

CITY OF TEMPE DEVELOPMENT REVIEW COMMISSION

Meeting Date: 11/14/2023

Agenda Item: 4

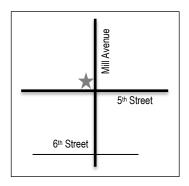
ACTION: Request two Use Permits to allow live entertainment and a nightclub for Bang Bang, located at 420 S Mill Avenue, Suite No. 201. The applicant is Pyramid3 Arizona.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: BANG BANG (PL230288) is a proposed restaurant and nightclub located at 420 S. Mill Avenue in Suite 201. The subject property is located in the City Center Zoning District (CC) and the Transportation Overlay District (TOD). While a restaurant is permitted within the zoning and overlay districts, the applicant is proposing to operate a nightclub and host live entertainment events in the space after the kitchen closes. The request includes the following:

ZUP230067 Use Permit to allow live entertainment Use Permit to allow a nightclub



Property Owner Century Drive Investments LLC/Royal Oak Road

Applicant Islam Ahmed, Pyramid3 Arizona

Zoning District CC TOD
Building Area 9,266 s.f.

Vehicle Parking No change in parking demand
Bicycle Parking No changes in parking demand

Hours of Operation Restaurant: 4:00 p.m. to midnight, Wednesday-

Sunday

Nightclub: 9:00 p.m. to 1:55 a.m., Friday & Saturday

Building Code Occupancy A2. Restaurants and Nightclubs

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Chris Jasper, Senior Planner (480) 350-8096

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Chris Jasper, Senior Planner Reviewed by: Mailen Pankiewicz, Principal Planner

COMMENTS

The existing suite is currently vacant and was the former site of Gordon Biersch Brewery and Restaurant. No exterior modifications are proposed to the subject site other than the removal and replacement of signage, which is subject to a separate permitting process. Activity on the existing second-story patios will be restricted per the conditions of approval contained within this staff report.

PUBLIC INPUT

No public comments have been received by staff as of the publication of this staff report.

POLICE INPUT

Tempe Police reviewed the case and identified restrictions associated with sound and activity on the outdoor, second-story patio spaces, which have been incorporated into the conditions of approval. A security plan is required for live entertainment uses, and shall be reviewed concurrent with the Building Permit application.

USE PERMIT

The proposed use requires two (2) Use Permits to allow for a nightclub and for live entertainment, respectively, within the CC, City Center District, and within the Transportation Overlay District (TOD).

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

ZUP230067 – Live Entertainment

- Any significant increase in vehicular or pedestrian traffic; Live entertainment activities are not anticipated to generate any additional increase in vehicular or pedestrian traffic as compared to previous uses. The previous tenant, Gordon Biersch Brewery, was approved for live entertainment activities on August 14, 1998, through case number SIP-98.74.
- 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 proposed live entertainment is not anticipated to generate emissions or nuisances exceeding ambient conditions, as it is consistent with existing venues in the downtown area and with previous uses and activities.
- 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 live entertainment use does not conflict with the City's adopted plans, nor will it contribute to the deterioration of the downtown district. The proposed use represents a reinvestment in a vacant suite that is compatible with and complementary of existing dining and entertainment uses downtown.
- 4. Compatibility with existing surrounding structures and uses; Live Entertainment is compatible with existing buildings and uses. In the general vicinity of the project, the following addresses have been approved for a Use Permit for Live Entertainment, or have recently transferred a previously approved Use Permit for Live Entertainment:
 - 526 S. Mill Avenue Darkstar/Trumbull's
 - 601 S. Mill Avenue C.A.S.A.
 - 680 S. Mill Avenue Handle Bar & Grill
 - 401 S. Mill Avenue, Suite 101 Devil's Hideaway
 - 414 S. Mill Avenue, Suite 101 Delicious Factory
 - 740 S. Mill Avenue, Suite 130 House of Tacos
 - 525 S. Mill Avenue Illegal Pete's
 - 410 S. Mill Avenue, Suite 101 Cabin Whisky & Grill
 - 420 S. Mill Avenue, Suite 101 Spinelli's Pizza
- 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 has committed to working with the City of Tempe Police Department to manage potentially disruptive behavior within and outside of the subject location. A security plan shall be required.

