

Staff Summary Report



Hearing Officer Hearing Date: July 21, 2009

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by **YUPHA'S THAI KITCHEN (PL090225)** located at 1805 East Elliot Road, Suite No. 115 for one (1) use permit.

DOCUMENT NAME: 20090721dssd01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by **ROYAL PALMS PLAZA - YUPHA'S THAI KITCHEN (PL090225)** (Yupha Dequenne, applicant; Pollack Enterprises LLC , property owner) located at 1805 East Elliot Road, Suite No. 115 in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP09097 Use permit to allow live entertainment.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

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

SEA

LEGAL REVIEW BY: N/A

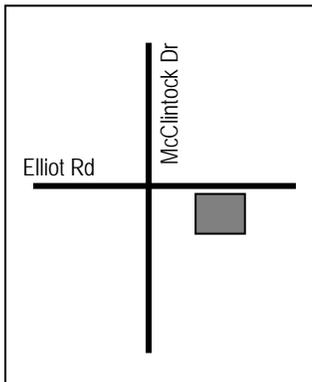
DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:

The applicant is requesting a use permit to allow live entertainment at an existing restaurant, located at 1805 E. Elliot Rd, in the PCC-1, Planned Commercial Center District. The entertainment would be in the form of live acoustic music (1-2 person ensembles) and Thai Dancing. Staff recommends approval of the use permit



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. Letter from Landlord
7. Staff Photograph(s)

COMMENTS:

The applicant is requesting a use permit to allow live entertainment at an existing restaurant, located at 1605 East Elliot Rd, in the PCC-1, Planned Commercial Center District. The entertainment would be in the form of live acoustic music (1-2 person ensembles) and Thai Dancing. Live entertainment will be provided for the restaurant patrons nightly until 9 pm.

The applicant provided a letter of support from the Landlord. To date, no other public input has been received.

Use Permit

The Zoning and Development Code requires a use permit for live music in 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 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 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;
 - This property is located approximately ½ mile from the nearest residence. 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.

Conclusion

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

REASON(S) FOR APPROVAL:

1. Traffic generated by this use should not be excessive.
2. This use will not result in the deterioration of the neighborhood or downgrading of property values.
3. The use appears to be compatible with the surrounding structures and uses.

