

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 08/24/2021
Agenda Item: 5**

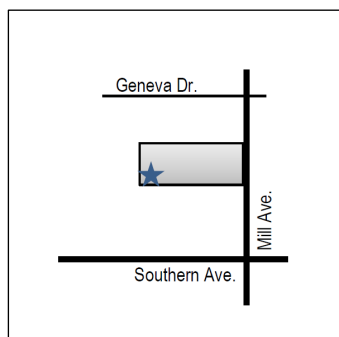
ACTION: Request two (2) Use Permits to allow 1) a bar and 2) entertainment (live singing, dancing, and music) in the CSS zoning district for NETTA CHETA'S, located at 3224 South Mill Avenue. The applicant is Yracheta Group, LLC.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: NETTA CHET'AS (PL210221) is a proposed breakfast and lunch restaurant that will be rented for private events in the evenings. The business will operate under a Series 6 liquor license, which requires a use permit for a bar, and private events may include live singing, dancing, and music. The business will occupy three (3) suites with addresses 3224-3228 South Mill Avenue. The request includes the following:

- ZUP21059 Use Permit to allow a bar
- ZUP210060 Use Permit to allow entertainment (live singing, dancing, and music)



Property Owner	Mill Plaza Investors, LLC
Applicant	Ronetta Andersen, Yracheta Group, LLC
Zoning District	CSS (Commercial Shopping and Services)
Building Area	4,800 s.f.
Vehicle Parking	494 total spaces provided, 154 provided on this site (438 total min. required, 233 min. required for this site)
Bicycle Parking	XX spaces provided on this site (36 min. required for this site)
Hours of Operation	6 a.m. to 2 a.m. daily (proposed)

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Karen Stovall, Senior Planner (480) 350-8432

Department Director: Shelly Seyler, Interim Community Development Director
 Legal review by: N/A
 Prepared by: Karen Stovall, Senior Planner
 Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

The business is proposed within a suite in the Fry's Mill Plaza at the northwest corner of Mill and Southern Avenues. To the west of the business, the site is bordered by a self-storage facility and, across an alley, by single-family residential uses.

Netta Cheta's is a breakfast and lunch restaurant operating from 6 a.m. to 2 p.m. that will be rented out for private events in the evenings. A new dining patio is proposed on the front (east side) of the building, which is adjacent to the parking lot. Although it will be run as a restaurant and banquet hall, the business will operate under a Series 6 (bar) liquor license, which requires a use permit. The applicant lists possible private events as birthday parties, bridal showers, graduation parties, business meetings, holiday parties, and paint nights. Because these private events may include singing, dancing, and live music, a use permit is required for entertainment. The proposed ending time for private events is 2 a.m. A condition is included to limit business hours during weeknights.

Over the years, several restaurants have moved into the commercial center, but the parking file maintained by the City was not updated. The center shares vehicle parking with the Fry's retail store to the south, and the combined quantity of vehicle spaces is sufficient to comply with the quantity required by the code. However, the applicant has not identified the quantity of bicycle parking spaces provided, and 36 spaces are now required for the current combination of tenants. A condition is included in the staff recommendation to provide evidence of compliance with the minimum bicycle parking requirement prior to the use commencing, which may require the property owner to add bicycle racks on the site.

POLICE INPUT

The Police Department representative reviewed the applicant and did not find any concerns. A condition of approval requires that a security plan must be approved before the use commences.

USE PERMIT

The proposed bar and entertainment uses require Use Permits within the CSS zoning district.

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

1. *Any significant increase in vehicular or pedestrian traffic*; two of the three suites this business will occupy were previously occupied by a restaurant, and the third by a retail use. Minor expansion of the restaurant use with private events in the evening may slightly increase traffic to the site; however, it is at the intersection of two arterial streets with no vehicular access to adjacent neighborhoods. Any increase in traffic is not expected to negatively impact the adjacent streets or other businesses in the center.
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 applicant proposes entertainment uses, including singing, dancing, and live music. All entertainment activities will occur inside the building, near the east (front) end of the suite, so sound should not travel toward the residential uses to the north and west.
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 use will occupy vacant suites within an existing commercial center, which supports the General Plan Land Use goal of promoting neighborhood maintenance and enhancement.
4. *Compatibility with existing surrounding structures and uses*; the center includes a grocery store, gas station, restaurants, and service land uses. The proposed business should be compatible with surrounding uses in the center. The only exterior modification to the site is a proposed patio on east side of the building, which should not interfere with activity elsewhere on the site.
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 proposed restaurant and banquet hall uses are not expected to cause disruptive behavior; however, a security plan is required to be approved before the business operates.

