

# Staff Summary Report



Hearing Officer Hearing Date: 3/15/11

Agenda Item Number: 10

**SUBJECT:** This is a public hearing for a request by **VENUE 104** located at 940 East University Drive, Suite No. 102, for one (1) use permit.

**DOCUMENT NAME:** 20110315cdsl07 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by **CORNERSTONE CENTER – VENUE 104 (PL110052)** (Michael Peck/New Brave Arts & Entertainment LLC, applicant; Cornerstone Center 99 LLC, property owner) located at 940 East University Drive, Suite No. 102, in the PCC-1, Planned Commercial Center Neighborhood District for:

**ZUP11017** Use permit for a cafe/performing arts center with live entertainment (theatrical performances & concerts with amplified sound).

**PREPARED BY:** Sherri Lesser, Senior Planner (480-350-8486)

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

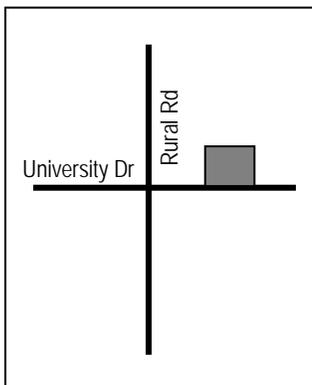
**LEGAL REVIEW BY:** N/A

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

**FISCAL NOTE:** There is no fiscal impact to City funds.

**RECOMMENDATION:** **Staff – Approval, subject to conditions**

**ADDITIONAL INFO:**



Venue 104 will be a performing arts center featuring theatrical programming for up to 3-4 productions a year; as well as a smaller concert venue for local emergent artists with shows averaging 3-4 per week. A light fare café offering beer and wine sales will be located within the center. The use permit is for live entertainment. Staff recommends approval subject to conditions. To date, staff has received no public input of this request.

**PAGES:**

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

**ATTACHMENTS:**

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

**COMMENTS:**

Venue 104 is proposing to open a performance café within the Cornerstone Shopping Center located at the northwest corner of Rural Rd and University Drive. Their floor plans shows seating for entertainment and a small café area. The seating is removable to be flexible between musical concerts and theatrical performances. The hours of operation will vary based on the type of performances offered by the venue. cursory review of the parking data for the center identifies sufficient parking to support this use. The last update to the parking identified 609 spaces required with 738 spaces provided allowing for a surplus of 99 spaces. The conversion of their retail space to a "club" venue requires 94 spaces. An accurate inventory of the current tenants and the available spaces will be required as part of the tenant improvement permit. To date no public input has been received regarding this request.

**Use Permit**

The Zoning and Development Code requires a use permit for amusement/entertainment uses within the PCC-1, Planned Commercial 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 will 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;
  - This is a commercial use, similar to others in the area; there should be no nuisances. Upgrades to the interior for sound attenuation will be required to minimize noise encroachment to other tenant suites within the center
  
- 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 development would 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 structures and 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 appears to have adequate control of disruptive behavior.

**Conclusion**

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

**REASON(S) 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. Traffic generated by this use should not be excessive.
- 4. The use appears to be compatible with the building, site and adjacent property.
- 5. Approval of the use permit will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general

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 the plans as submitted within this application. Any additions or modifications must be submitted for review by planning.
2. The Use Permit is valid for Venue 104 and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
3. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
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. Live entertainment limited to indoor entertainment: disc jockeys, solo/duet musical performances, video projection, dance, comedy, small theatrical acts, small concerts with crowds less than 250 people or to maximum of occupancy allowance (if less than 250 people). Large concert assembly (greater than 250) and outdoor entertainment not allowed.
6. Allowable noise decibel levels to comply with the Tempe City Code – Chapter 20. Noise complaints arising from the open windows/doors shall require closure of all outdoor windows and doors to mitigate noise trespass to adjacent public or private spaces.
7. No outdoor speakers allowed.
8. This use shall not violate the State Smoking Ordinance, [www.smokefreearizona.com](http://www.smokefreearizona.com).
9. 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.
10. Live entertainment to cease at or before 1:55 AM.
11. The applicant shall contact the City of Tempe Crime Prevention Unit for to initiate a security plan within 30 days of this approval. Contact William Gallauer at 480-350-8749 before **April 15, 2011**.
12. Update parking record for center.