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

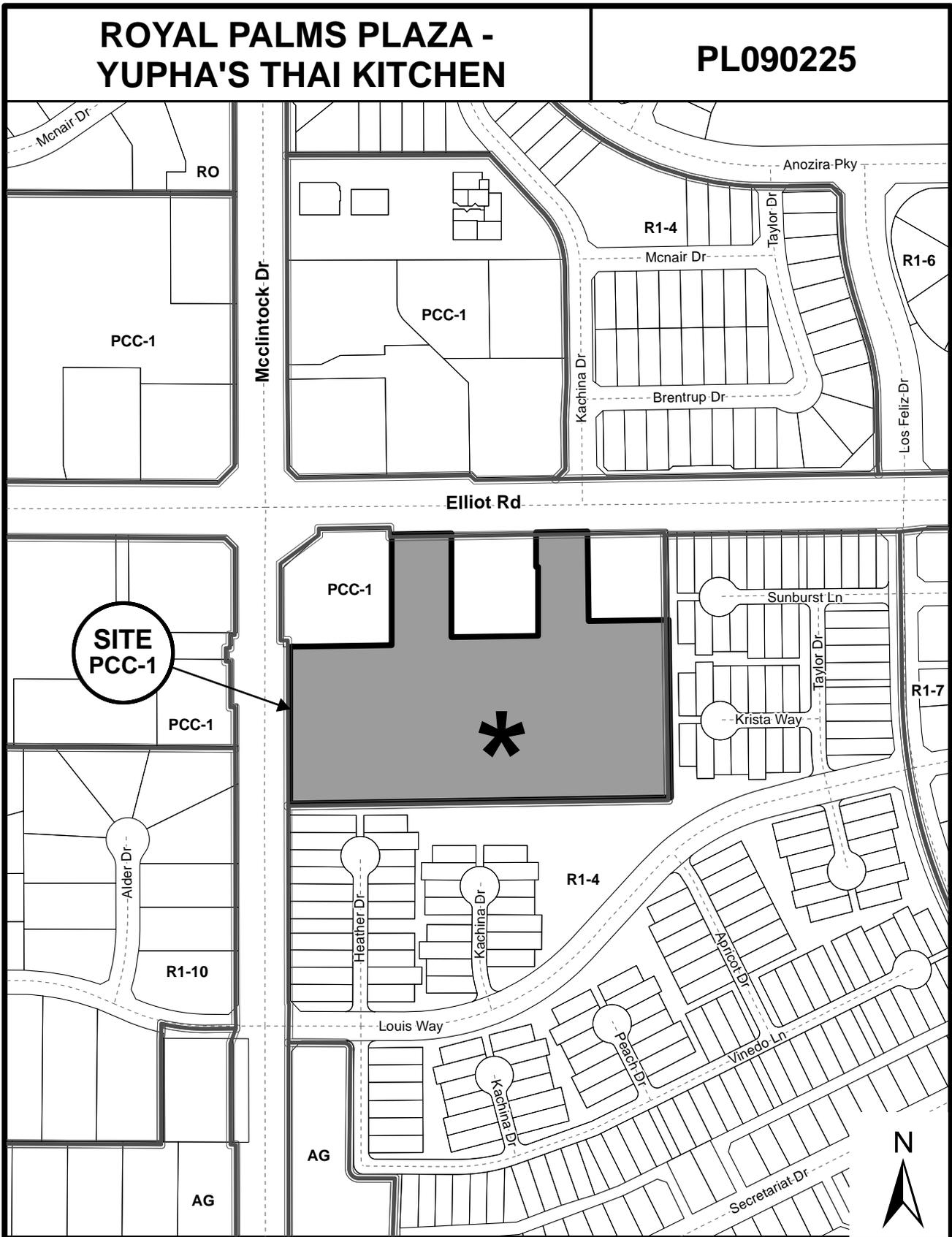
**CONDITION(S)
OF APPROVAL:**

1. The use permit is valid for Yuppa's Thai Kitchen and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee.
2. The entertainment to consist of 1-2 person ensembles and Thai Dancing; all entertainment to cease at 9:00 pm daily.
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. Noise generated from the use shall conform to the City of Tempe Noise Ordinance requirements for noise control.
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 will be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
6. The use permit is valid for the plans as submitted within this application.
7. The applicant shall work with the Tempe Police Department to update the Security Plan for the business. Contact the Crime Prevention Department at 480.858.6027.

HISTORY & FACTS: None pertinent to this case.

DESCRIPTION: Owner – Pollack Enterprises LLC
Applicant – Yupha Dequenne
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District

