

# Staff Summary Report



Hearing Officer Hearing Date: May 4, 2010

Agenda Item Number: 7

**SUBJECT:** This is a public hearing for a request by **FLANNYS** located at 1805 East Elliot Road, Suite Nos. 104-105, for one (1) use permit.

**DOCUMENT NAME:** 20100504dsng03 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by **FLANNYS (PL100104)** (John Flanagan, applicant; Pollack Royal Palm Plaza LLC, property owner) located at 1805 East Elliot Road, Suite Nos. 104 -105, in the PCC-1, Planned Commercial Center Neighborhood District for:

**ZUP10033** Use permit to allow a restaurant/bar with a Series 6 liquor license.

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

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

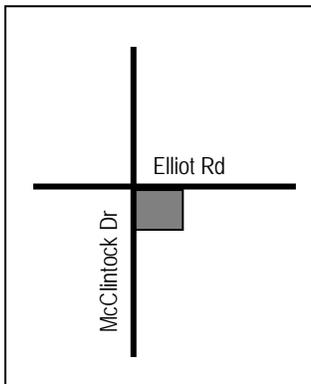
**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** N/A

**FISCAL NOTE:** N/A

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

**ADDITIONAL INFO:** The applicant is requesting a use permit to allow a restaurant/bar with a Series 6 liquor license located at 1805 East Elliot Road, Suite Nos. 104-105, in the PCC-1, Planned Commercial Center Neighborhood District. A restaurant previously occupied this space at this location for several years and now the applicant wishes to utilize the space as a neighborhood tavern and grill. However, the new proposed volume of liquor sales exceeds food sales thus creating the need for a Series 6 liquor license. Staff supports approval of the use permit based on the criteria for approval of a use permit. To date no public input has been received.



**PAGES:**

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

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site Plan
5. Floor Plan
6. Staff Photograph

## COMMENTS:

Flanny's is requesting a use permit to allow a restaurant/bar with a Series 6 liquor license located at 1805 East Elliot Road Suite Nos. 104-105 in the PCC-1, Planned Commercial Center Neighborhood District. A restaurant previously occupied this space at this location for several years and now the applicant wishes to utilize the space as a neighborhood tavern and grill. However, the new proposed volume of liquor sales exceeds food sales thus creating the need for a Series 6 liquor license. Per the applicant's letter of explanation, several tenant improvements will be made to make the place "cleaner, more attractive, and more ADA compliant." Staff supports the use permit for a bar with a Series 6 liquor license at this location.

An update to the parking file and the shared parking analysis approved in 2008 for this plaza has been done as well. The new liquor license requires the use to be parked as a bar rather than a restaurant. Based on a 3,300 s.f. tenant space floor area, the required parking for a bar will be 66 parking spaces. The prior restaurant was required to provide 44 parking spaces thus creating the need to accommodate a 22 space difference. There is ample parking on this site so the difference in the parking space numbers should not create a deficiency.

To date, no input has been received from any neighboring tenants or property owners.

## Use Permit

The Zoning and Development Code requires a use permit for a bar with a Series 6 liquor license in the PCC-1, Planned Commercial Center Neighborhood District. 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;
  - This use should not create a nuisance from emission of odor, dust, gas, noise, vibration, smoke, heat or glare.
- 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 should not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- 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;
  - The proposed use appears to have adequate control of disruptive behavior.

## Conclusion

Staff recommends approval of the use permit request with conditions.

**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. 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.**

**CONDITIONS OF APPROVAL:**

1. The use permit is valid for Flanny's and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. Obtain all necessary clearances from the Building Safety Division.
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. Any new business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8331.
6. 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.

**HISTORY & FACTS:**

April 24, 2008

PL080138 – The Development Services Department Staff approved a shared parking analysis for Royal Palms Plaza located at 1805 E Elliot Rd.

July 21, 2009

PL090225 – The Hearing Officer approved a use permit request for Royal Palms Plaza – Yupha's Thai Kitchen located at 1805 E Elliot Rd., Suite No. 115 to allow live entertainment.

**DESCRIPTION:**

Owner – Pollack Royal Palm Plaza LLC  
Applicant – John Flanagan  
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District  
Tenant Space Area – 3,300 s.f.  
Required Parking per Use – 66 spaces  
Total Parking Provided – 515 spaces

