

Staff Summary Report



Hearing Officer Hearing Date: June 1, 2010

Agenda Item Number: 5

SUBJECT: This is a public hearing for a request by the **TRAILER PARK RESTAURANT** located at 1001 East 8th Street for two (2) Use Permits.

DOCUMENT NAME: 20100601dskko02 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **TRAILER PARK RESTAURANT (PL100132)** (Francis Massimiano/MBM101 LLC, applicant; Brian Roehrich/DGRE101 LLC, property owner) located at 1001 East 8th Street in the CSS, Commercial Shopping & Services District and the TOD, Transportation Overlay District for:

ZUP10044 Use Permit to allow a bar with a Series 6 liquor license.

ZUP10045 Use Permit to allow live entertainment including DJ's and live bands.

PREPARED BY: Kevin O'Melia, Senior Planner (480-350-8432)

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

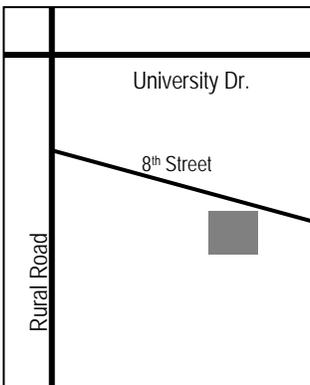
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



The applicant--a new owner of this business in an existing establishment—requests a Use Permit to allow a bar with a Series 6 liquor license and a Use Permit to allow live entertainment including DJ's and live bands. The existing business—also a bar and restaurant with live entertainment--has been sold. Use Permits are required to be obtained by the new business owner since the existing Use Permits obtained in 2003 for Trailer Park Restaurant d.b.a. Dos Gringos cannot be transferred.

The case has been advertised in the newspaper, neighboring property owners have been notified of the hearing by mail and the site has been posted. At the time of preparation of this report, planning staff has not received public comment pertaining to the case.

PAGES:

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

ATTACHMENTS:

1. Location Map
2. Aerial Photo
3. Applicant's Letter of Intent
4. Building Elevations: West, North and East
5. Site Plan
6. Staff Sketch First Floor Plan
7. Staff Sketch Second Floor Plan
8. Applicant's Sketch First Floor Plan
- 9-12. Staff Photographs

COMMENTS:

Analysis:

The Trailer Park restaurant had been sold to a new business owner. The business plan includes steps to revitalize the business and make the Trailer Park available and welcoming to a wide spectrum of customers. The business owner has already taken steps toward this end during lunch, dinner and entertainment hours including the institution of a dress code to assist with attracting a broad cross section of patrons to this bar and restaurant. The owner has also been at work with County and City agencies to upgrade the facility to current codes and ordinances.

The facility includes a one story interior hall with kitchen and restrooms that is suitable as a dining hall, but also includes billiard tables and a raised stage for live entertainment. This structure encompasses the former Thirsty Beaver establishment. The visual center of the facility is the two story courtyard addition to the north. The courtyard ground includes the business entrance and features a central bar, perimeter seating and circulation space to the dining hall. The courtyard is designed to resemble the roofless shell of a great manor. The architectural setting is raucous, intimate and festive—this ambiance is present even during an early morning hour when staff toured the facility before the opening hour. The courtyard includes an upper mezzanine with an additional bar and seating that connects visually to the courtyard ground and creates a three dimensional aspect to the intimacy. The courtyard addition brings the facility into close proximity with 8th Street which supports the provisions of the Transportation Overlay District.

The request for two Use Permits is required in the wake of the change of business ownership. Previously the property owner was also the business owner. The Use Permit for a bar with a Type 6 liquor license and the Use Permit for live entertainment for the Trailer Park under the previous business ownership are not transferrable. Unlike the earlier Trailer Park Use Permit for live entertainment, the current request does not include karaoke.

Public Input:

As of the publication of this report, staff has not received public comment regarding the Use Permit requests for this case.