ZUP230074 - Nightclub

1. Any significant increase in vehicular or pedestrian traffic; The nightclub is not anticipated to generate any additional increase in vehicular or pedestrian traffic as compared to previous uses. Parking regulations for nightclubs mirror those of bars, and the previous tenant was classified as a bar for parking purposes. As such, no additional traffic or

- parking is anticipated by the change in use.
- 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 proposed nightclub is not anticipated to generate nuisances exceeding ambient conditions, as it is consistent with existing venues in the downtown area and with previous uses and activities. Staff has also identified conditions of approval to mitigate noise generation associated with the nightclub.
- 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 nightclub use does not conflict with the City's adopted plans, nor will it contribute to the deterioration of the downtown district. The proposed use represents a reinvestment in a vacant suite that is compatible with and complementary of existing dining and entertainment uses downtown.
- 4. Compatibility with existing surrounding structures and uses; For the purposes of evaluating land use impacts, the Zoning and Development Code groups bars and nightclubs together. As such, the proposed nightclub is compatible with existing buildings and uses. In the general vicinity of the project, the following addresses have been approved for a Use Permit to allow a bar or nightclub, or have recently transferred a previously approved Use Permit for a bar or nightclub:
 - 501 S. Mill Avenue The Varity Mill Avenue
 - 410 S. Mill Avenue, Suite 101 Cabin Whisky & Grill
 - 402 S. Mill Avenue Ted's Refreshments
 - 601 S. Mill Avenue C.A.S.A.
 - 526 S. Mill Avenue Darkstar/Trumbull's
 - 680 S. Mill Avenue Handle Bar & Grill
- 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 has committed to working with the City of Tempe Police Department to manage potentially disruptive behavior within and outside of the subject location. A security plan is also required with the live entertainment use.

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. This request meets 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.

- The Use Permits are valid only after 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 live entertainment use shall take place inside only. No live entertainment will be allowed outside
- 4. Live entertainment to cease at 1:55 a.m. daily.
- 5. Hours of operation to end no later than 1:55 a.m. daily.
- 6. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan within 30 days of this approval. Contact 480-858-6409 before December 14, 2023.
- 7. Doors to the patio areas shall not be propped open after 10:30 p.m. on a daily basis.

- 8. Outdoor speakers shall only be allowed above patio areas and must be directed in a downward manner.
- 9. No speakers are permitted on the exterior of the storefront.
- 10. Indoor speakers located near windows and doors shall be directed inward, away from the exterior of the building.
- 11. Live entertainment broadcasts to the outdoor patio speakers shall begin no earlier than four o'clock in the afternoon (4:00 p.m.), daily, and end no later than midnight (12:00 a.m.) daily, and shall be on a volume-controlled system such that the broadcasted audio levels are maintained at a reasonable level. Outdoor speakers shall be limited to ambient background music for patio patrons, which are to be provided by a stereo or recorded system with a volume control, during all other times of business operation.
- 12. The second-story patio area shall be closed to the public when the business transitions to a nightclub.
- 13. All rear exit doors require a security vision panel. Details to be approved through Building Safety Plan Review.

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 Bang Bang 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.
- 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.

SIGNS: Separate plan review process is required for signs in accordance with requirements of ZDC Part 4 Chapter 9 (Signs). Refer to www.tempe.gov/signs.

POLICE DEPARTMENT SECURITY REQUIREMENTS:

• If the development includes a use listed in <u>City Code Section 26-70(c)</u>, the Owner is required to prepare a security plan with the Police Department. The architect should be involved to verify any modification that would require design revisions. To avoid revisions to permitted construction documents, initial meetings with the Police Department regarding the security plan are recommended before building permits are issued. At a minimum, the Owner shall contact the Police Department to begin security plan process approximately eight weeks prior to receipt of certificate of occupancy.

HISTORY & FACTS:

1900 Subject building is constructed.

February 9, 1996

The City Council approved a request by MCW Holding Inc. for a Site Plan (SIP96.03) for the Miller Building at 420 S. Mill Avenue, which included a Use Permit to allow non-residential uses in the CCD Commercial District, a Use Permit to provide parking in Hayden Square Parking Association, and multiple Variances to:

- Reduce the front yard setback from 10 feet to 0 feet
- Reduce the street side yard setback from 10 feet to 0 feet
- Increase the building height from 35 feet to 40 feet, 8 inches (46 feet to top of parapet, and 49 feet to the top of the corner turret)
- Reduce the minimum required front and street side landscaping from 15 feet to 0 feet
- Reduce the minimum required on-site landscaping from 15% to 0%
- Allow veranda support columns to exceed the 2-foot height limit in the 33-foot corner cutoff triangle.