**ZONING AND  
DEVELOPMENT**

**CODE REFERENCE:**

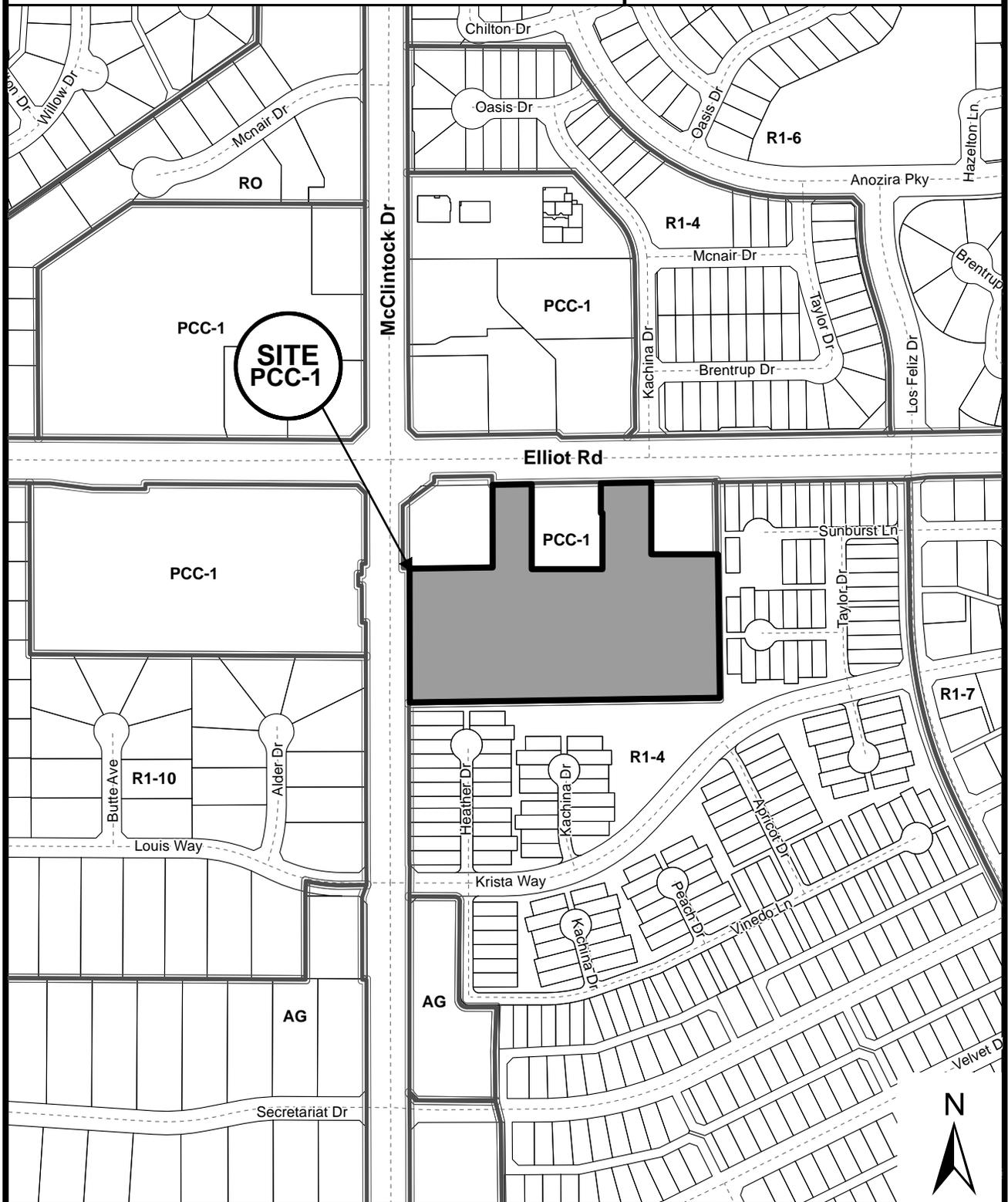
Part 3, Chapter 3, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts

