

CITY OF TEMPE DEVELOPMENT REVIEW COMMISSION

Meeting Date: 2/9/2021

Agenda Item: 5

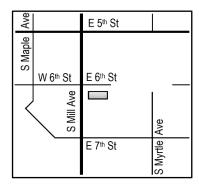
ACTION: Request two (2) Use Permits to allow a bar (Series 6) and entertainment (indoor live music) for C.A.S.A., located at 5 & 15 East 6th Street and 601 & 603 South Mill Avenue. The applicant is Huellmantel & Affiliates.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: C.A.S.A. (PL200311) is a local restaurant and bar located on the southeast corner of South Mill Avenue and East 6th Street in the CC, City Center District, and within the TOD, Transportation Overlay District. The business initially began operating an outdoor restaurant and bar at 5 and 15 East 6th Street, and subsequently expanded indoors to 603 South Mill Avenue. Both the existing outdoor and indoor operations are currently operating under active use permits that allow a Series 6 bar and live entertainment; both of which are in good-standing. The business is now proposing to expand into 603 South Mill Avenue, previously leased to Hippie Gypsy. The proposed expansion requires a use permit to allow a Series 6 bar and indoor live entertainment. At the request of the applicant, the requested use permits are intended only for 603 South Mill Avenue and will not be a consolidation of the existing use permits. Nevertheless, both the existing and expanded leased areas will operator under the same business ownership, liquor license, and security plan. The expansion also requires a Minor Development Plan Review planning application for site and elevation modifications that are concurrently under administrative review. The request includes the following:

ZUP210002 Use Permit to allow entertainment (indoor live music). ZUP210012 Use Permit Standard to allow a bar (Series 6).



Property Owner NF Real Estate, LLC

Applicant Charles Huellmantel, Huellmantel & Affiliates

Zoning District CC (TOD)
Site Area 7,530 s.f.
Building Area 7,368 s.f.
Existing Leased Area 2,006 s.f.
New Leased Area 1,970 s.f.
Total Leased Area 3,976 s.f.

Building Setbacks 0' front, 0' side, 0' street side, 0' rear (0', 0', 0', 0'

min. required)

Vehicle Parking

Bicycle Parking

No Change in Demand

No Change in Demand

Hours of Operation

10 a.m. to 2 a.m., Daily

Building Code Occupancy B, Restaurant

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Lee Jimenez, Senior Planner (480) 350-8486

Department Director: Shelly Seyler, Interim Community Development Director

Legal review by: N/A

Prepared by: Lee Jimenez, Senior Planner Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

The project includes minor site and elevation modifications, including an 86 s.f. patio extension to the west of the existing outdoor bar and patio area to the north. The business will be required to obtain an encroachment permit for the patio extension that extends into the City right-of-way.

Existing related entitlements for C.A.S.A. that will remain in effect are:

- 1. Use Permit to allow entertainment (live indoor) at 15 East 6th Street (PL090124). Originally approved for Chronic Taco, the owner has transferred the Use Permit to the current business. This approval prohibits outdoor speakers on the patio and limits speakers to placement behind the garage/roll up door that existed at that time.
- 2. Use Permit to allow entertainment (live outdoor) at 5 East 6th Street (PL130291). This approval limits entertainment to recorded music by a DJ or from an acoustical instrument (i.e. guitar, violin, and saxophone), prohibits amplified bands with drums, and limits the hours to 4 pm to 12 am daily.

PUBLIC INPUT

As of the publishing date of this report, no public comments have been received by staff.

POLICE INPUT

No concerns with the expansion. The Crime Prevention Unit will work the applicant to either modify the existing security plan or implement a new plan.

USE PERMIT

The proposed use requires two (2) use permits to allow a bar (Series 6) and entertainment (indoor live music) within the CC, City Center District.

Section 6-308(E) Approval criteria for Use Permit (*in italics*):

- 1. Any significant increase in vehicular or pedestrian traffic; the proposed bar and entertainment uses are not expected to increase vehicular or pedestrian traffic at a significant level. Pursuant to the downtown parking standards, both the previous retail use (Hippie Gypsy) and the proposed uses are classified under the umbrella of commercial uses, both requiring the same parking demand. Additionally, the site is in the downtown area and the TOD which provide easy access to multi-modal transportation options such as the automobile, bicycle, light rail, streetcar, bus, neighborhood circulators, ride-share, and walking.
- 2. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions; the proposes uses are not expected to generate emissions at a level exceeding ambient conditions given that the proposed site is wedged between the business establishment's existing outdoor bar and patio and indoor lounge area.
- 3. 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 uses do not conflict with the City's adopted plans and will provide opportunity for continued success of the business establishment and complement the other dining and entertainment uses in the downtown area.
- 4. *Compatibility with existing surrounding structures and uses;* the proposed uses and site/elevation modifications are compatible with the downtown area which is renowned for its entertainment offerings of bars and restaurants.
- 5. Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public; the business plans to work closely with the City of Tempe Police Department to manage potentially disruptive behavior inside and outside of the premise. The existing business already has a security plan in place and anticipates including the new lease area into the plan.