August 14, 1998

The City Council approved a request by Gordon Beirsch Brewery Restaurant for a Use Permit to allow live entertainment.

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



DEVELOPMENT PROJECT FILE

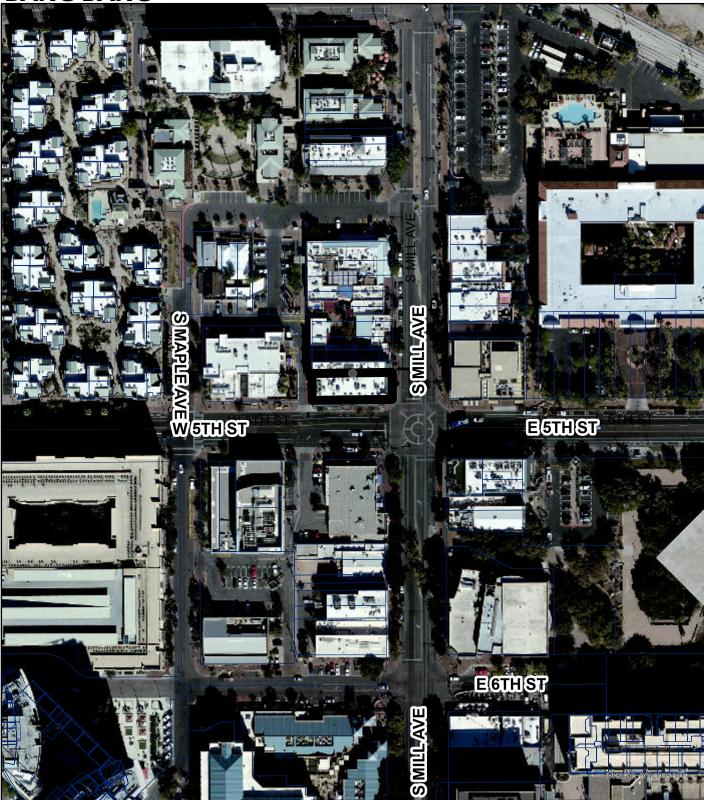
for BANG BANG (PL230288)

ATTACHMENTS:

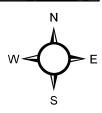
- 1. Location Map
- 2. Aerial
- 3-5. Letter of Explanation
- 6-8. Floor Plan and Operational Details
- 9-11. Sound Study