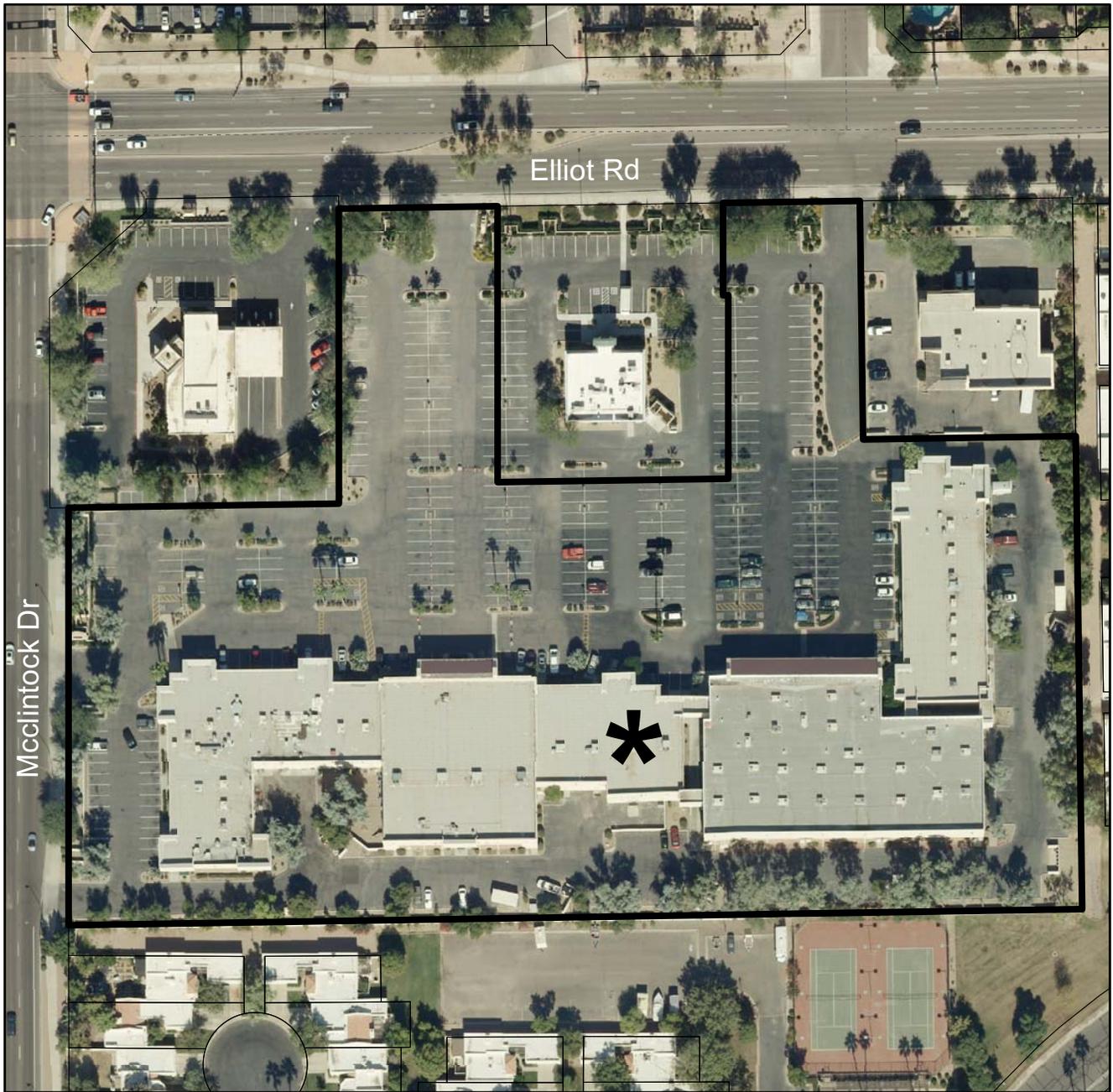
**ZONING AND
DEVELOPMENT
CODE REFERENCE:** Part 3, Chapter 2, Section 3-202: Permitted Uses in Commercial and Mixed Use Districts.
Part 6, Chapter 3, Section 6-308: Use Permit



**ROYAL PALMS PLAZA -
YUPHA'S THAI KITCHEN**

PL090225

Location Map



ROYAL PALMS PLAZA - YUPHA'S THAI KITCHEN (PL090225)

Yupha's Thai Kitchen
1805 East Elliot Road, Suite 115
Tempe, AZ 85284

June 19, 2009

To Whom It May Concern:

The purpose of this letter is to request a Use Permit for Live Entertainment/music for Yupha's Thai Kitchen located at 1805 E. Elliot Road, Suite 115, Tempe, AZ 85284.

Due to the downturn of the economy and lower sales since October of 2008, we are hoping that having the music during the dinner hours will help bring in more customers. We are planning to have live acoustic performances within our space until 9 PM.

Thank you very much for your kind considerations. Should you have further questions, I can be reached at 602-740-7366.