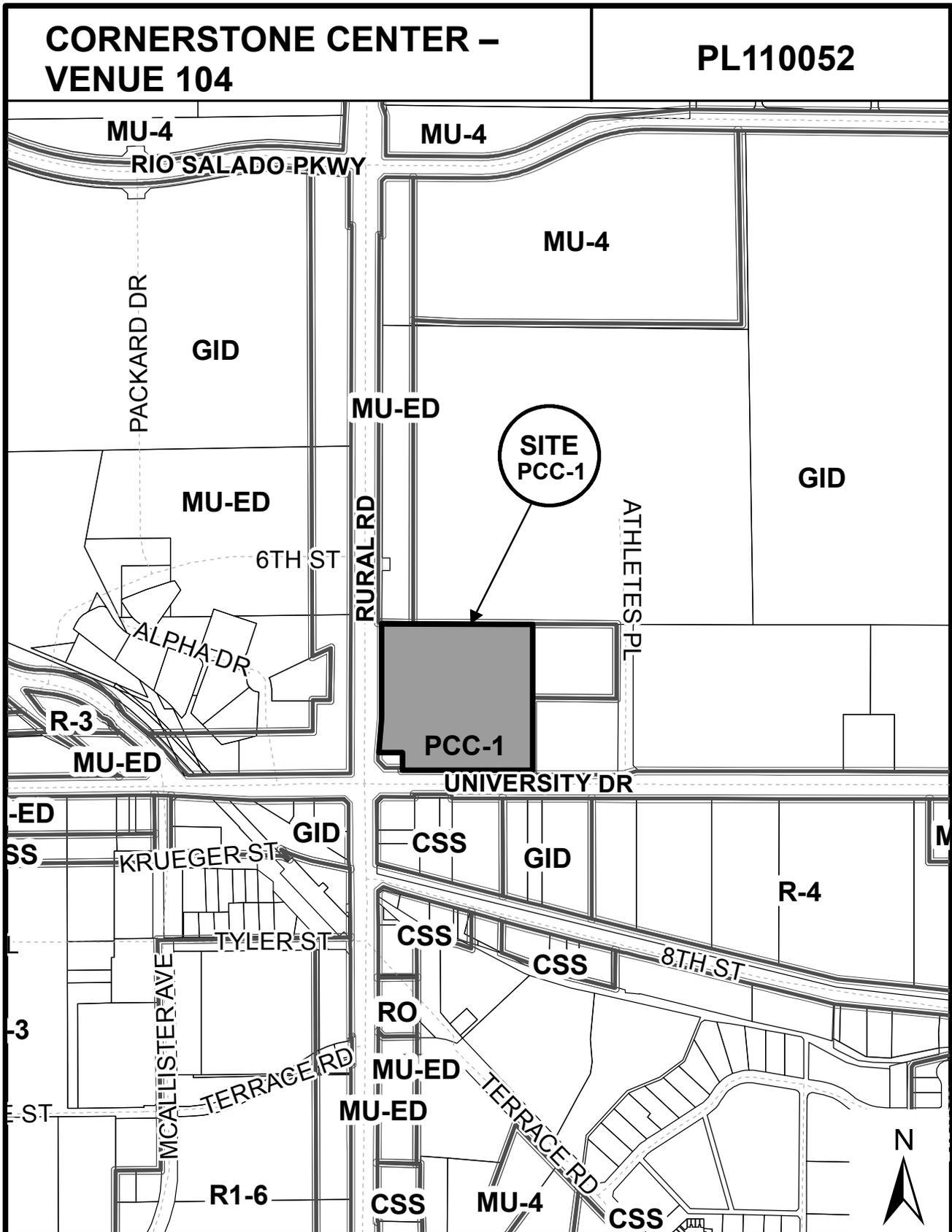
HISTORY & FACTS: None pertinent to this case.

DESCRIPTION: Owner – Cornerstone Center 99 LLC  
Applicant – Michael Peck/New Brave Arts & Entertainment LLC  
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood 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



**Location Map**



**CORNERSTONE CENTER – VENUE 104 (PL110052)**

Michael R. Peck, Managing Member  
NewBrave Arts and Entertainment, LLC  
110 W. Bell Rd. #250  
Phoenix, AZ 85023  
[mpeck@venue104.com](mailto:mpeck@venue104.com)  
602-348-0928



To Whom It May Concern:

February 17, 2011

The following is an explanation of the proposed performance café in the Cornerstone Center at University and Rural in Tempe.

Venue104 is intended to be a performance venue with stage and amplified sound combined with a café in which coffee products, baked goods, sandwiches and salads, and limited alcohol are served. The entire space will occupy roughly 5600 square feet of which the performance room with stage will occupy roughly 2500 square feet. The venue will house roughly 90-100 seats for theatrical performances and convert into a categorically small-capacity concert venue with half of the seats being stored away allowing for standing room at the foot of the stage. Additionally, independent film screenings and workshops/seminars will be provided in the space.

Theatrical programming will include 3-4 productions per season (a season falling between the months of August and June of the following year) and will include roughly 10-15 performances per production run. These shows will be exclusively on Thursday-Saturday evenings after 7:30pm (but not to exceed 10:30pm) with intermittent Sunday matinees (starting at 2pm and not exceeding 4:30pm).

Concerts will focus on local emergent music of all genres with the exception of those genres that provide security risks and excessive liability. The evenings of concerts will vary but typically will not exceed 3-4 per week on average with shows not beginning prior to 6pm and not to exceed 12am. Each concert will host anywhere between 2 and 4 artists or groups of artists.