Section 6-308 E. 2. Approval Criteria for Use Permits:

The Zoning and Development Code requires a Use Permit for a bar with a Type 6 liquor license and for live entertainment in the CSS, Commercial Shopping and Services District. The Use Permit requests meet applicable tests in the following manner:

- a. *Any significant increase in vehicular or pedestrian traffic.* The anticipated pedestrian and traffic volume for this ongoing business will be the same or slightly larger with the new ownership; there will not be a significant change.
- 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 live entertainment and night life of the bar and restaurant will be similar to that experienced with the previous ownership of the Trailer Park. Sound from live music and DJ's will be made to conform to the City of Tempe 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 business ownership seeks to attract a broad spectrum of patrons and specifically seeks to exclude individuals or groups that indicate by dress or manner that they intend to cause disturbance or intimidate other patrons of this facility.
- d. *Compatibility with existing surrounding structures and uses. This is a neighborhood establishment with a building mass that fits in well with its built surroundings.* Maintenance of a healthy and vibrant business establishment here will help to attract new business development along the old Bankhead highway. 8th Street, formerly the Bankhead Highway, is the original road linkage between Tempe and Mesa.
- 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 new business owner is required to enter into a Security Plan agreement with the Tempe Police Department as a condition of approval. The business owner has indicated to staff that a dress code for patrons will be enforced. The business owner appears committed to monitoring and controlling unacceptable behavior in order to preserve the general enjoyment of the facility and thereby allow the business to prosper.

Conclusion

Staff recommends approval of each of the two Use Permits as requested. Staff believes the applicant's description of his business plan, as well as enactment of a modified Security Plan, will successfully support the Use Permit approval criteria.

REASONS FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration or glare.
2. No apparent hazards to persons or property from possible explosion, contamination, fire or flood.
3. Anticipated vehicle traffic volume generated by this use is not excessive.
4. Use appears to be compatible with the building, site and adjacent property.
5. Approval of the Use Permits will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or public welfare in general.

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

CONDITIONS OF APPROVAL:

1. The Use Permits are valid for Tempe Trailer Park / Francis Massimiano / MBM101 LLC and may be transferrable to successors in interest through an administrative review with the Development Services manager, or designee.
2. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer with new Use Permit request(s).
3. Noise generated from this facility shall conform to the City of Tempe Noise Ordinance requirements for noise control. Refer to Tempe City Code –Chapter 20.
4. The applicant shall devise a modified Security Plan in conjunction with City of Tempe Police Department Crime Prevention Division (480-858-6330) prior to the Use Permits becoming effective.
5. 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 shall be reviewed by city staff to determine the need for a Public Hearing to re-evaluate the appropriateness of the Use Permit.
6. Live entertainment is limited to live bands and DJ's for patrons and shall be located indoors. Concert assembly is not allowed. Karaoke is not allowed.
7. Outdoor speakers are not allowed.
8. Business and service doors, windows and pass-through shall remain closed during live entertainment performances.
9. Live entertainment shall cease no later than 12:00AM on weekdays and weekends, as indicated in the Applicant's Letter of Intent.
10. This use shall not violate the State Smoking Ordinance, www.smokefreearizona.com.
11. Locate all alcoholic beverage storage inside the building. Do not locate a portion of this storage in a container in the gated yard south of the building, as indicated in the Applicant's First Floor Plan.
12. Repair broken concrete curbing in parking areas.
13. Replace two canary island pines on the south property line. Remove existing pines which have died.
14. Replace one evergreen elm to the west of the 949 E. 8th Street parking lot driveway. Remove existing elm, which has defoliated on one side.
15. Obtain sign permits prior to the installation of signs.

HISTORY & FACTS:

- January 31, 1967: Earliest C.O.T. property record card reference for building safety activity for the building at 1001 E. 8th Street. This site is within the Sotelo Addition Subdivision.
- February 17, 1972: Earliest C.O.T. property record card reference to liquor license for the business at 1001 E. 8th Street.
- March 14, 1972: Earliest C.O.T. property record card reference to noise complaint (against the Library Bar).
- May 4, 1987: Planning Division letter to Hans Olson of the Sun Club allowing the Sun Club to continue to operate at this location as a "...legal, non-conforming use previously enjoyed by the Library Bar and Freddie's Down the Road. However, if the nature of the operation significantly changes or if there was an expansion of the facility, then a Use Permit would be required."
- The building cited in the 1987 letter (above) was destroyed by fire. Property record card does not directly indicate fire but last recorded activity (another noise complaint) was on December 14, 1990.
- June 22, 1994: Board of Adjustment approved the request (BA940154) for a Use Permit to allow a new bar/nightclub to operate at 1001 E. 8th Street in the C-2, General Commercial District. This Use Permit request was contested by one citizen who resided at an apartment to the south at 1111 E. University Drive. The approval did not include live entertainment, outdoor speakers were not allowed and bar activities were required to cease at 1:00A.M. (in conformance with state statute).
- August 17, 1994: Design Review Board approved the request (DRB94118) for building elevations, site plan, landscape plan and signage for The Thirsty Beaver located at 1001 E. 8th Street in the C-2, General Commercial District. The building was distinctive architecturally as a log cabin with a "north woods" motif. Portions of the log cabin siding are still visible.
- September 28, 1994: Board of Adjustment approved the request (BA940233) for a Variance to allow a variation of the landscape buffer width on the south of the property from 3'-6" to 22'-0" where a minimum 6'-0" landscape area is required for the Thirsty Beaver located at 1001 E. 8th Street in the C-2, General Commercial District.
- June 26, 2002: Board of Adjustment approved the request (BA020113) for the following by Shady Grove Bar and Grill located at 1001 E. 8th Street in the C-2, General Commercial District.
- f. A Use Permit to allow a bar (under new ownership).
 - g. A Use Permit to allow outdoor dining.
 - h. A Variance to reduce required parking from 75 to 51 spaces.
- This request includes an expansion of the business by the addition of an outdoor dining/smoking 1,200 s.f. patio. The Variance request was contested by citizens due to perceived lack of parking for the existing restaurant formerly known as the Thirsty Beaver.
- July 15, 2002: Development Services Department Design Review Board staff approved a request (DRB02127) for the design of the addition of an outdoor patio for Shady Grove Bar and Grill located at 1001 E. 8th Street in the C-2, General Commercial District.
- October 2, 2003: City Council approved a Resolution (2003.68) selecting the proposal by the Trailer Park Restaurant, Inc., to improve 939 and 949 E. 8th Street for surface parking in exchange for lease of these properties. On 5/18/2010 Community Development staff confirmed this lease has been transferred to Francis Massimiano, the current business owner.

October 23, 2003: Board of Adjustment approved the request (BA030197) for the following by Trailer Park Restaurant d.b.a. Dos Gringos located at 1001 E. 8th Street in the C-2, General Commercial District:

- Use Permit to allow restaurant and outdoor dining patios on the west and north sides of building (note: north patio is a two-story structure).
- Use Permit for live entertainment, including D.J.'s, live bands and karaoke.
- Variance to reduce the required parking from 75 spaces to 25 spaces.
- Variance to reduce the height of the required masonry wall from 8'-0" (eight ft.) to 6'-0" (six ft.) along the south and east property lines.

This request was continued from the September 2, 2003 Hearing Officer and the September 24, 2003 Board of Adjustment. The request included a Use Permit for a change of ownership of an existing restaurant/bar formerly known as the Thirsty Beaver. This Use Permit also covered an expansion of outdoor dining area on the west and north sides of the building.

November 4, 2003: Development Services Department Design Review Board staff approved a request (DRB03190) for building elevation modifications and additions as well as site and landscape plan modifications. Included with this approval are site and landscape improvements for surface parking lots on 939 and 949 E. 8th Street. These parking lots on land owned by the City of Tempe are linked with a disabled pedestrian access walkway to the business entrance of the 1001 E. 8th Street. Each of the three properties have self-contained parking lots with separate driveways to 8th Street. The parking areas on the two city properties do not have a vehicle connection due to a neighborhood bike path that splits the sites.

