

Staff Summary Report



Hearing Officer Hearing Date: August 17, 2010

Agenda Item Number: 2

SUBJECT: This is a public hearing for a review of compliance with the Conditions of Approval by **LONG WONG'S (PL090404)** located at 1639 East Apache Boulevard.

DOCUMENT NAME: 20100817dssl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Review of compliance with the Conditions of Approval assigned by the Hearing Officer at the December 15, 2009 Hearing for the:

Request by **THE FIREHOUSE – LONG WONG'S (PL090404)** (Avi Sadote, applicant/property owner) located at 1639 East Apache Boulevard in the CSS, Commercial Shopping & Services and TOD, Transportation Overlay Districts for:

ZUP09142 Use permit to allow indoor live entertainment including live bands, D.J.'s, comedy acts and karaoke.

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

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

LEGAL REVIEW BY: N/A

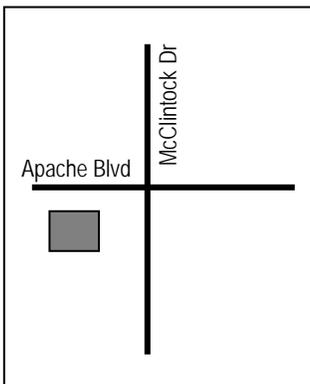
DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to updated conditions

ADDITIONAL INFO:

The applicant was approved for use permit to allow live entertainment for a restaurant, located at 1639 East Apache Boulevard in the CSS, Commercial Shopping and Services District. The live entertainment approved is in the form of live bands, DJ's, comedy acts and karaoke. At the December 15, 2009 meeting, the Hearing Officer imposed a condition of approval requiring the use permit be reviewed after six months for compliance with all conditions of approval. To date, staff has received two phone calls from surrounding property owners expressing concern with issues relating to the live entertainment use.



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. Letter of Intent
4. Site plan
5. Floor plan
6. Staff Photograph(s)
- 7-18. Public Correspondence
19. Petition of Opposition

COMMENTS:

The applicant was approved for a use permit to allow live entertainment for a new restaurant, located at 1639 East Apache Boulevard, in the CSS, Commercial Shopping and Services. The entertainment is in the form of live bands, DJ's, comedy acts and karaoke.

PUBLIC INPUT

Staff posted the property and notified the public by mail of the scheduled review of conditions of approval. Staff received responses from two citizens regarding the public notification. The concerns expressed by the respondents included opposition to the noise generated from the business due to the back door of the business being left open, noise emanating from the business, unruly patrons in the parking area, motorcycle noise in the parking lot and illegal parking of patrons onto other sites. The Tempe Police Department's report on calls for service, showed two calls regarding noise and both calls were cleared without incident upon police investigation.

USE PERMIT

The Zoning and Development Code requires a use permit for live entertainment in the CSS, Commercial Shopping and Services 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 other uses 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;
With measures to limit noise levels and sound travel; the proposed requested use will not contribute to neighborhood deterioration or downgrade property values.
- d. Compatibility with existing surrounding structures and uses;
The proposed use will not contribute to neighborhood deterioration or downgrade property values.
- 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 requires the creation of a security plan with the Tempe Police Department to address management of the establishment.

Conclusion

Staff recommends approval of the use permit; with updated conditions of approval to address concerns regarding the live entertainment.

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 MODIFIED PER THIS REVIEW:

1. The use permit is valid for Long Wongs and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
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. Noise generated from the use shall conform to the City of Tempe Noise Ordinance 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. The band and/or karaoke area to maintain a minimum 3' clearance from dining area to comply with ADA accessibility requirements.
6. The use permit is valid for the plans as submitted within the application.
7. The applicant shall work with the Tempe Police Department to create a Security Plan for the business. Contact the Crime Prevention Department at 480-858-6330.
8. All services doors to remain closed during times of live entertainment performances.
9. Live entertainment to cease at 12 midnight Sunday-Wednesday and 1:00 am Thursday-Saturday.
10. Live entertainment approved for indoor use only.
11. ~~Administrative review will be done in six months (July 2010) to confirm adherence to compliance.~~
12. Provide sound attenuation material to the interior of the restaurant, design and details to be provided by staff. **ADDED BY STAFF**
13. Provide security personnel at back door and in the parking area during hours of live entertainment. The back door not to propped open during hours of live entertainment. **ADDED BY STAFF**
14. To mitigate parking on adjacent properties provide an illuminated "no parking sign" on west side of building. **ADDED BY STAFF**

HISTORY:

December 15, 2009. The Hearing Officer approved a use permit for live entertainment for Long Wongs, subject to conditions.