REASONS FOR APPROVAL:

Based on the information provided by the applicant, the public input received, and the above analysis staff supports approval of the requested Use Permits. The requests meet the required criteria and will conform to the conditions.

SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.

CONDITION(S) OF APPROVAL: (Non-standard conditions are identified in bold)

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

- 1. The Use Permits are valid only after approval of a Minor Development Plan Review, a building permit has been obtained, the required inspections have been completed and a Final Inspection has been passed. As part of the Building Permit process, on-site storm water retention may be required to be verified or accomplished on this Site.
- 2. The Use Permits are valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during the building plan check process.
- 3. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6330 before March 11, 2021.
- 4. The live entertainment use shall take place inside only. No live entertainment will be allowed outside.
- 5. Entertainment shall occur only during the hours of 9:00 am to 2:00 am.
- 6. No speakers are permitted on the exterior of the 601 South Mill Avenue. Any proposed new speakers located near building openings shall be placed in the interior of the business, projecting away from the exterior.

CODE/ORDINANCE REQUIREMENTS:

THE BULLETED ITEMS REFER TO EXISTING CODE OR ORDINANCES THAT PLANNING STAFF OBSERVES ARE PERTINENT TO THIS CASE. THE BULLET ITEMS ARE INCLUDED TO ALERT THE DESIGN TEAM AND ASSIST IN OBTAINING A BUILDING PERMIT AND ARE NOT AN EXHAUSTIVE LIST.

USE PERMIT:

- The Use Permit is valid for C.A.S.A. and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted, whichever is applicable, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body.
- The decision-making body, upon finding that the applicant has not taken corrective actions to resolve issues related
 to the permit/approval and that a continuation of the permit/approval is not in the interest of the public health, safety
 and general welfare, can revoke the permit/approval after providing written notice of its intentions to the holder of
 the permit.
- Specific requirements of the Zoning and Development Code (ZDC) are not listed as a condition of approval but
 will apply to any application. To avoid unnecessary review time and reduce the potential for multiple plan check
 submittals, become familiar with the ZDC. Access the ZDC through http://www.tempe.gov/zoning or purchase from
 Development Services.
- All business signs shall receive a Sign Permit. Contact sign staff at 480-350-8435.
- Any intensification or expansion of use shall require a new Use Permit.

- 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.
- All required Federal, State, County, and Municipal permits, licenses, and clearances shall be obtained, or the Use Permit is void.
- Music, sound, or live entertainment shall not violate the City of Tempe Noise Ordinance.

HISTORY & FACTS: September 5, 2007	Planning staff administratively approved a patio expansion for CHRONIC TACOS, located at the existing building tenant space, at 15 East 6 th Street.
May 28, 2008	Planning staff administratively approved a patio modification for Chronic Tacos, located at the existing building space of 15 East 6 th Street.
May 5, 2009	Hearing Officer approved the request by CHRONIC TACOS (PL090124) (Kay Price/Mill Avenue Tacos LLC, applicant; Herzel Nahom, property owner) located at 15 East 6th Street, Suite No. 409 in the CC, City Center District for (ZUP09055) Use permit to allow indoor live entertainment.
August 9, 2012	Planning staff administratively approved a request for CHRONIC CANTINA, consisting of a redesign of two existing kiosks along the 6th Street public right of way on the north side of the building and replaced with a double deck patio and ground floor bar/restaurant space, plus exterior elevation modifications that accompanies the patio addition exterior elevation modifications to the building with the following addresses: 601 South and 603 South Mill Avenue, 11 East 6th Street (Suite 101 and 102), as well as 15 East 6th Street.
August 27, 2012	City Council approved a license agreement for an expansion of the use for the public right of way for the Chronic Cantina business. The agreement is authorized through the adjacent building and property owner.
July 30, 2013	City Council adopted Ordinance No. 2013.37, amending the City Code, Chapter 20, relating to Special Noise Sources within Section 20-7.
October 1, 2013	Hearing Officer approved the request by C.A.S.A (PL130291) to allow outdoor live entertainment, located at 15 East 6 th Street, Suite 101. This is the outdoor component of the business on the south side of 6 th Street, east of Mill Avenue.
January 13, 2014	Planning staff administratively approved minor exterior building modifications for C.A.S.A. (PL130463), located at 15 East 6 th Street. This is the indoor component of the business on the south side of 6 th Street.
December 3, 2014	Planning staff administratively approved minor exterior modifications for C.A.S.A. (PL140430), located at 5 East 6th Street. This is the outdoor component of the business on the south side of 6th Street, east of Mill Avenue.
May 18, 2016	Hearing Officer approved a use permit to allow a Series 6 bar at 5 East 6 th Street, 15 East 6 th Street, and 603 South Mill Avenue, and a use permit to allow entertainment (indoor live music) at

