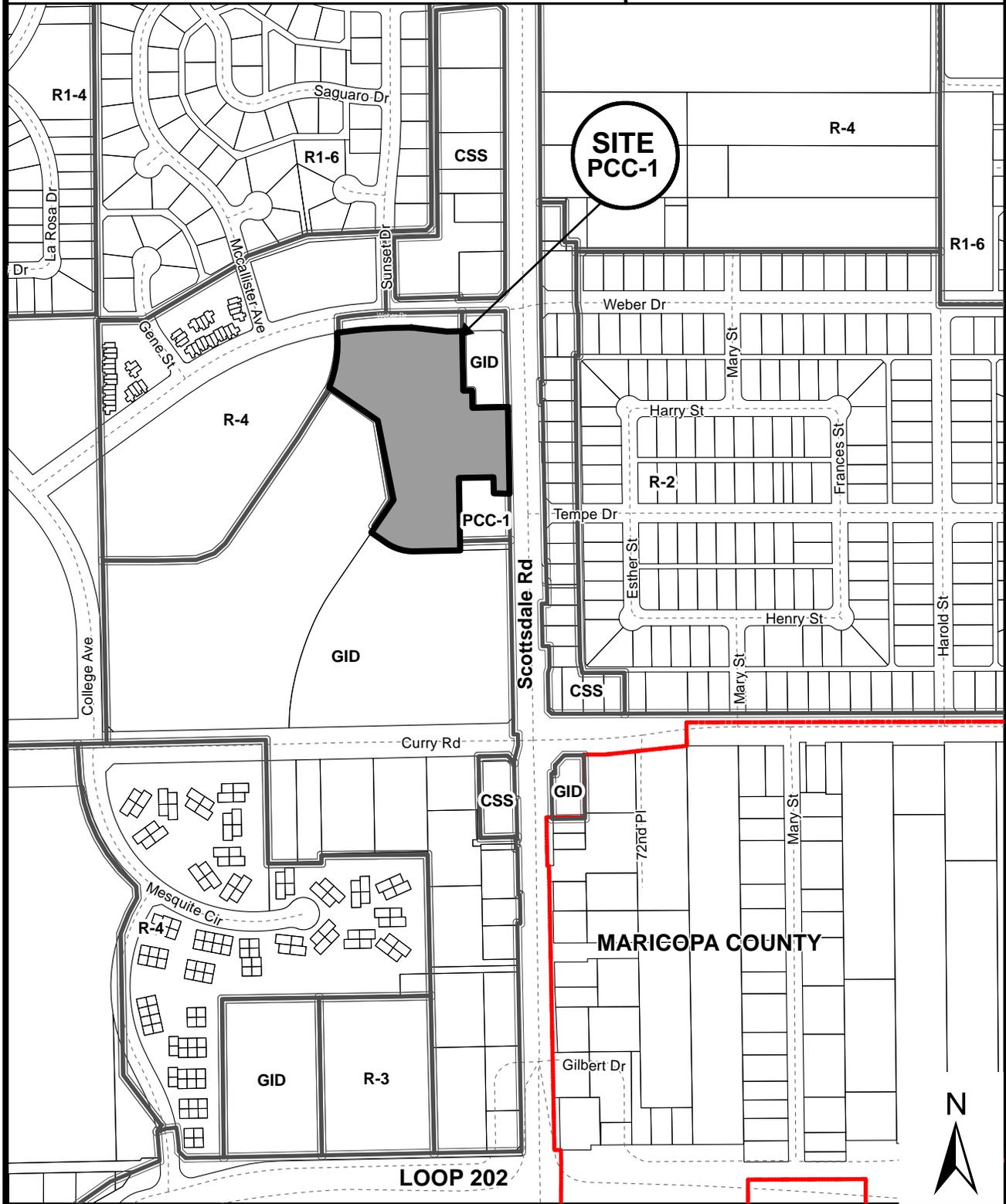
**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts
Part 4, Chapter 6, Section 4-604 – Shared Parking
Part 6, Chapter 3, Section 6-308 – Use Permit
Part 6, Chapter 3, Section 6-311 – Shared Parking
Part 6, Chapter 3, Section 6-313 – Security Plan

RIO SALADO CENTER - TEEN DANCE CLUB

PL100060



Location Map



RIO SALADO CENTER - TEEN DANCE CLUB (PL100060)

Thomas N. George
1290 N. Scottsdale Rd. #108
Tempe, AZ 85281
emailtommyg@aol.com
(650)520-8664