DESCRIPTION:

Owner – Avi Sadote
Applicant – Avi Sadote
Existing Zoning – CSS, Commercial Shopping & Services District and TOD, Transportation Overlay District
Lot Size Area –16,035 s.f. / .368 acres

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



Location Map



THE FIREHOUSE - LONG WONG'S (PL090404)

Long Wang's at the Firehouse
1639 E. Apache Blvd
Tempe, AZ 85281

Oct 19-09

Letter of Explanation

We will have live band, D.J., stand-up act
and Karaoke four to five days a week.

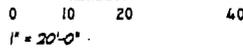
They will start at 6:30 PM to 12:30 AM
some of the evening event will have small area for
dancing.



owner

PROVIDE DECOMPOSED GRANITE GROUND COVER, 7/2 MINUS, COVER
2" THICKNESS

S I T E P L A N

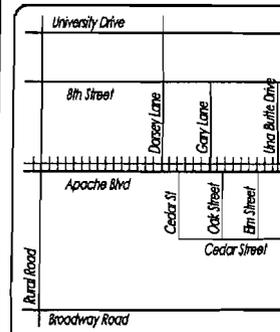


SITE NOTES:

NOTE: THIS BUILDING IS 100% DISPOSABLE
W/NO GARBAGE DISPOSAL - OWNER OCCI

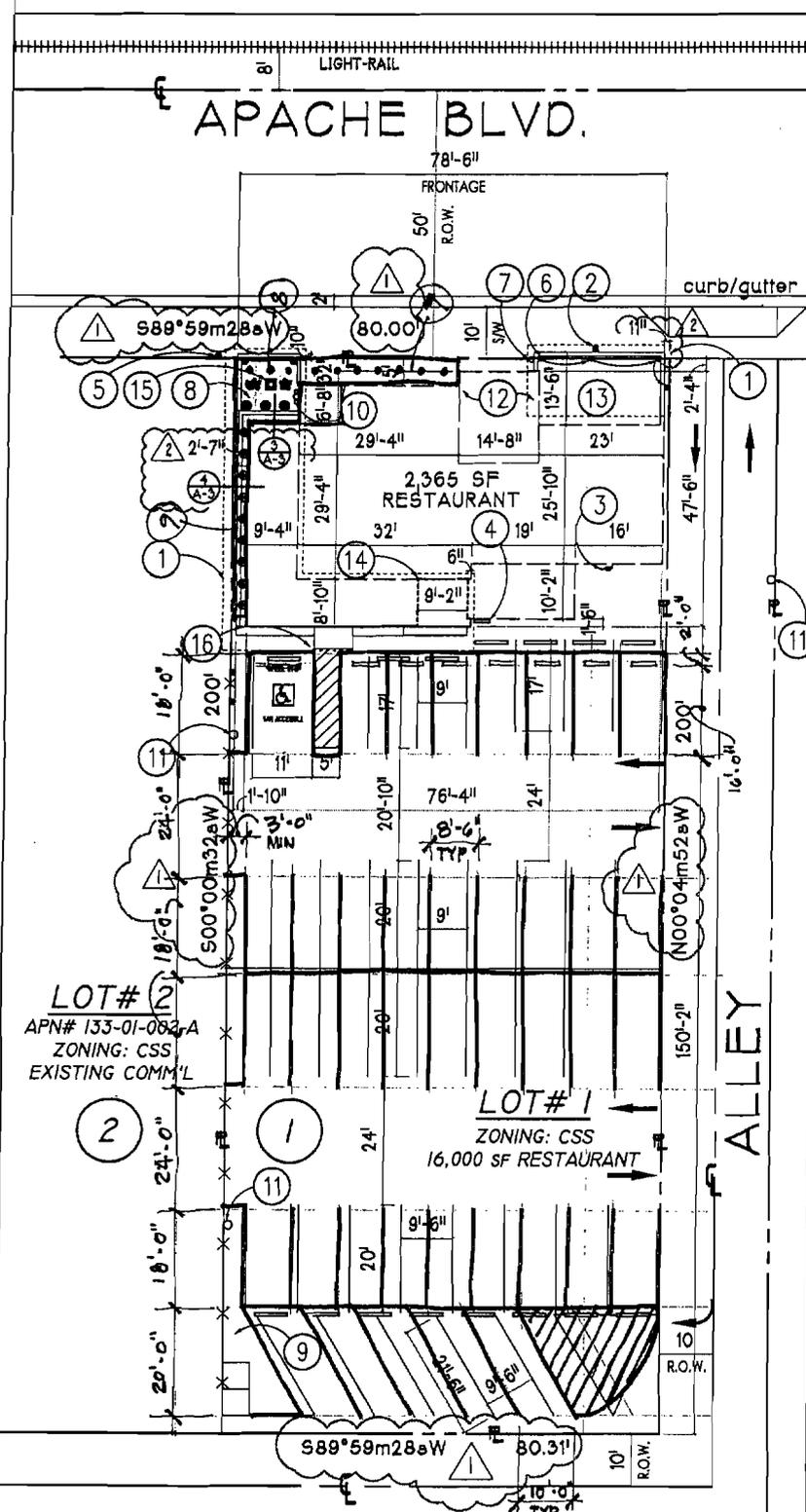
- ① NEW CONSTRUCTION
- ② WATER METER
- ③ GAS METER
- ④ ELECTRIC SERVICE ENTRANCE
@ 400 A, 120V, 1 PHASE, 3W
- ⑤ FIRE HYDRANT
- ⑥ FIRE HYDRANT - DECORATIVE
- ⑦ FLAG POLE @ +40 FT
- ⑧ NEW LANDSCAPE AREA TO HAVE GROUND
COVER CONSISTING OF DECOMPOSED
GRANITE W/2-SMALL CACTUS; 2-BOUGAIN
AND 8 EA. 1-GAL. LANTANA. SEE PLANTS
PER LANDSCAPE ELEVATION ON SHEET 'A3'
- ⑨ REFUSE AND RECYCLE
CONTAINER AREA ONLY
- ⑩ A.F.E.S. RISER
- ⑪ UTILITY POLE
- ⑫ ENCLOSED 2ND FLOOR TOWER
- ⑬ NEW UNCOVERED PATIO
- ⑭ NEW OFFICE/HALLWAY ENCLOSURE
- ⑮ NEW SELF-CONTAINING WATER FEATURE
RELOCATE HANDICAP PARKING SPACE AND
REMOVE EXISTING WHEEL STOP TO PROVIDE
DIRECT EGRESS TO REFUGE AREA