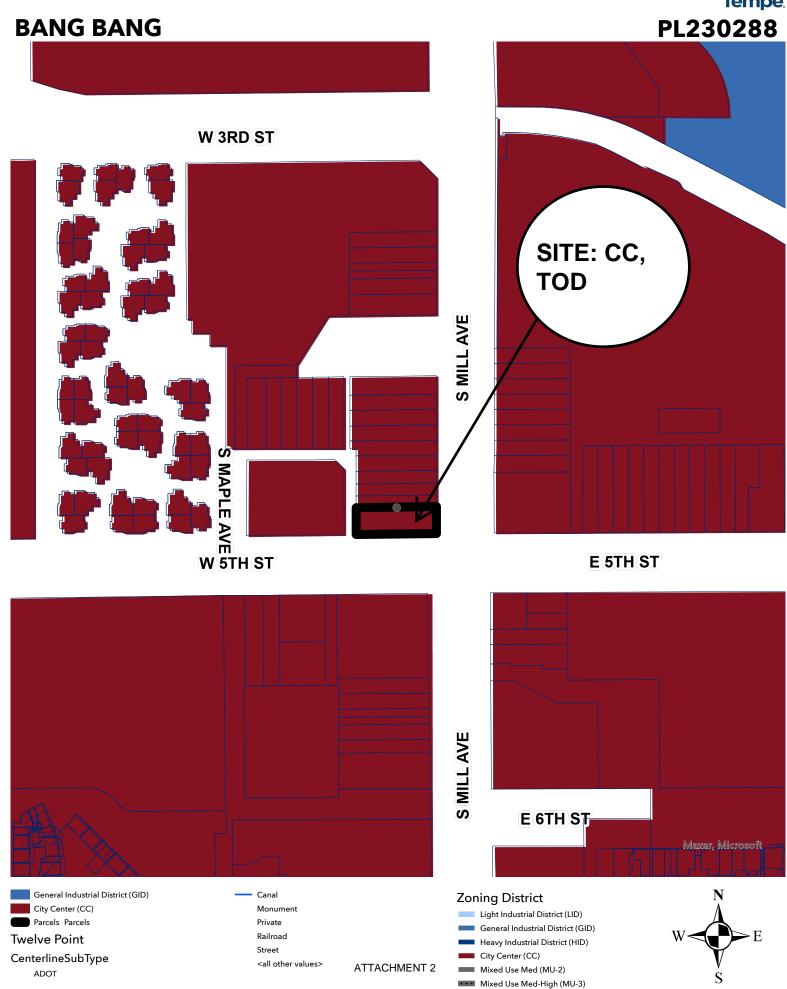
BANG BANG PL230288



Aerial Map







Pyramid3 Arizona, LLC BANG BANG 420 S Mill Ave. Ste 201 Tempe, AZ 85281 November 6, 2023

City of Tempe
City Planning Department

To whom this may concern,

I am writing to provide you with detailed information about our establishment, BANG BANG, which is located at 420 S Mill Ave. Ste 201 Tempe, AZ 85281. BANG BANG operates as a restaurant and nightclub, contributing to the vibrant social and cultural scene in our community.

Use of the Establishment:

BANG BANG functions primarily as a restaurant from Wednesday to Sunday, with operating hours from 4:00 PM to 12:00 AM. During these hours, we serve a diverse menu of culinary delights, providing a unique dining experience for our patrons.

Additionally, BANG BANG transforms into a nightclub, operating exclusively on Friday and Saturday nights from 9:00 PM to 1:55 AM. This offers our community a lively and engaging nightlife experience that enhances our city's cultural offerings.

Attached a photo for your reference of the layout and transition during dining hours vs "nightclub" hours. For the restaurant the entire restaurant and bar side will be sat with dining tables as you can see in the photo attached. On the one side it will always strictly be a dining area for dinner service only. On the other side it will be dining with a bar. On this side with the bar there will be tables that are on wheels for convenience of moving to clear out this space when dinner is over and the nightclub operations begins. We have earlier reservations on the bar/club side ending around 9-930pm. Once dinner is complete the tables on that bar/club side will all be moved to the dining side for storage. This will create an open space in front of the dj area and bar which will be deemed as the "dance floor". This is the same concept and procedure we have at our club in San Diego.

Number of Employees:

We anticipate employing approximately 60-75 individuals who will contribute to the smooth operation of BANG BANG. Our team is dedicated to providing exceptional service, ensuring the safety and enjoyment of our guests.

Collaboration with Tempe Police Department:

To ensure the safety and security of our patrons and the surrounding community, we have engaged in extensive discussions with the Tempe Police Department. Together, we are

developing a comprehensive security plan that addresses potential challenges and proactively mitigates any concerns. This collaboration reflects our commitment to responsible business operations and our dedication to being a positive addition to the community.

Building Setbacks and Development Standards:

Regarding building setbacks and development standards, we are in compliance with all relevant regulations and codes established by the city. Any proposed changes or adjustments will be made in accordance with city ordinances and will prioritize the well-being of our neighbors and the overall community. These changes, if necessary, will be discussed and approved through appropriate channels.

We are excited about the opportunity to contribute positively to the surrounding area and to create a welcoming environment for residents and visitors alike.

If you require any additional information or would like to discuss any specific aspects further, please do not hesitate to contact us.

Thank you for considering our establishment's impact on the surrounding area, and we look forward to working closely with the City Planning Department to ensure the continued success of BANG BANG.

Letter of explanations answers by letter:

- a. Use will not generate any additional traffic compared to previous uses.
- b. Use will not cause any nuisance arising from emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions.
- c. We plan on positively contributing to the value of the property and plan on paving the way for a more upscale development of the area.
- d. Uses of compatibility with existing surrounding structures will not be affected.
- e. For club operations starting at 9pm on nights when there are Djs. We will range from 11-15 security guards depending on business levels that will be operating inside and outside the venue to ensure there is no disruption inside or outside by following proper security plans in tact.