Part 6, Chapter 3, Section 6-308 – Use Permit

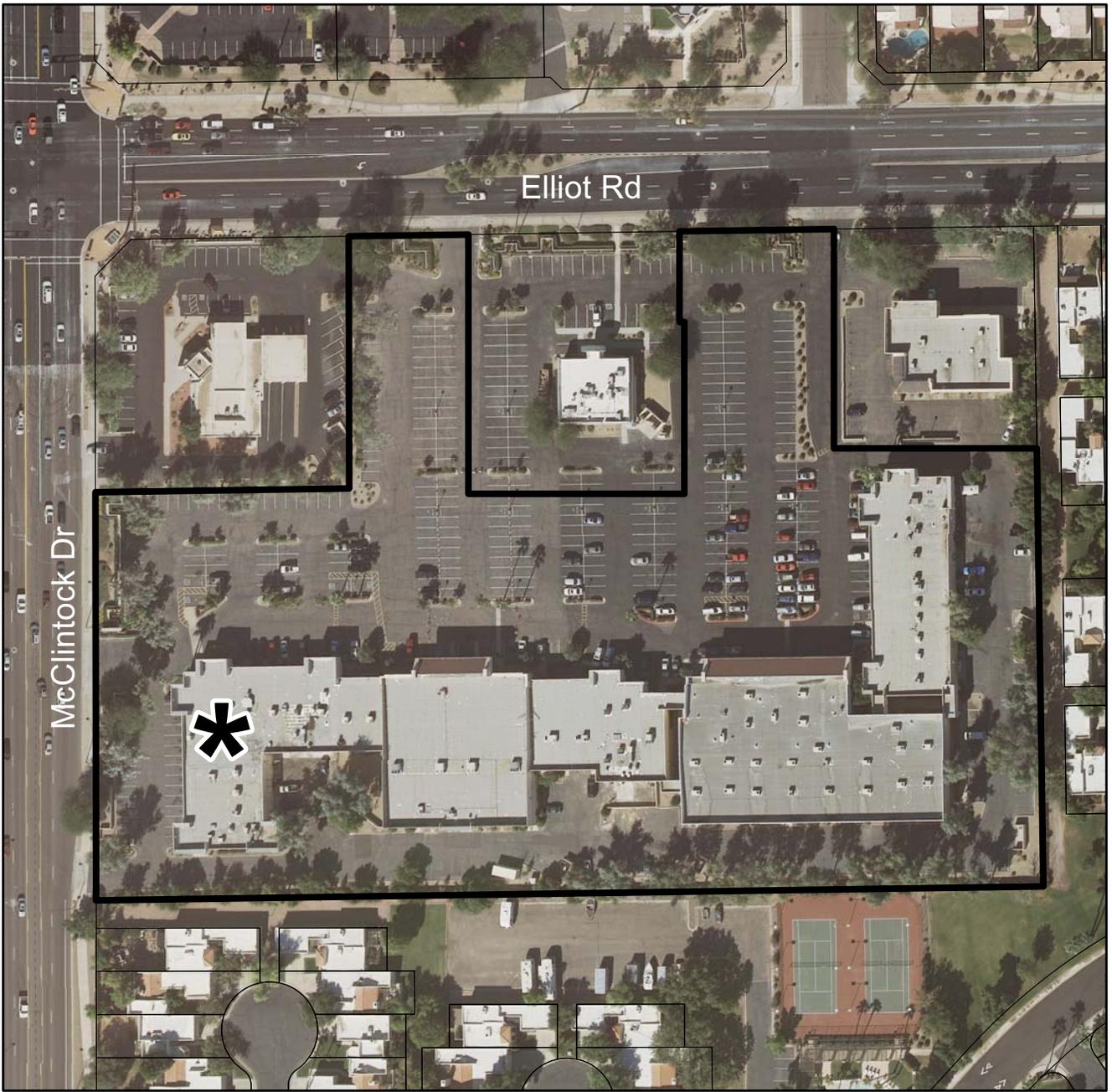
Part 6, Chapter 3, Section 6-313 – Security Plan

**FLANNYS**

**PL100104**



**Location Map**



**FLANNYS (PL100104)**

## Letter of Explanation

4/12/10

To: Sherri Lesser  
Senior Planner  
Development Services Department

From: John J. Flanagan  
8912 E. Pinnacle Peak Rd.  
Suite F9-501  
Scottsdale, AZ 85255  
480-540-3990 [jjf1221@gmail.com](mailto:jjf1221@gmail.com)

Business Name: Flannys

Sherri,

As per our conversation, I am submitting this letter of explanation along with the project submittal application. I would like to reopen and rehab the former Boney's restaurant that is located at the Southeast corner of Elliot Rd. & McClintock Dr. (1805 E. Elliot Rd. Suite 104-105, Tempe AZ 85283). The former business was operated with a #12 Liquor License and shut down by the landlord for failure to pay rent. I am purposing to spend between \$70,000 & \$100,000 to upgrade the space and make it a cleaner, more attractive and more ADA compliant. I am requesting a use permit so that the purposed neighborhood tavern & grill can be operated with a #6 Liquor License. I will be serving food but am very concerned about having to hit a quota with regards to food. I am purposing that the business will be open 7 days a week with the following hours: Sunday-Wednesday 10:00AM-12:00AM and Thursday-Saturday 10:00AM-2:00AM. These hours of operation may be scaled back based upon business conditions. The improvements that I am purposing included a very thorough cleaning of the kitchen and replacing of broken equipment, upgrading the rest rooms to make more ADA compliant and a complete replacement of the bar. The current bar has 70% of its seating capacity located in a pit. I am purposing removing the existing bar and filling in the pit with concrete, so as the business is operated on a flat surface. This will make it more ADA compliant and reduce the risk of falling from one level to the other. Please let me know if you have any questions or need additional information.

Regards,

  
John Flanagan







**FLANNYS**

**1805 E ELLIOT RD., SUITE NOS. 104-105.**

**PL100104**

**FRONT OF BUSINESS**