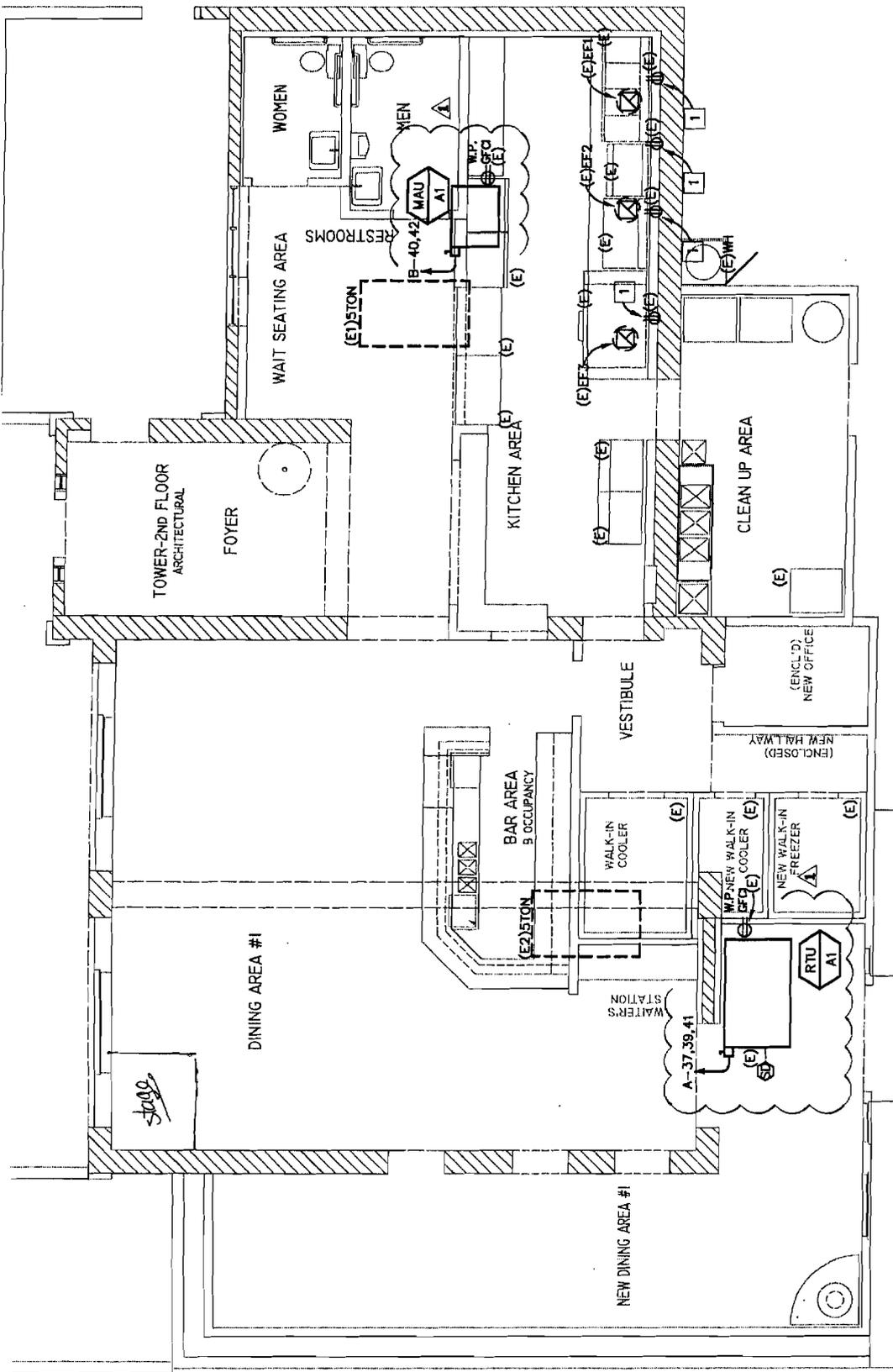
LANDSCAPE NOTE: PLANTS WITHIN 6' FEET OF PEDESTRIAN AREAS SHALL
OR LESS IN HEIGHT AT MATURITY, PER CITY OF TEMPE
SECTION 4-702(G)



Section T, 23 1N 4E
Maricopa County, Arizona

Vicinity Map





ELECTRICAL POWER PLAN
SCALE: 3/16" = 1'-0"



THE FIREHOUSE – LONG WONG’S

1639 EAST APACHE BOULEVARD

PL090404

FRONT OF BUSINESS



Lesser, Sherri

From: Partridge, Derek
Sent: Wednesday, November 04, 2009 11:55 AM
To: Lesser, Sherri
Subject: FW: Firehouse Long Wongs

From: Laurie Nessel [mailto:laurie@laurienessel.com]
Sent: Wednesday, November 04, 2009 12:42 AM
To: Partridge, Derek
Subject: Firehouse Long Wongs

Go for it! I live three blocks south, 1632 E. Cedar St., and I'm all for the good food, energy and economic vitality that Long Wongs would bring to our neighborhood.