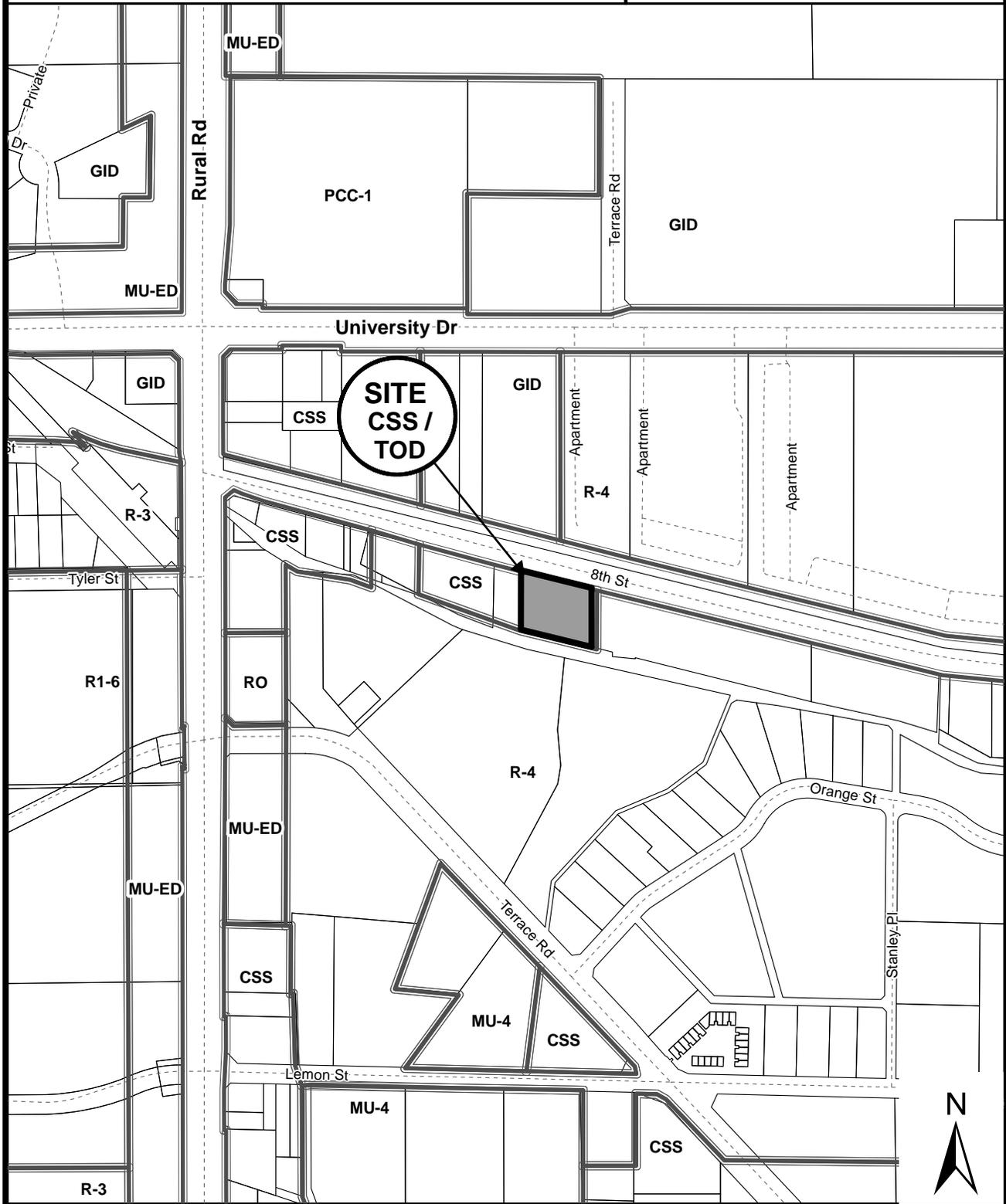
April 3, 2009: Development Services Department Plan Review staff approved a request (DPR09057) for an exterior patio modification located at 1001 E. 8th Street in the CSS, Commercial Shopping and Service District and the TOD, Transportation Overlay District. The patio modification is adjacent to the northwest corner of the building.