City of Tempe,

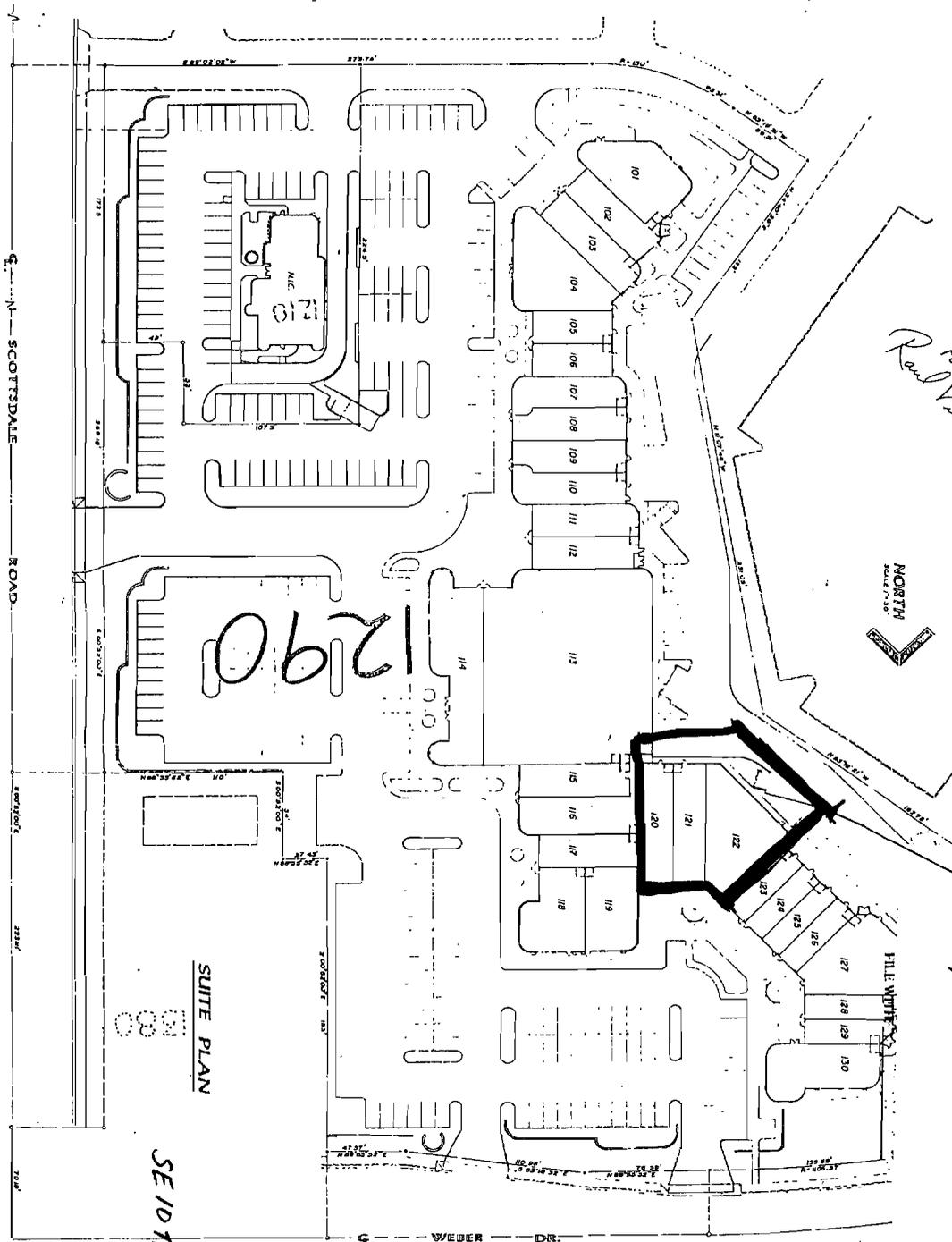
I am presently a restaurant owner (Mijana) in this particular center located at 1290 N. Scottsdale Rd., Tempe, AZ 85281. I would like to be approved for a teen only (teens under the age of 21 years old) dance venue in suites 120-122. The venue will serve only water and NON-ALCOHOLIC beverages along with some pre-packaged snacks. The venue will be catering to an all teen environment with various attractions such as live bands, celebrities, djs or social gathering events. The music will vary from light rock, jazz, top 40, house, country, techno and international favorites. I am planning on operating mostly Thursday-Saturday 6pm-2am depending on teen curfews in The City of Tempe. I would like the option of opening other nights because of the student holiday breaks and three day weekends so if possible, I would like my hours of operation to be Monday-Sunday 10am-2am (just to have the option of catering a private birthday, graduation or holiday party), it will be very unlikely I will ever open before 6pm or even on days other than Thursday-Sunday.