REASONS FOR APPROVAL:

Based on the information provided by the applicant and the above analysis, staff supports approval of the requested Use Permits. These 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.

CONDITIONS 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 a Building Permit has been obtained, the required inspections have been completed and a Final Inspection has been passed.
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. Entertainment uses shall take place inside only. No entertainment activities are permitted outside.
4. Entertainment uses for events occurring Sunday-Thursday shall cease by 12 am (midnight). Events occurring Friday-Saturday shall cease by 1:55 am.
5. The applicant shall contact the City of Tempe Crime Prevention Unit for a security plan. Contact the unit at 480-858-6330. The security plan shall be approved prior to commencement of the use.
6. **Provide evidence of bicycle parking space conformance to the Community Development Department prior to the Use Permits becoming effective. Conformance may require the addition of bicycle racks to comply with the minimum 36 spaces required by the Zoning Ordinance.**

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 NETTA CHETA'S 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 480-350-4311.
- 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:

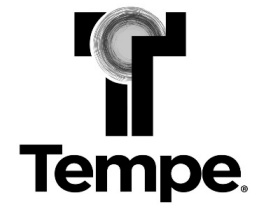
None relevant to this case.

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

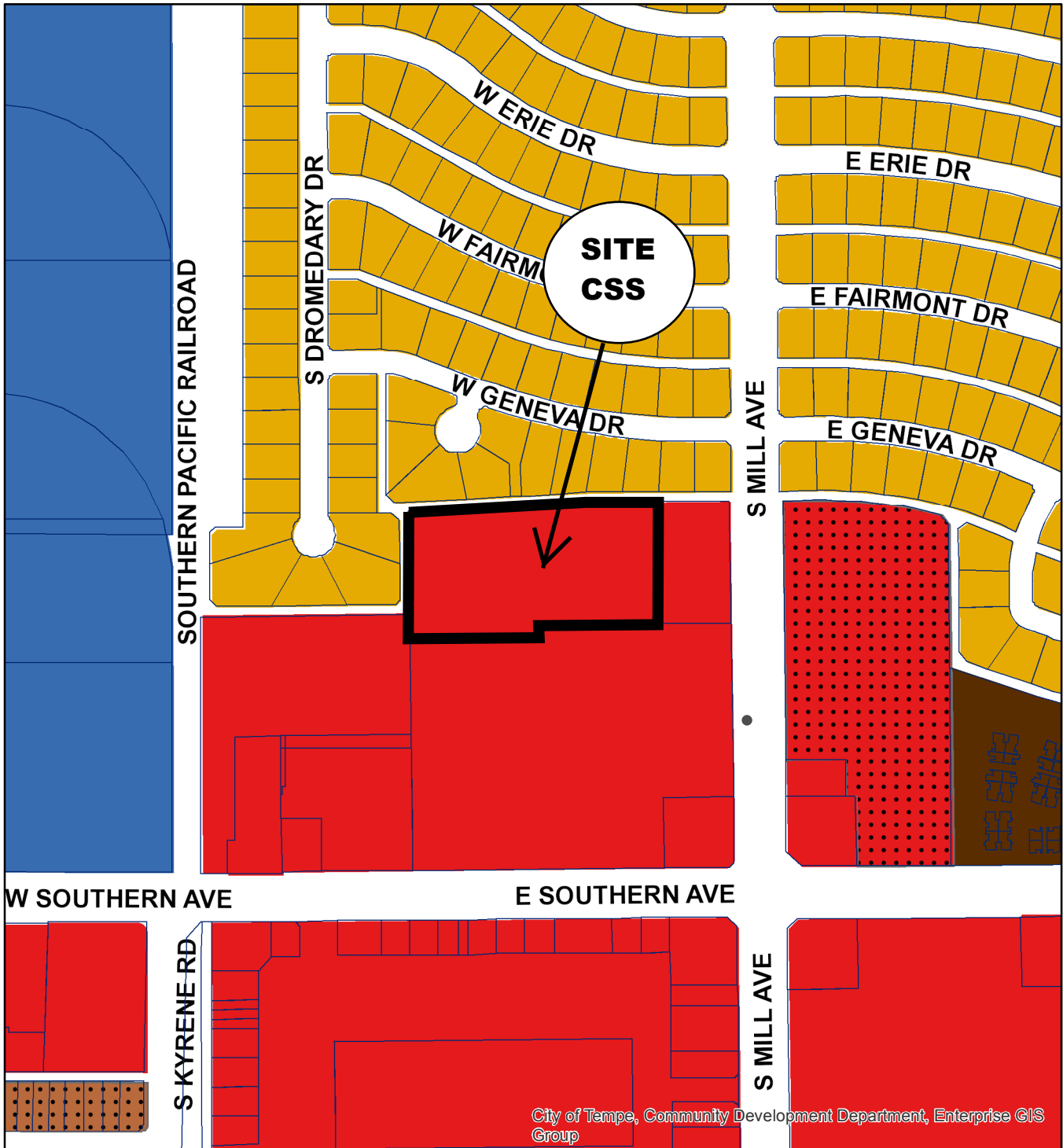


DEVELOPMENT PROJECT FILE

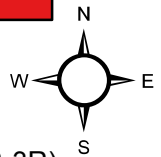
for
NETTA CHETA'S
(PL210221)

ATTACHMENTS:

1. Location Map
2. Aerial
- 3-4. Letters of Explanation
5. Parcel Map
6. Aerial with suite identified
7. Floor Plan
- 8-9. Site Context Photos



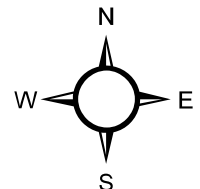
City of Tempe, Community Development Department, Enterprise GIS Group



- General Industrial District (GID)
- Single-Family Residential (R1-6)
- Commercial Shopping and Services (CSS)
- Multi-Family Residential Restricted (R-3R)
- Planned Commercial Center Neighborhood (PCC-1)
- Multi-Family Residential General (R-4)



Aerial Map



June 28, 2021

To Whom It May Concern:

This is a letter of explanation to acquire a use permit for live entertainment for our new business, Netta Cheta's on Mill. It is a breakfast and lunch restaurant with special events in the evenings. This includes birthday parties, bridal showers, graduation parties, business meetings, holiday parties, paint nights, etc.