DESCRIPTION:	Property Owner –	Brian Roehrich / DGRE101 LLC
	Applicant and Business Owner –	Francis Massimiano / MBM101 LLC
	Existing Zoning –	CSS, Commercial Shopping & Services District & TOD, Transportation Overlay District
	Lot size –	+/- 0.62 acres (not including the C.O.T. owned parking lots)

ZONING AND DEVELOPMENT CODE REFERENCE: Part 6, Chapter 3, Section 6-308 Use Permit

TRAILER PARK RESTAURANT

PL100132



Location Map



TRAILER PARK RESTAURANT (PL100132)

For:
City of Tempe Arizona Planning Board

Francis Massimiano, Owner
The Trailer Park Restaurant
1001 East 8th Street
Tempe, AZ 85281

May 1, 2010

To Whom it May Concern:

I have purchased the Trailer Park Restaurant at 1001 East 8th Street in Tempe, and I am requesting a permit for live entertainment.

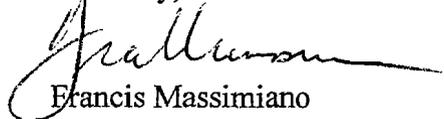
We will be planning on having DJ's and live bands periodically. These events could be 1 day a week or 6 days a week and usually will run in the evenings up until 12 midnight.

We are in the process of re-branding the restaurant and diversifying the menu to be a more diverse restaurant that will attract a lunch business and evening dinner crowd with great food and light entertainment.

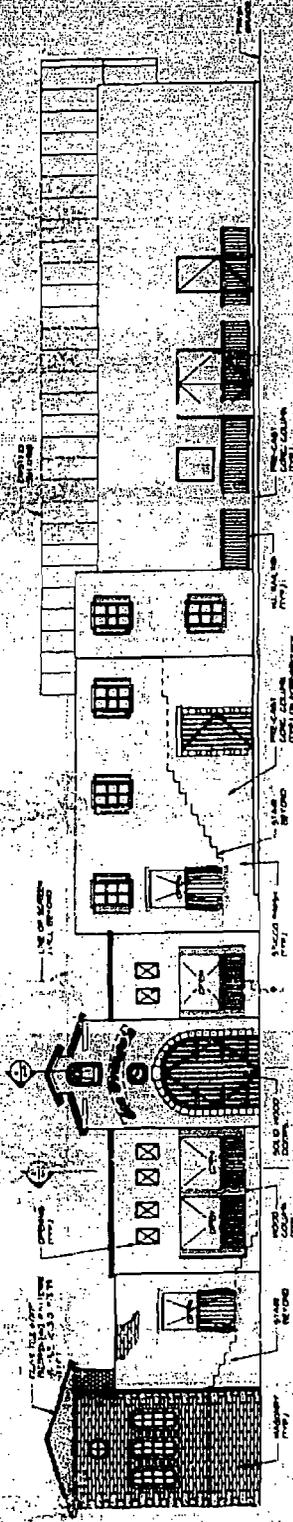
WE intend to make this restaurant an integral part of the Tempe plans for re-developing this area.

Thank you for your consideration.