I will be contacting The Police Dept. to impliment a security plan such as the one I presently have at my restaurant. If any further information is needed please feel free in contacting me directly at (650)520-8664.

Thank you,


Thomas N. George

2/28/10



Address:
1290 N. Scottsdale Rd.
Suite 101
Scottsdale, AZ 85251
Rev. 5/1987
Raul Villeda

TEEN VENUE

1290 N. Scottsdale Rd.

SE 10 TNU

1	DATE

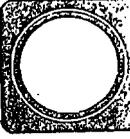


MERCADO DEL RIO SHOPPING CENTER

URBAN DESIGN CONSULTANTS LIMITED
ARCHITECTS • PLANNERS • LANDSCAPE ARCHITECTS
7077 EAST MAIN, SCOTTSDALE, ARIZONA 85251 802-947-3880

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DATE:	
ORIGIN BY:	
REVISION:	



Type III-N M

CUSTOMER COPY
ATTACHMENT FEB 9 2010

Graves, Nick

From: Mary Promisco [promo33@wildblue.net]

Sent: Friday, April 09, 2010 12:58 PM

To: Graves, Nick

Subject: teen dance center

Nick,

I own the Burger King property at 1210 N. Scottsdale Rd. Thank you for our recent phone call. I had spoken to the franchisee and we both have concerns regarding lottering and potential for vandalism in the area. If there are curfews and other reasonable security measures to be implemented as part of the approval process then we would be in favor of the teen dance center.

Mike Promisco
TRIPLE MT, LLC

04/09/2010

ATTACHMENT 6

Received No
4-20-10

BY SIGNING BELOW YOU ARE STATING YOU OPPOSE THE TEEN DANCE CENTER

NAME	SIGNATURE	ADDRESS	TELEPHONE
Paula Dunham	<i>[Signature]</i>	1422 N. Sunset	602-421-0874
Eleanore E. Dunham	<i>[Signature]</i>	1422 N. Sunset	602-421-0874
Loise Carrington	<i>[Signature]</i>	1422 N. Sunset	602-421-0874
KEVIN SALES	<i>[Signature]</i>	1602 N. Sunset Dr	480-949-2282
TAMMI GAMB	<i>[Signature]</i>	1602 N. Sunset Dr	480-949-2282
ANNE DICKERSON	<i>[Signature]</i>	1320 N. Sunset	480-945-8519
CARLENE MILLER	<i>[Signature]</i>	1520 NORTH SUNSET	480-945-8519
SIMON MILLER	<i>[Signature]</i>	1520 NORTH SUNSET	480-945-8519
HELEN DE LAJARA	<i>[Signature]</i>	1520 NORTH SUNSET	480-945-8519
Meghan Lingel	<i>[Signature]</i>	1604 N. SUNSET	480-945-8519
Doreen Kiddell	<i>[Signature]</i>	1710N Sunset Dr	480-330-5465
KAREN MILLER	<i>[Signature]</i>	1710N Sunset Dr	480-703-0609
JAMES GIBBON	<i>[Signature]</i>	1915 N. Cascade Dr	480-403-4032
MARLENE MELLIS	<i>[Signature]</i>	1515 N. Cascade Dr	480-403-4032
Karl Kiehl	<i>[Signature]</i>	1427 N. Sunset Dr	480-947-5732
SCOTT ASKIE	<i>[Signature]</i>	1939 N. Sunset Dr	480-510-2262
SHERI ASKIE	<i>[Signature]</i>	1514 N. SUNSET DR	480-941-5407
STAN SCHUCK	<i>[Signature]</i>	1514 N. SUNSET DR	480-941-5407
SHARON SCHUCK	<i>[Signature]</i>	1733 N. SUNSET DR	602-410-4070
		1733 N. SUNSET DR	602-410-4070

Mr. Webster stated that he was very pleased with the manner in which the City responds to issues and their quickness in resolving the problems. At this point, he did not feel that there was a dust issue which occurred about 8 to 10 yrs ago.

Mr. Williams questioned staff about the need for a condition of approval to address the dust/air quality. Mr. Abrahamson responded that the City is required to follow the guidelines and regulations of the Arizona Environmental Quality and that addresses covers any air pollution/dust issues so that there is no need for an additional Condition of Approval. There is a phone number for citizens to call if issues arise.