Since occasionally an event will require music, i.e.; DJ, band, personal playlists from stereo, we are requesting a use permit for live entertainment. We have a section of our floor assigned for music. I have highlighted this area on our floor plan. We will not book any live entertainment outdoors, therefore, it does not violate any noise ordinances. Our hours of operation for daily food service is 6am-2pm. Hours for events will be determined by the event but never to extend past 2am, which would be a rare occasion.

Our special occasions will NOT be detrimental to persons residing or working in the vicinity or to adjacent properties, neighborhoods, or to public welfare as this entertainment is inside the building and cannot be heard outside of our licensed premises. It conforms to the following criterion as follows:

- A. It does not interfere with any vehicular or pedestrian traffic as it is INSIDE our building.
- B. There are no nuisances arising from odor, smoke, dust, noise, heat, or glare other than the ambient in nature because it is INSIDE our building.
- C. It does not contribute to the deterioration of the neighborhood or decrease property value. It has, to the contrary, been requested by several Tempe residents, as we do not currently have many options for affordable venues.
- D. It is compatible with existing structure as we are utilizing our current space for any entertainment.
- E. We absolutely have control over any disruptive behavior as we have policies in place along with security available if necessary. However, our events will not be loud, obnoxious, club-type events.

If any instances of disturbances should arise, our staff is trained to handle any given situations. Our goal is peaceful, fun gatherings.

Sincerely,

Ronetta Andersen

Owner, Netta Cheta's on Mill

Jul 23, 2021

To Whom It May Concern:

This is a letter of explanation to acquire a use permit for a bar for our new business, Netta Cheta's on Mill. It is a breakfast and lunch restaurant with special events in the evenings. This includes birthday parties, bridal showers, graduation parties, business meetings, holiday parties, paint nights, etc.

Although we have a series 6 liquor license which is typically used for a bar, we are using it for our restaurant with special events. This eliminates a food to liquor audit that a restaurant license would require. Since legally we could operate as a bar, I am required to apply for a use permit for a bar. Our main hours of operation will be 6am-2pm with special event hours determined by the need of the customer, never to extend past 2am.