Answer to question in regards to parking at the bottom of the document:

We are under the impression nothing is needed in regards to parking. However, I have my property manager looking into this to confirm. We inquired on this a few months back and heard back from a Hansen with the following answer:

Per our Planning Director, since:

- 1. This site predates the revised Downtown Tempe parking ordinance, and
- 2. There is no proposed change in use No update(s) to the Shared Parking Agreement will be required.

Page 7/29 COMMENTS

Identify any and all soundproofing measures to be included with the tenant improvement.

We have contracted a sound engineer for sound proofing measures and to keep all sound within suite level.

- 1. Permanent sound generating equipment will be added to the tenant improvement. This equipment is added for dinner, nightclub, and gamedays.
- 2. Both outdoor patio spaces labeled will stay but only used for dinner service.
- 3. Patio doors will only be open to enter and exit patio spaces. There is a small speaker being installed but no sound will be played outside after dinner service.

Live Entertainment:

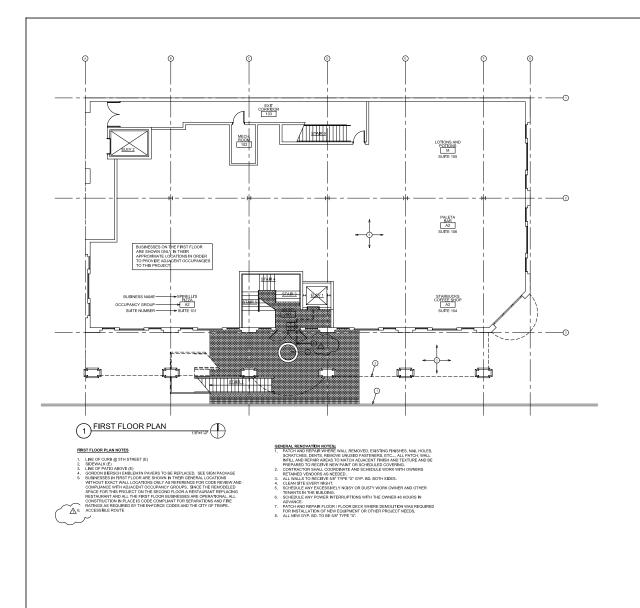
- a. Use will not generate any additional traffic compared to previous uses.
- b. Use will not cause any nuisance arising from emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions as all activity will be inside our establishment.
- c. We plan on positively contributing to the value of the property and plan on paving the way for a more upscale development of the area.
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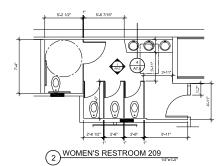
Nightclub:

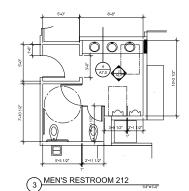
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Sincerely,