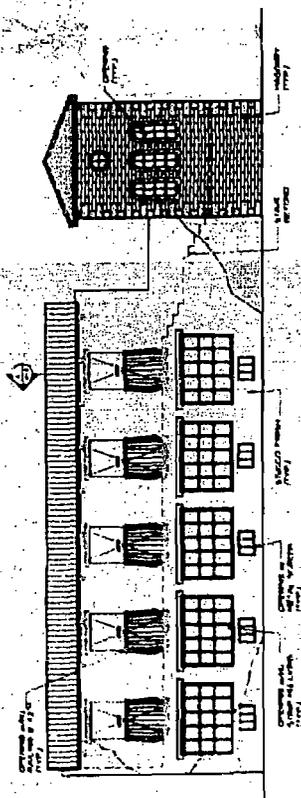
Sincerely,



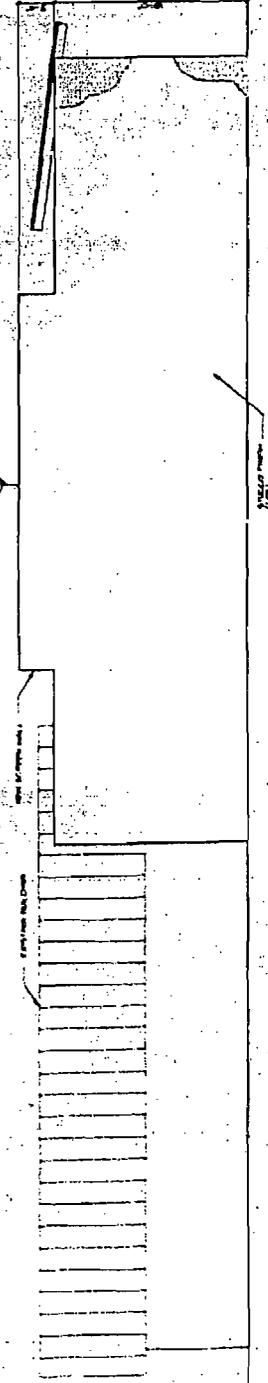
Francis Massimiano



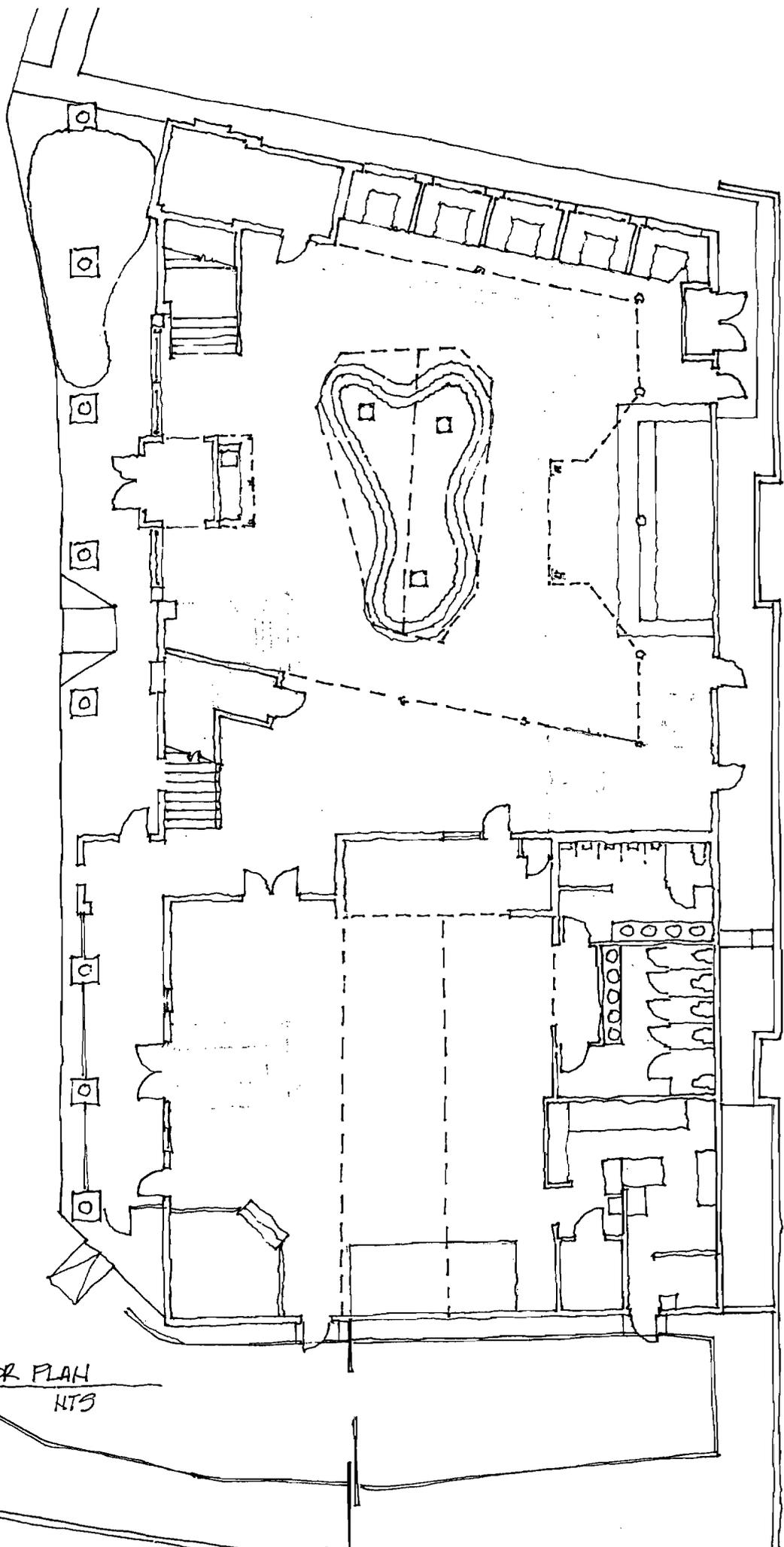
1 WEST ELEVATION
SCALE 1/8" = 1'-0"