Our special occasions will NOT be detrimental to persons residing or working in the vicinity or to adjacent properties, neighborhoods, or to public welfare as this entertainment is inside the building and cannot be heard outside of our licensed premises. It conforms to the following criterion as follows:

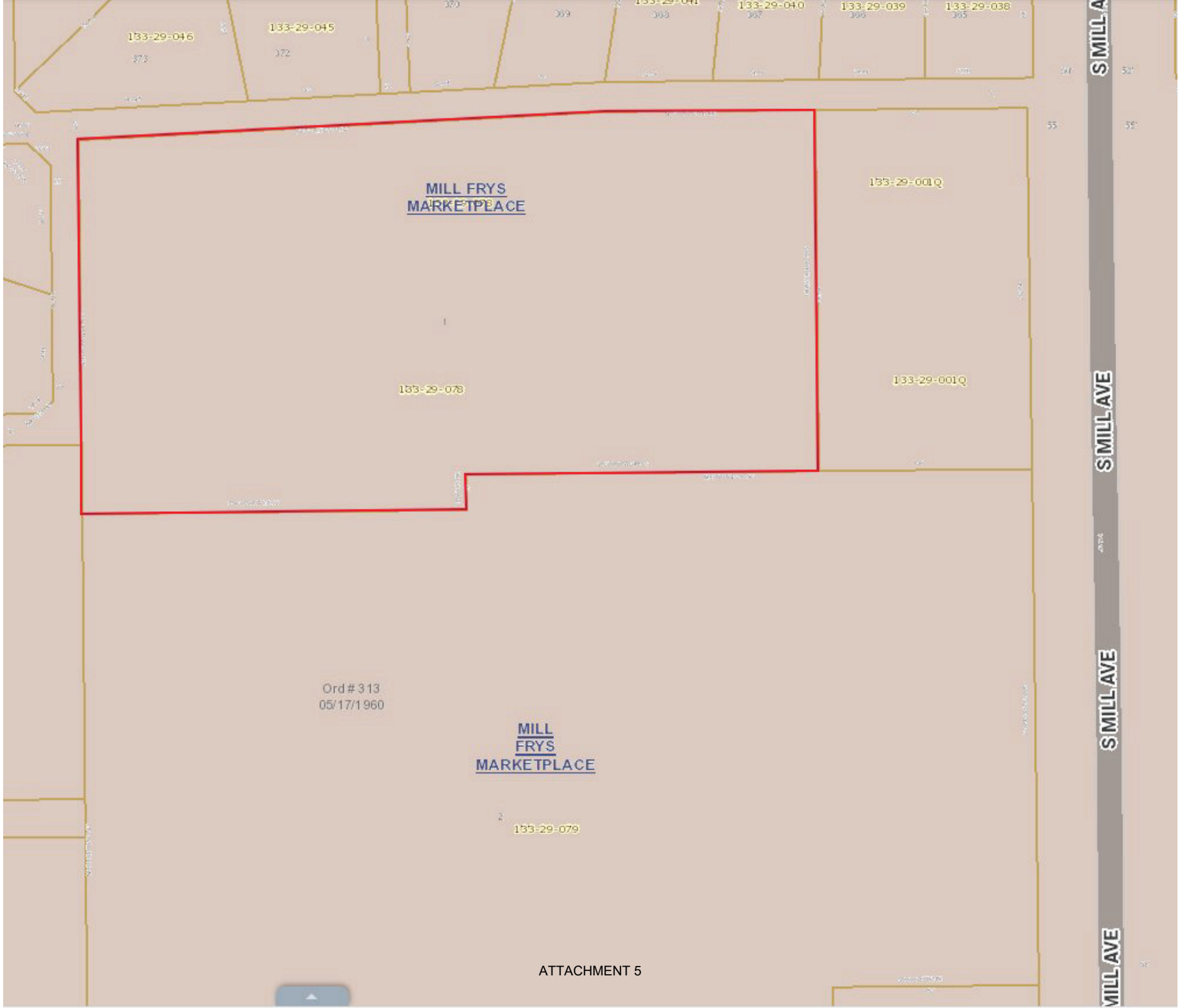
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Ronetta Andersen