Alcohol will be served in an isolated 21 and over section in the venue only, and will only be served during performance events and limited to bottled beer and wine. Proper licenses will of course be procured for such services and security will be provided at the entrance to the 21 and over section.

The stage will be built just off of the east wall facing west, with amplified sound being projected west against the west wall built of masonry. Additional precautions will be taken within the venue for sound attenuation including added insulation, double layers of gypsum board on the receiving walls, as well as sound deadening materials on the interior walls.

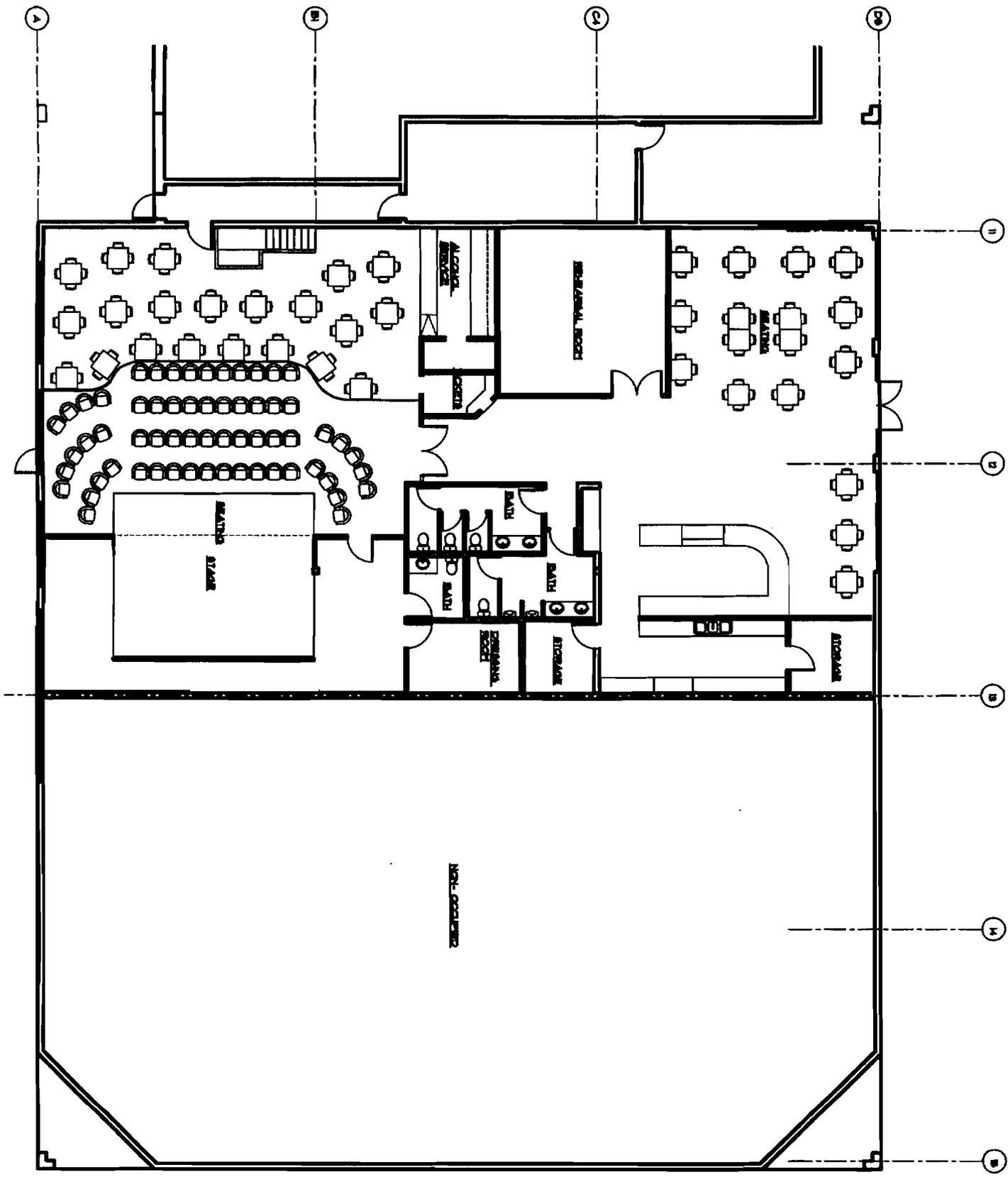
The goal is to provide a home and haven for a multitude of performing arts and artists and to do so in such a way that it is both fiscally accessible and accessible in location to the surrounding community.

I appreciate your consideration in the approval of this live entertainment use permit.

Sincerely,

Michael Peck, Managing Member  
NewBrave Arts and Entertainment, LLC





1/16" = 1'-0"



**CORNERSTONE CENTER – VENUE 104**

**940 E UNIVERSITY DR., SUITE NO. 102**

**PL110052**

**FRONT OF BUSINESS**