Laurie Nessel
Hudson Manor Neighborhood
<http://www.laurienessel.com>

Lesser, Sherri

From: Partridge, Derek
Sent: Wednesday, November 04, 2009 11:55 AM
To: Lesser, Sherri
Subject: FW: LongWongs and the Fire House on Apache

From: swoodson [mailto:swoodson@asu.edu]
Sent: Wednesday, November 04, 2009 8:37 AM
To: Partridge, Derek
Subject: LongWongs and the Fire House on Apache

RE: Public Hearing on this on Tuesday, Nov. 17

Hello, I am a homeowner in the Hudson Manor Neighborhood (1502 East Hudson) I absolutely support Long Wong's move to the firehouse and their request for a live music/music permit. I am not able to attend the Hearing as I will be working, but wanted to let you know of my support via email. Stephani

Dr. Stephani Etheridge Woodson
School of Theatre and Film
Arizona State University
PO BOX 872002
Tempe AZ 85287-2002
swoodson@asu.edu

Lesser, Sherri

From: Partridge, Derek
Sent: Wednesday, November 04, 2009 11:55 AM
To: Lesser, Sherri
Subject: FW: Public Hearing comment for Long Wong's (PL090404)

-----Original Message-----

From: Philip Amorosi [mailto:philamo@cox.net]
Sent: Tuesday, November 03, 2009 11:37 PM
To: Partridge, Derek
Subject: Public Hearing comment for Long Wong's (PL090404)

Hi Derek,

I would like to send a letter of support for the use permit for live entertainment at the Firehouse-Long Wongs at 1639 E. Apache Blvd. I am the former chair of the Apache Blvd Redevelopment Committee (APAC) and this is the type of restaurant/bar the neighborhood has been craving since the Firehouse closed years ago. Long Wong's has a great reputation and great food if they can duplicate what I remember from Mill Ave. I can't wait for them to open and talking to a few neighbors they seem excited by the news too.

sincerely,

Phil Amorosi

1432 E. Cedar St.

Tempe, AZ 85281

Chair of the Hudson Manor Neighborhood Association

Lesser, Sherri

From: DMCornett@aol.com
Sent: Wednesday, November 18, 2009 9:46 PM
To: Lesser, Sherri
Subject: Long Wongs

Re: Long Wongs
Located at 1639 E. Apache Blvd.
Case # PL090404

Does the owner of Long Wongs know that families live right behind his place of business? We have a single family neighborhood that we'd like to preserve, enjoy and keep property values stable.

I can't feature adding outside music to the light rail train toots, the fire trucks and the Apache traffic. It would preclude a great many people from ever enjoying their yards and at least one row of homes would probably hear it inside if it is like most outside music in restaurant/bar businesses. It would certainly not enhance the quality of life in the area.

I have no objection to the business and inside music, but am very much opposed to outside music.

Please take the nearness of homes into consideration when the case is heard.

Doris Cornett
Hudson Manor homeowner

Support indoor/
Oppose outdoor

Lesser, Sherri

From: Linda Weinberg [LJWeinberg@msn.com]
Sent: Wednesday, November 18, 2009 10:00 PM
To: Lesser, Sherri
Subject: Long Wongs Case Number: PL090404

While I want to see a restaurant in the old Firehouse Restaurant, I do not support music outside. It does not fit in with the neighborhood. NO outdoor music. Thank you.

Linda Weinberg

Site Location is 1639 E. Apache Blvd.
Case Number: PL090404

*Oppose
outdoor*

Lesser, Sherri

From: James DeMars [demars@asu.edu]
Sent: Thursday, November 19, 2009 4:05 AM
To: Lesser, Sherri
Subject: Long Wong's Music OUTSIDE

Please take note that as a resident of the Hudson Park neighborhood that I strongly oppose a music venue OUTSIDE the Long Wong's proposed Site Location at 1639 E. Apache Blvd.
Case Number: PL090404

Noise pollution of this nature is a terrible intrusion on our evenings and diminishes our quality of life.