Owner, Netta Cheta's on Mill



133-29-046

133-29-045

133-29-041

133-29-040

133-29-039

133-29-038

MILL FRY'S
MARKETPLACE

133-29-001Q

133-29-078

133-29-001Q

Ord # 313
05/17/1960

MILL
FRY'S
MARKETPLACE

2
133-29-079

SIMILL AVE

SIMILL AVE

SIMILL AVE

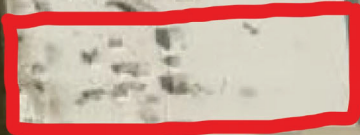
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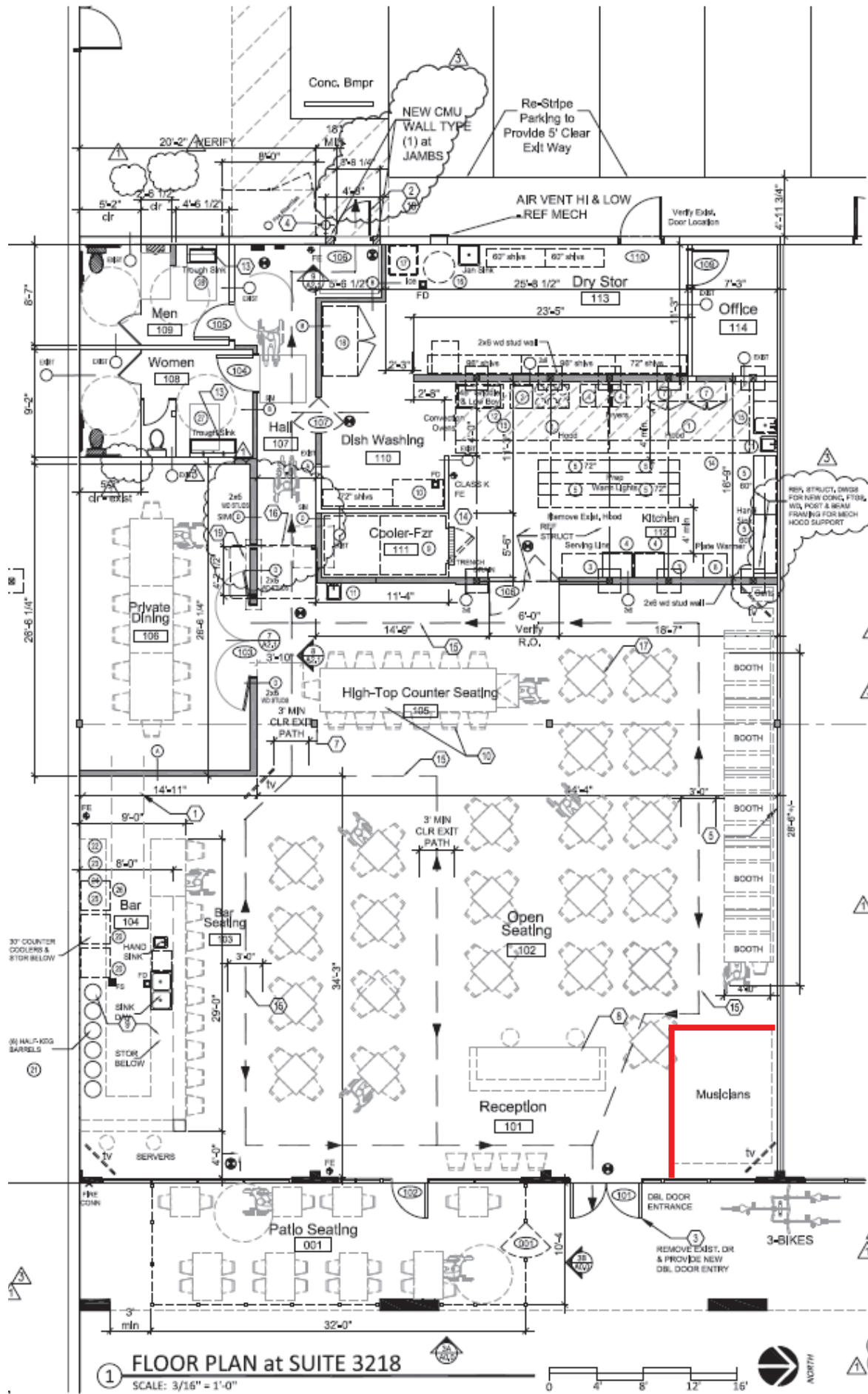


4840 sf

Suites

3224, 6, +8





1 FLOOR PLAN at SUITE 3218
SCALE: 3/16" = 1'-0"