2 NORTH ELEVATION
SCALE 1/8" = 1'-0"



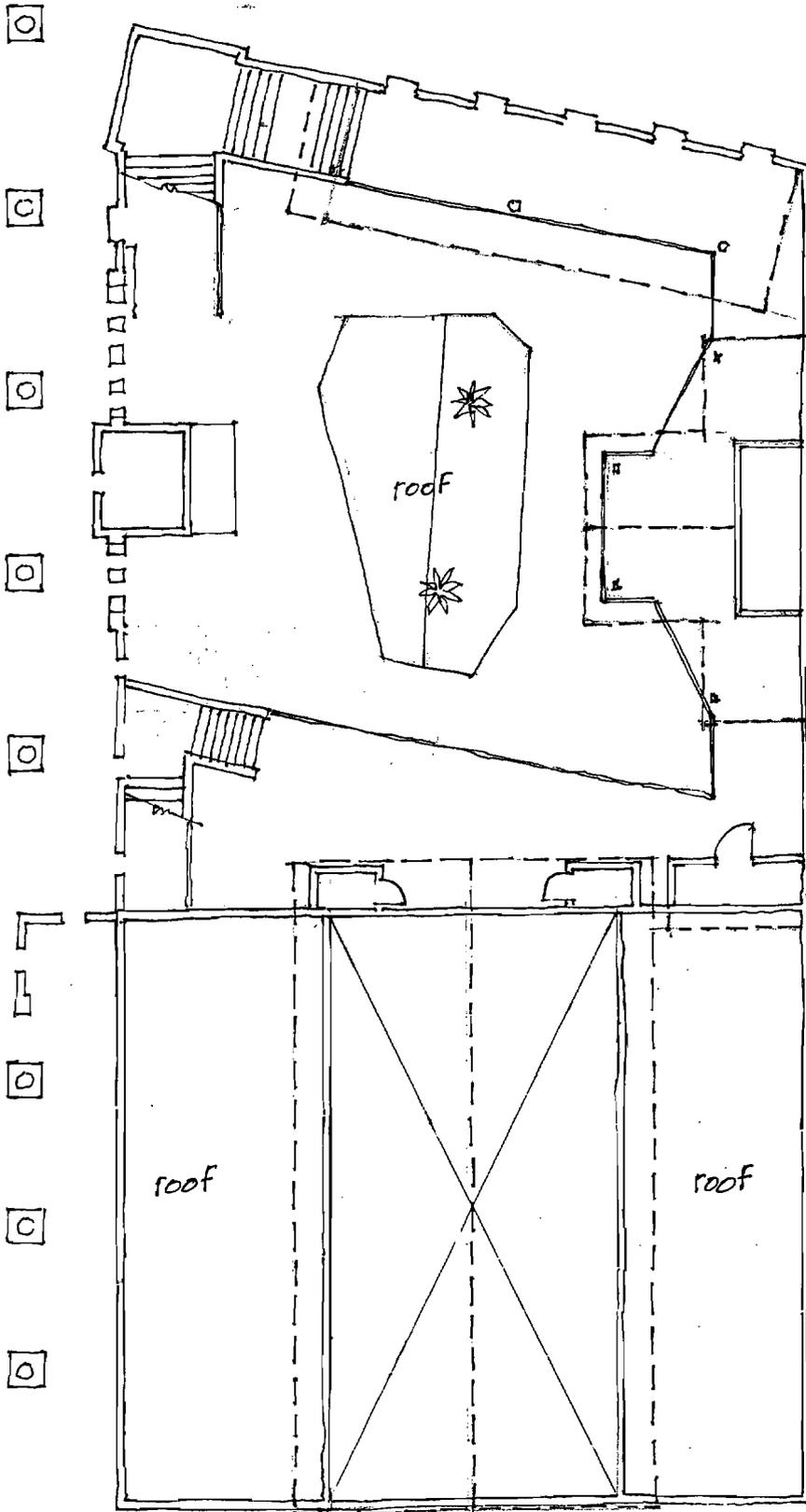
3 EAST ELEVATION
SCALE 1/8" = 1'-0"