Sincerely,

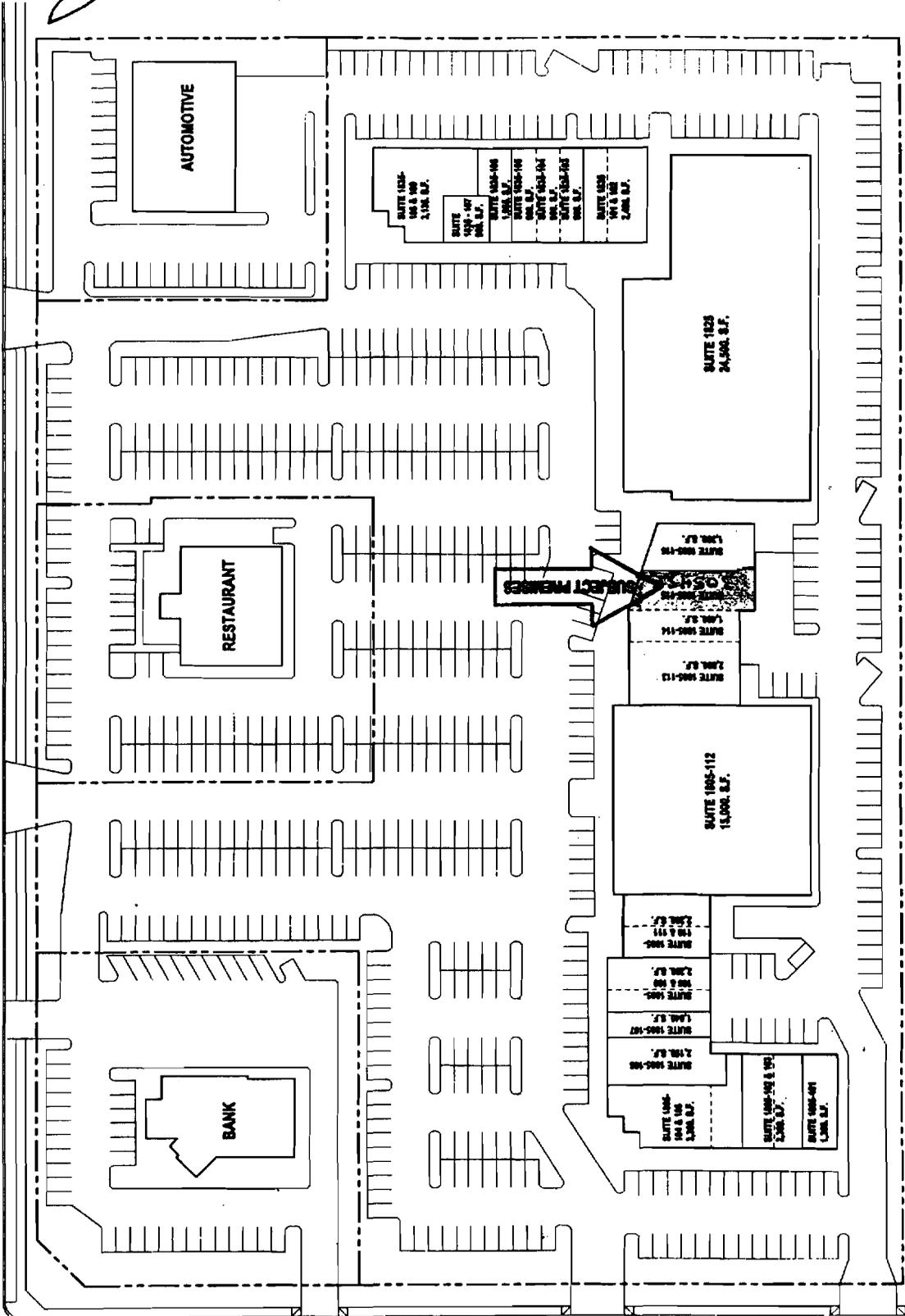
A handwritten signature in black ink, appearing to read "Yupha Dequenne". The signature is written in a cursive style with a large initial "Y" and a long, sweeping underline.