Islam Ahmed President













2312 W. MANDALAY LN. PHOENIX, AZ 85023 602-228-4998

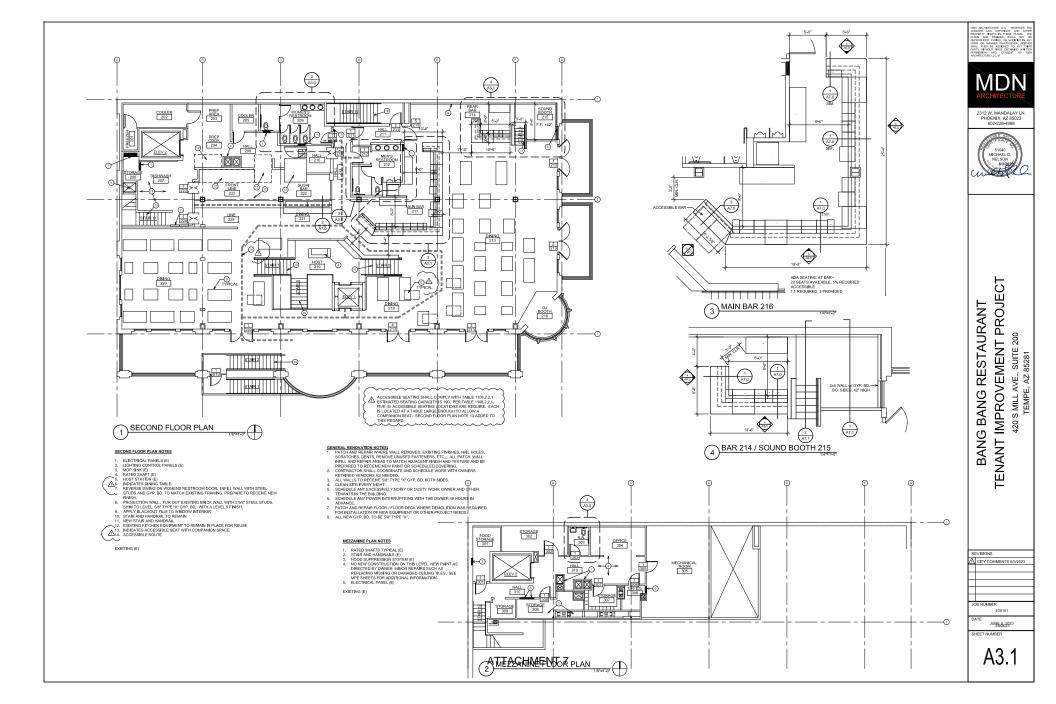
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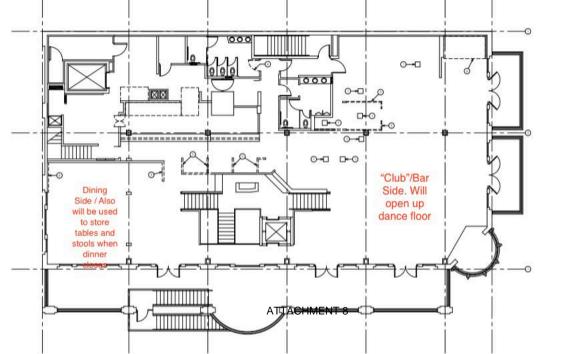
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JOS NUMBER
230101

DATE
JUNE 9, 2023

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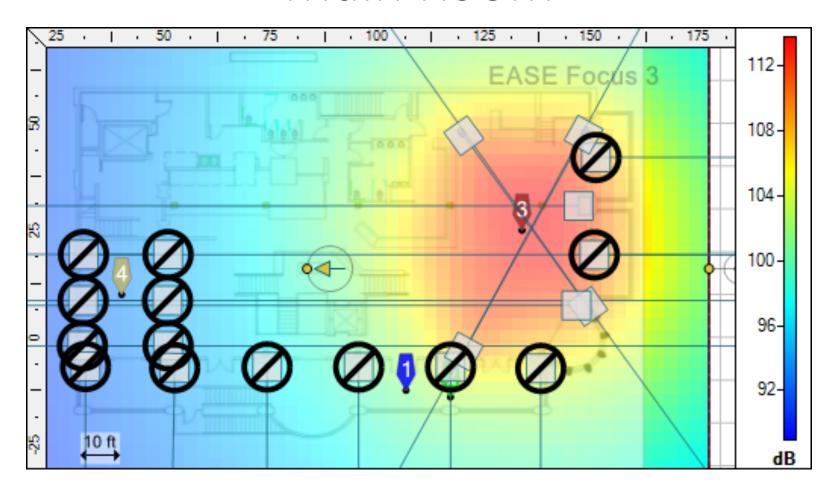


Bang bang

SPL Study Pioneer



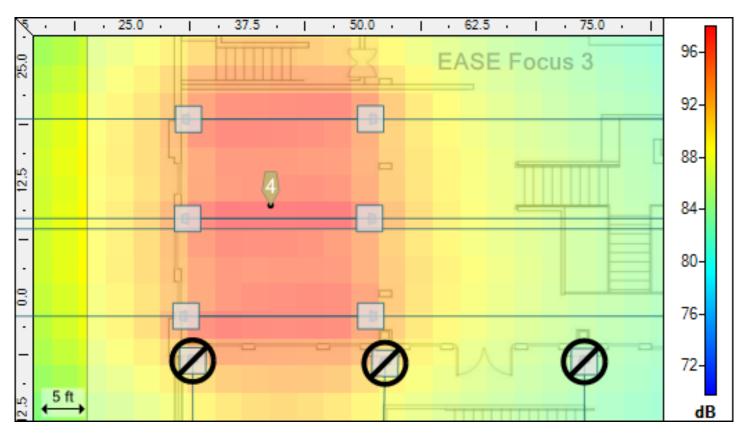
Main Room



SPL coverage will be 111db A weighted

ATTACHMENT 10

Dinning Room



SPL coverage will be 92db A weighted