The fact that Long Wong's wants this leads me to strongly oppose regardless of whether the music is inside or outside. There is inadequate parking and the neighborhood traffic will rise as well. We don't want the inebriated midnight howls through our neighborhood; I will not hesitate to file complaints or contact the police department to deal with the noise or other associated problems.

Thank you for your time,
Dr. James DeMars
1508 E. Cedar St., Tempe 85281

Lesser, Sherri

From: Matthew salenger [matt@colabstudio.com]
Sent: Thursday, November 19, 2009 8:45 AM
To: Lesser, Sherri
Cc: maria@colabstudio.com; 'Philip Amorosi'
Subject: Long Wong's at Apache & McClintock

Ms. Lesser-

I hear that the new Long Wongs on Apache at McClintock is applying for a permit to play music outside. Although I am absolutely all for Long Wong's moving in at that location, and playing music inside, it is completely UNACCEPTABLE to my wife and I to allow them to play music outside. We live with our 1 year old just a couple hundred feet away and any outdoor music would keep us up much of the night. We have too many college age renters in the area partying at night as it is, making our neighborhood often unenjoyable for us. If there were a venue nearby with live bands outside, it would greatly enhance the unfortunate notion that these renters already have about being loud at night, which would render our neighborhood unendurable.

I will say that I am very happy that they want to move into our area and have an indoor music venue like the old Long Wong's on Mill. We loved that place and miss it greatly. So please allow them to move into the neighborhood, but do NOT allow them to play music outside, otherwise we will be compelled to move out of the neighborhood, and in all likely-hood, leave Tempe.

m

Matthew Salenger, RA
colab studio, llc
1614 e cedar street
tempe, az, 85281
(v) 480.326.0541
(f) 480.967.2440
(e) matt@colabstudio.com
(w) www.colabstudio.com

*Oppose
outdoor*

Lesser, Sherri

From: Al Viscito [aviscito@apmi.com]
Sent: Thursday, November 19, 2009 9:16 AM
To: Lesser, Sherri
Cc: "Viscito, Sharon J"; philamo@cox.net
Subject: Long Wongs Outside Music

Hello Sherri,

I have lived in the Hudson Manor neighborhood for 25 years in a home at the extreme north end of the neighborhood, the first house off of Apache Blvd. I have experienced the disruption to my quality of life by not being able to get to sleep at a reasonable hour when there were bars on the north side of Apache that either had outside music or even just kept their doors wide open while the bands played. All the homes in this neighborhood were built in the 1950's. They are not insulated structurally against high noise levels and electronically amplified music coming even from the other side of Apache rattles my windows. Especially now that bars close at 2:00 am (I get up at 5:00 am as many of my neighbors do) to go to work this is kind of disruption threatens my health and employment. I am a little surprised that Long Wongs would even be approved for this location, it was a pretty rowdy bar when it was in downtown Tempe, but I find it absolutely absurd that anyone at the City would even consider for one moment letting them have outdoor music. There is only a 20' wide alleyway separating the bar from the backyards and thus bedrooms of all those who live along Hudson Drive. I would ask anyone at the City considering allowing outdoor music to first decide how they would like to have electronic amplified music and screaming and yelling intoxicated bar patrons in their backyard on nights before they had to get up and go to work the next day. Tempe's development along Apache Boulevard must respect the fact that in some areas there are long established working neighborhoods that will be negatively affected by such establishments. If they want outdoor music have them go to an industrial area along Apache, there are plenty of open spaces. Thank you for considering the fact that the Firehouse Restaurant is not just a storefront along Apache (and they never had live music), but is also our "neighbor" and could have a tremendous negative affect on the people who live in our neighborhood.

Al Viscito

APMI, Inc.