FIRST FLOOR PLAN

staff sketch

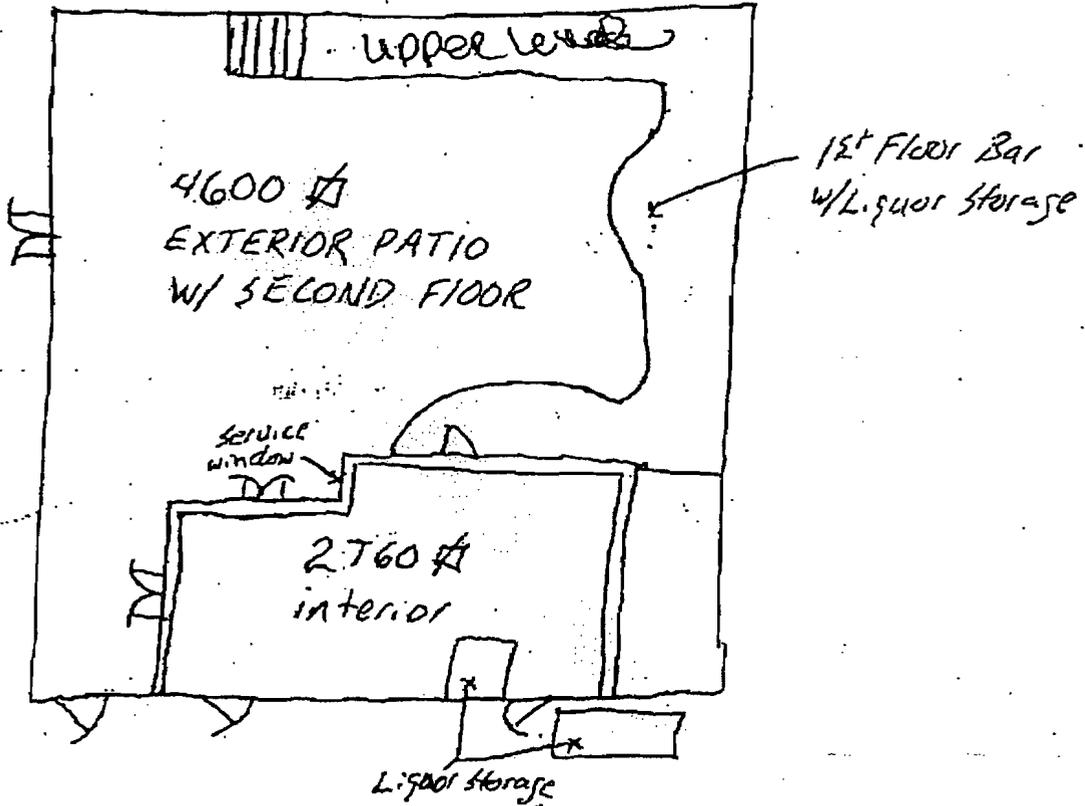
NTS



SECOND FLOOR PLAN
 HTB
 staff
 sketch



TRAILER PARK RESTAURANT
1001 E. 8th Street
Tempe, AZ 85281



FLOOR PLAN
applicant's sketch