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts Section 6-308 Use Permit Section 6-313 Security Plan

603 South Mill Avenue.



DEVELOPMENT PROJECT FILE

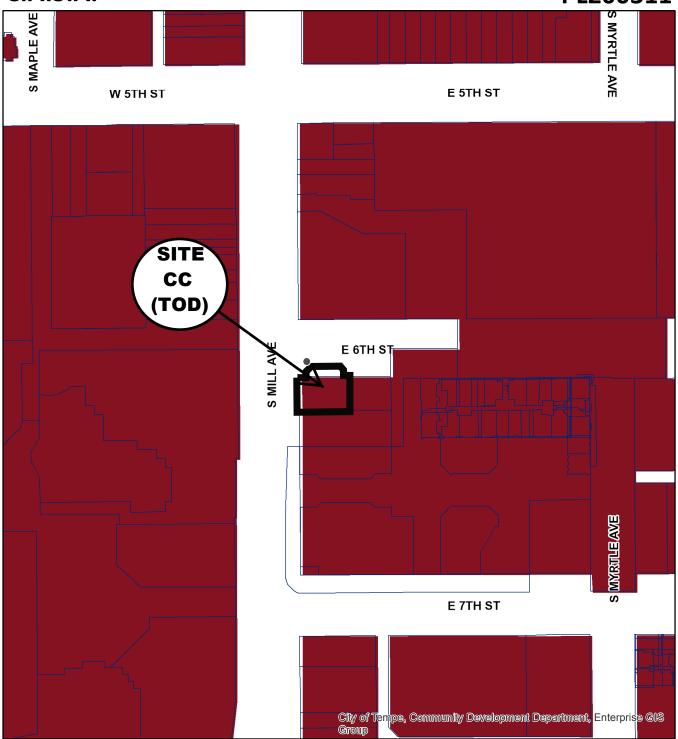
for C.A.S.A. (PL200311)

ATTACHMENTS:

- 1. Location Map
- 2. Aerial
- 3-7. Letter of Explanation
- 8. Site and Floor Plan
- 5. Elevations



C.A.S.A. PL200311





City Center (CC)



C.A.S.A. PL200311



Aerial Map





5 E. 6TH STREET TEMPE, AZ 85281

PROJECT NARRATIVE

USE PERMIT FOR EXPANSION OF LIVE ENTERTAINMENT AND MINOR DEVELOPMENT PLAN REVIEW

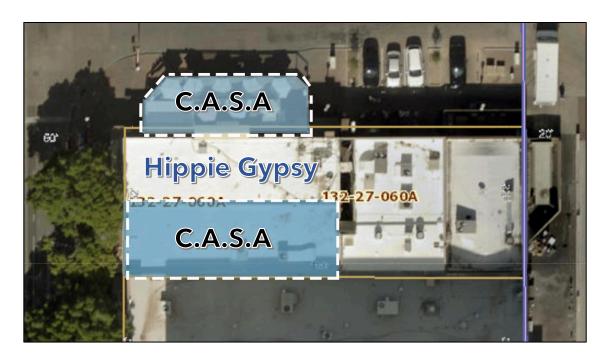


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P.O. Box 1833, Tempe, Arizona 85280-1833 ★ T: (480) 921-2800 ★ E: charles@huellmantel.com

REQUEST TO EXPAND USE PERMIT FOR BAR AND LIVE-ENTERTAINMENT

C.A.S.A. is a local business at the corner of 6th Street and Mill Avenue (5 East 6th Street). The current C.A.S.A. space currently sandwiches the former "Hippie Gypsy" retail space as can be seen below:

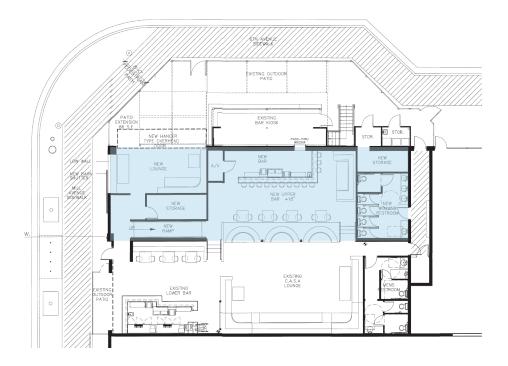


On April 15, 2014, the City of Tempe Hearing Officer originally approved a Use Permit (ZUP13101) to allow outdoor live entertainment at C.A.S.A., then addressed 15 East 6th Street.

On May 18, 2016, the Tempe Hearing Officer approved a Use Permit (PL160137) to allow live indoor music / entertainment on site and to allow a Series 6 bar license at the C.A.S.A. at 603 South Mill Avenue. Both C.A.S.A. locations are shown in blue above.

The restaurant and bar has operated successfully for the last few years but in order to meet demand, C.A.S.A is expanding the business into the adjoining space between the two C.A.S.A spaces into the area that was previously known as "Hippie Gypsy".

Condition of Approval #4 for PL160137 states that, "Any intensification or expansion of the use shall require a new Use Permit." Per this condition, we would like to apply for a new Use Permit to expand the C.A.S.A. bar at 5 East 6th Street to connect to the other existing C.A.S.A. bar at 603 South Mill Avenue. The site plan below shows the new C.A.S.A. floor plan in blue, connected to the two existing bar spaces:



The expanded C.A.S.A. bar and live entertainment will have the same operator (Scott Price) and the same uses as the existing C.A.S.A. (bar space, food service, music and entertainment). We are simply expanding the space. The new space will include additional bar area, lounge area, seating and restrooms. The additional space will open up to the existing outdoor C.A.S.A. bar to the north and will provide patrons the ability to use both the interior and exterior bar area. We are proposing to keep our hours of operations as they are today. The current hours of operation are 10am to 2am.

USE PERMIT

The expansion of the existing Use Permits for bar use and for live **indoor** music and entertainment requires new Use Permits. The Use Permits will conform to the following standards and Zoning and Development Code Criteria Section 6-308(E), as applicable:

a. Any significant vehicular or pedestrian traffic in adjacent areas;

The proposed expansion of the C.A.S.A. will not significantly increase pedestrian or vehicular traffic to the surrounding areas. The business generated by the proposed expansion is expected to come from pedestrians and people who are already patronizing the surrounding businesses and entertainment uses on Mill Avenue, many of which are simply waiting to get into the space. Additionally, the existing building housed the now closed Hippie Gypsy business for decades. As the building is located at the corner of Mill Avenue and 6th Street, the site and surrounding pedestrian amenities have been designed with businesses such as C.A.S.A. in mind.

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 proposed expansion of the C.A.S.A. bar will not create any additional nuisances of odor, dust, gas, noise, vibrations, smoke, heat or glare at any level exceeding ambient conditions as we are simply proposing to expand the existing uses into recently vacated retail space. Since the uses are already exist on both ends, the ambient conditions are not expected to change at all. The existing C.A.S.A. bar works closely with the City of Tempe Police Department to ensure that the business is not a nuisance to Mill Avenue.

c. Contribution to the deterioration of the neighborhood or to the downgrading of property values, which is conflict with the goals, objectives or policies of the city's adopted plans for General Plan;

Rather than contribute to the deterioration of the neighborhood and the downgrading of property values on Mill Avenue, the C.A.S.A. expansion will put new, thriving business in what is currently an empty and vacant retail space in keeping with the goals of the General Plan.

The current COVID-19 pandemic has created a large amount of vacant businesses and buildings. Expansion of this premises will allow patrons to safely enjoy C.A.S.A.

d. Compatibility with existing surrounding structures and uses; and The proposed Use Permit expansion for C.A.S.A. will be compatible with the existing structures and uses. Not much will change since this space is between the existing operation. Mill Avenue was designed to be a lively entertainment destination in Downtown Tempe and the C.A.S.A. expansion will fit in with the entertainment district that is Mill Avenue.

e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.

C.A.S.A. works closely with the City of Tempe Police Department to manage potentially disruptive behavior outside of the premise and employs numerous employees and security personnel to manage the behavior inside the premises. The business has a security plan that had been approved by the Tempe Police Department in place for guidance regarding how to handle any nuisances caused by disruptive guests.