*Oppose
outdoor*

Lesser, Sherri

From: Peter, Janet, Nicholas DE*MOTT [nickyjohnd@msn.com]
Sent: Thursday, November 19, 2009 9:33 AM
To: Lesser, Sherri
Subject: PL090404

Ms Lesser,

Yesterday, Phil Amorossi, our neighborhood chair informed us of that the applicant (Long Wongs) at 1639 E. Apache Blvd. is requesting permission to have live outdoor music. We would have supported live music (with appropriate sound abatement measures) inside at this location. We are, however, totally opposed to outdoor music or any other use that will have a negative impact on our neighborhood.

thank you,
Peter, Janet, Nicholas De Mott
14440 E. Cedar St.
Tempe, AZ 85281

*oppose outdoor
support
indoor*

Lesser, Sherri

From: knna@aol.com
Sent: Thursday, November 19, 2009 9:21 PM
To: Lesser, Sherri
Subject: Please No Outdoor music for Long Wongs! A Hudson Dr Home Owner

oppose
outdoor

Lesser, Sherri

From: nirvana yoga [yoga.nirvana@gmail.com]
Sent: Thursday, November 19, 2009 10:29 AM
To: Lesser, Sherri
Subject: Case Number: PL090404 - Long Wong's application for outside music

Site Location is 1639 E. Apache Blvd.

Case Number: PL090404

As a homeowner in the Hudson neighborhood, I request that a permit for outside music NOT be granted to Long Wong's new proposed opening on Apache Blvd. Loud music can be heard throughout the whole neighborhood and not just the houses adjacent to Long Wong's. It is just not appropriate to have a venue with outside amplified music when it is located in the backyards of single family homes and a historic neighborhood.

Thank you for your time.

Jeff Martens
1426 E Williams Street
480.529.5693 (cell)

*oppose
outdoor*

Lesser, Sherri

From: Lesser, Sherri
Sent: Friday, November 20, 2009 3:37 PM
To: Lesser, Sherri
Subject: FW: PL090404-Long Wong's live entertainment permit

-----Original Message-----

From: Philip Amorosi [mailto:philamo@cox.net]
Sent: Monday, November 16, 2009 9:52 PM
To: Lesser, Sherri
Subject: PL090404-Long Wong's live entertainment permit

HI Sherri,

I got the postcard today that the hearing was continued until Dec. 1 for PL090404-Long Wong's live entertainment permit. Previously I wrote a letter in support of Long Wongs permit but that was for INSIDE MUSIC ONLY. I am definitely against outside live entertainment. I remember when Minder Binder's had live entertainment, I could hear that at my house and they were at University and McClintock. There is no way our neighborhood is going to approve live outside music. What is the owner thinking backing up against a single family older neighborhood. Why can't he be happy with indoor music like he did at his place on Mill.

Let him know the neighborhood is against any OUTDOOR music and he should go back to getting the permit for INDOOR ONLY.

thank you,

Phil Amorosi

Chair, Hudson Manor Neighborhood Association
1432 E. Cedar St.
Tempe, AZ 85281

*Oppose outdoor
indoor
support*

case name Longwings

case number P1690404

Location 1639 E. Apache Blvd.

Rec'd 11/20/09
EMW

The Following names are requesting The City of Tempe
to Decline a permit For Indoor and outdoor live
entertainment at the above Establishment.

we cant imagine sitting on our Front porch or patio's
and Listning to this day in and day out.

- | | | | |
|----|-----------------|--------------------|----------|
| 1 | Carl E Darnell | Carl E. Darnell | 11-16-09 |
| 2 | Jupe M. Darnell | 1639 E. Hudson Dr | 11-16-09 |
| 3 | James R. Brown | 1615 E. Hudson Dr. | 11-16-09 |
| 4 | Jayne Brown | 1615 E. Hudson | 11-16-09 |
| 5 | Dale Coats | 1526 E. Williams | 11-16-09 |
| 6 | J. Ellis | 1605 E Apache Blvd | 11-16-09 |
| 7 | Carly Jimenez | 1632 E WILLIAMS ST | 11-16-09 |
| 8 | Daniel Jimenez | 1632 E WILLIAMS ST | 11-16-09 |
| 9 | Angel Jimenez | 1627 E Hudson Dr. | 11-16-09 |
| 10 | Matt Jimenez | 1627 E Hudson Dr | 11/16/09 |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | | | |
| 15 | | | |

Oppose outdoor &
indoor