Yupha Dequenne
Managing Member
Yupha's Thai Kitchen, LLC



W. J. [Signature]

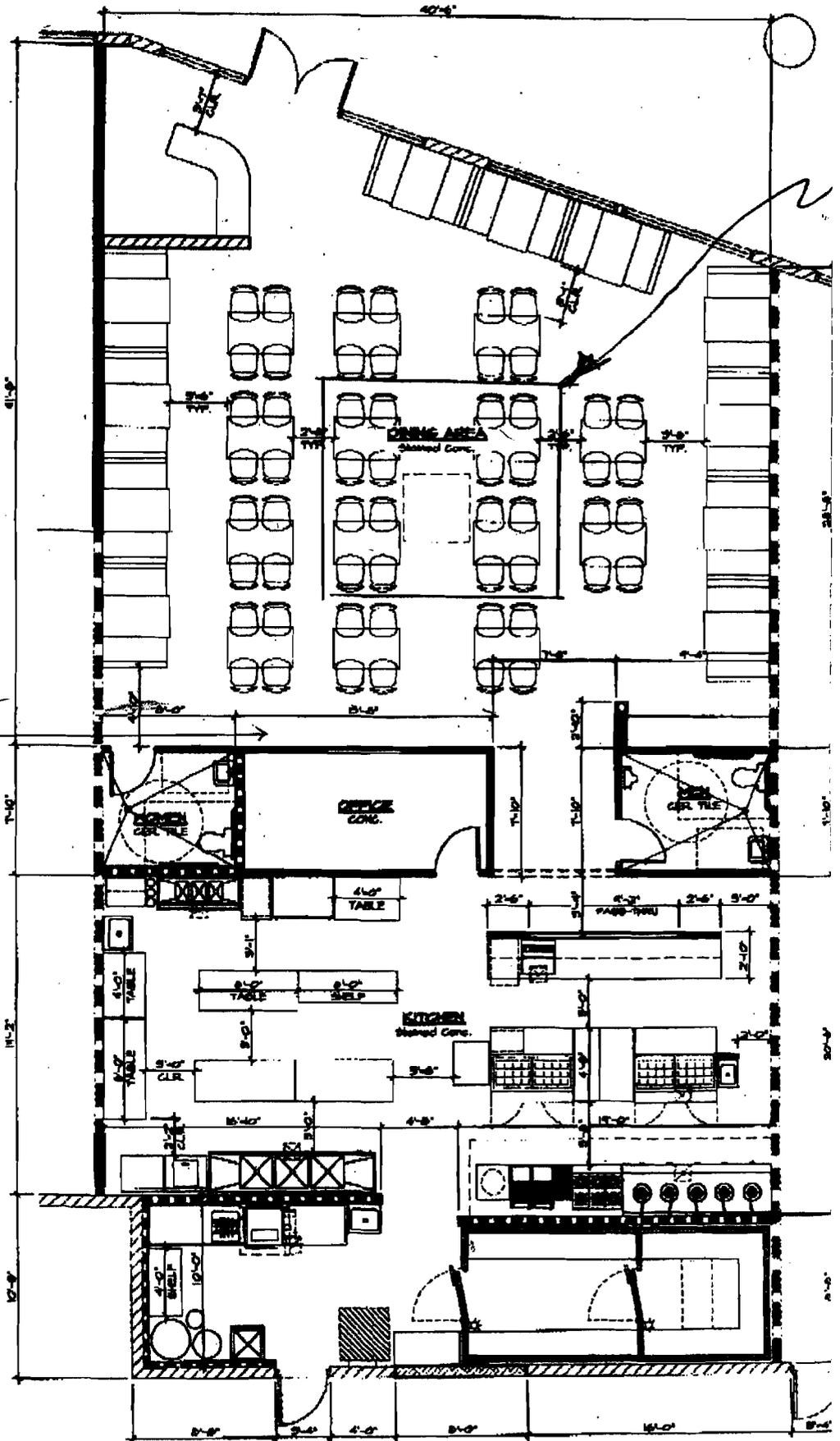
EAST ELLIOT ROAD



SOUTH MCCLINTOCK DRIVE

Total center contains approximately 72,250 s.f.
 All footage and parking shown is approximate and is subject to change at the sole discretion of the landlord. There are approximately 520 parking spaces including the pad area. There are 644 total spaces at this shopping center.
 This drawing is not to scale.

Entertainment Area



FLOOR PLAN - SUITES 115

M. A. P.

INTERNATIONAL MANAGEMENT INC.

June 26, 2009

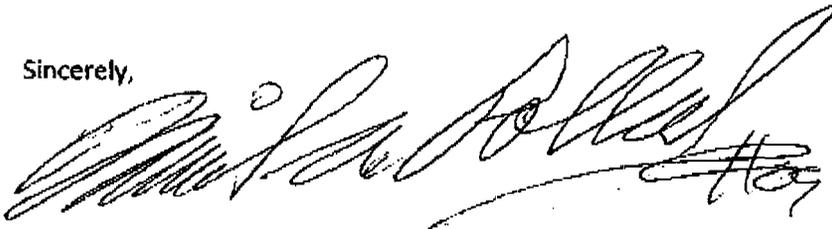
City of Tempe – Development Services - Planning

To Whom It May Concern,

Our tenant, Yupha's Thai Kitchen, is applying to have music at their restaurant located at 1805 E Elliot Road, #115. We approve and support their application to have live acoustic performances until 9pm within their space. Should you have any questions feel free to contact me directly.

Thank you for your assistance.

Sincerely,



Michael A. Pollack
Manager, Pollack Royal Palm Plaza LLC

1136 West Baseline Road • Mesa, Arizona 85210 • (480) 888-0888
www.pollackinvestments.com



**ROYAL PALMS PLAZA – YUPHA’S THAI
KITCHEN**

1805 EAST ELLIOT ROAD, SUITE NO. 115

PL090225

FRONT OF BUSINESS