DECISION:

Mr. Williams approved PL100023/VAR10004 subject to the following conditions:

1. Obtain all necessary clearances from the Building Safety Division.

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5. Request by **RIO SALADO CENTER - TEEN DANCE CLUB (PL100060)** (Thomas George, applicant; Rio Salado Center LLC, property owner) located at 1290 North Scottsdale Road, Suite Nos. 120 – 122 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP10020 Use permit to allow a teen dance hall with live indoor entertainment (live bands, DJ).

Mr. Thomas George was present to represent this case.

Nick Graves, staff planner, gave an overview of this case and stated that no further public input has been received since the staff report was issued. A shared parking analysis was submitted by the applicant and approved by staff.

Mr. Williams questioned Mr. George how many customers were anticipated. Mr. George responded from 400 to 500 with the target audience from the ages of 16 to 21 so everyone would be subject to the same curfew. Legal ID accepted by the State of Arizona would be adequate to confirm the age of attendees. He stated the hours of operation would be from 6 PM to 11:30 PM.

Ms. Darlene Justus, representing the North Tempe Neighborhood Association, addressed parking, noise, privacy and security issues. She asked who would be providing security services . . . Tempe Police or private security services. In the past there had been a bar type club located at this site about 10 yrs ago and noise had been a huge issue. Due to the glass doors, NTNA was advised that sound proofing would be minimal. The proximity to the apartments nearby is an issue. In April 2009, the community began meeting with the police on a regular basis because of issues with the apartment complex (Santa Fe Court). The apartment complex is under criminal abatement, Ms. Justus, explained. Since November 2009 to March 2010 there have been 49 arrests and there are a lot of transients that have been congregating in that area. To have a teen center in close proximity directly across from this apartment complex which is well known for drug problems is not a good location. The area is infested with crime.

Mr. Lane Caraway, Tempe resident, noted that the club in this location 8 yrs ago was closed due to noise, drugs and prostitution. He concurred with Darlene Justus' remarks and stated that the Santa Fe Court apartments were the cancer of the neighborhood and well known to Tempe police for the problems there. Nobody wants a club with kids in that location. There are no 200 parking spaces available as indicated by the applicant. Noise, alcohol and drug problems will exist. You cannot sound proof something that is mostly glass and there is no way that kids coming and leaving will not elevate the noise levels. The neighborhood has had a tremendous problem with crime, Mr. Caraway stated, and a venue of this type will escalate the problems in that area. It was his understanding that the Tempe Police Department has issued a letter advising against this venue. Neighbors and residents have not been apprised of security measures that would be taken. Mr. Caraway presented a petition against this request. Even if the club closed at 11:30 PM, the kids would continue to sit in the parking lot.

Mr. Williams questioned staff if a recommendation from the Tempe Police Department against this request. Ms. Lesser responded that a letter had been received from the Tempe Crime Prevention Department but she did not express opposition but rather concern.

DECISION:

Mr. Williams continued PL100060/ZUP10020 to the May 4, 2010 Hearing Officer hearing to allow for expanded information on this venue.

6. Request by the City of Tempe – Code Compliance Department to abate public nuisance items in violation of the Tempe City Code for the **DOEDE RESIDENCE (PL100071/ABT10002/CE100251)** (Brandy Zedlar, Inspector; Douglas Doede, property owner) located at 1028 West Cornell Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Diana Kaminski, staff planner, gave an overview of this case and stated that there was an unregistered vehicle & landscaping issues. Due to the on-going history of this property staff was requesting a 180 day open abatement period.

Ms. Brandy Zedlar, Code Inspector, stated that she had re-inspected this property this morning and there had been no change or improvements in the issues. This property has been abated three times in the past and the property owner is unresponsive.

DECISION:

Mr. Williams approved abatement proceedings for PL100071/ABT10002 for an open period of 180 days.

7. Request by the City of Tempe – Code Compliance Department to abate public nuisance items in violation of the Tempe City Code for the **TOTH PROPERTY (PL100084/ABT10003/CE100355)** (Jody Benson, Inspector; Greg Toth, property owner) located at 3332 South Ventura Drive in the R1-6, Single Family Residential District.

No one was present to represent the property owner.

Sherri Lesser, staff planner, gave an overview of this case and stated that the property owner is out of the country and there were continuing issues regarding overheight weeds, green pool and security issues.

Jody Benson, Code Inspector, confirmed that the property is vacant and the property owner out of the country. Since the case has been opened the property has continued to deteriorate and staff requests an open period of 180 days for this abatement.

DECISION:

Mr. Williams approved abatement proceedings for PL100084/ABT10003 for an open period of 180 days.



RIO SALADO CENTER – TEEN DANCE CLUB

**1290 N SCOTTSDALE RD., SUITE NOS.
120-122**

PL100060

FRONT OF BUSINESS

