

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 02/14/23
Agenda Item: 3**

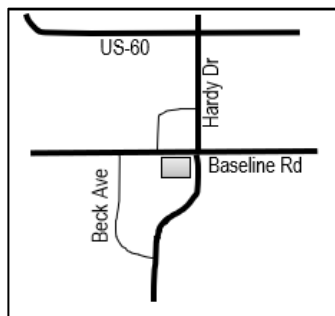
ACTION: Request a Use Permit to allow a tobacco retailer for STOGIES, located at 925 West Baseline Road. The applicant is Antwan Karabet Masrelian.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: STOGIES (PL220327) is requesting a Use Permit to allow a tobacco retailer, including the sales of tobacco, cigars, and tobacco accessories. The proposed use would be located within Unit 101 of the existing Pepperwood Pointe commercial center. The request includes the following:

ZUP220072 Use Permit to allow a tobacco retailer in the CSS zoning district.



Property Owner	Irwin Pastemack, Pepperwood Pointe
Applicant	Antwan Masrelian, STOGIES
Zoning District	CSS
Unit Area	3,283 s.f.
Vehicle Parking	No increase in demand
Bicycle Parking	No increase in demand
Hours of Operation	9 a.m. to 9 p.m. daily

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Sydney Deitering, Planning Technician (480) 350-8942

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Sydney Deitering, Planning Technician

Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

The site is within Unit 101 of the existing Pepperwood Pointe commercial shopping center, located at the southwest corner of Baseline Road and Hardy Drive. The proposed location is in conformance with Section 3-423 – Use Separation Requirements, which prohibits tobacco retailers from being located on a lot within 1,320 feet from the lot line of a charter school, private school, or public school, which provides elementary or secondary education. The applicant was made aware of the tobacco initiative and proposed flavored vape ban.

PUBLIC INPUT

On February 3, 2023, Staff received one phone call inquiry regarding the separation requirements for tobacco retailers. Staff explained that separation requirements refer to the distance between smoke shops and any school that provides elementary or secondary education, not other smoke shops. The caller was satisfied and indicated that there were no concerns with Stogies.

USE PERMIT

The proposed use requires a Use Permit for a tobacco retailer 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*; the proposed use is located within an existing commercial center and a significant increase in vehicular or pedestrian traffic is not expected.
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 use is not expected to cause any nuisances.
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 use conforms with Section 3-423 – Use Separation Requirements, and is a permitted use in the CSS zoning district subject to a Use Permit.
4. *Compatibility with existing surrounding structures and uses*; the proposed use is compatible with the existing businesses in the commercial center.
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 is expected to monitor customer behavior to have adequate control of disruptive activity inside and outside the premises.

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 Permit. 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.

1. The Use Permit is 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 Permit is 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. Hours of operation to begin no earlier than 9:00 AM and to end no later than 9:00 PM.

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 STOGIES 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.
- This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
- The owner/management shall adhere to the City Adopted International Mechanical Code.
- The gross sale of beverage and snack items may not exceed that of tobacco and hookah products for the hookah lounge tax license.
- Music, sound, or live entertainment shall not violate the City of Tempe Noise Ordinance.

HISTORY & FACTS:

Previous Use: Pink Nails Wax & Spa

ZONING AND DEVELOPMENT CODE REFERENCE:

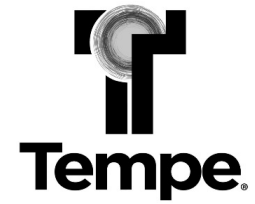
[Section 3-202, Permitted Uses in Commercial and Mixed-Use Districts](#)

[Section 3-423, Use Separation Requirements](#)

[Section 4-203, Development Standards for Commercial and Mixed-Use Districts](#)

[Section 6-308, Use Permit](#)

[Section 6-313, Security Plan](#)



DEVELOPMENT PROJECT FILE

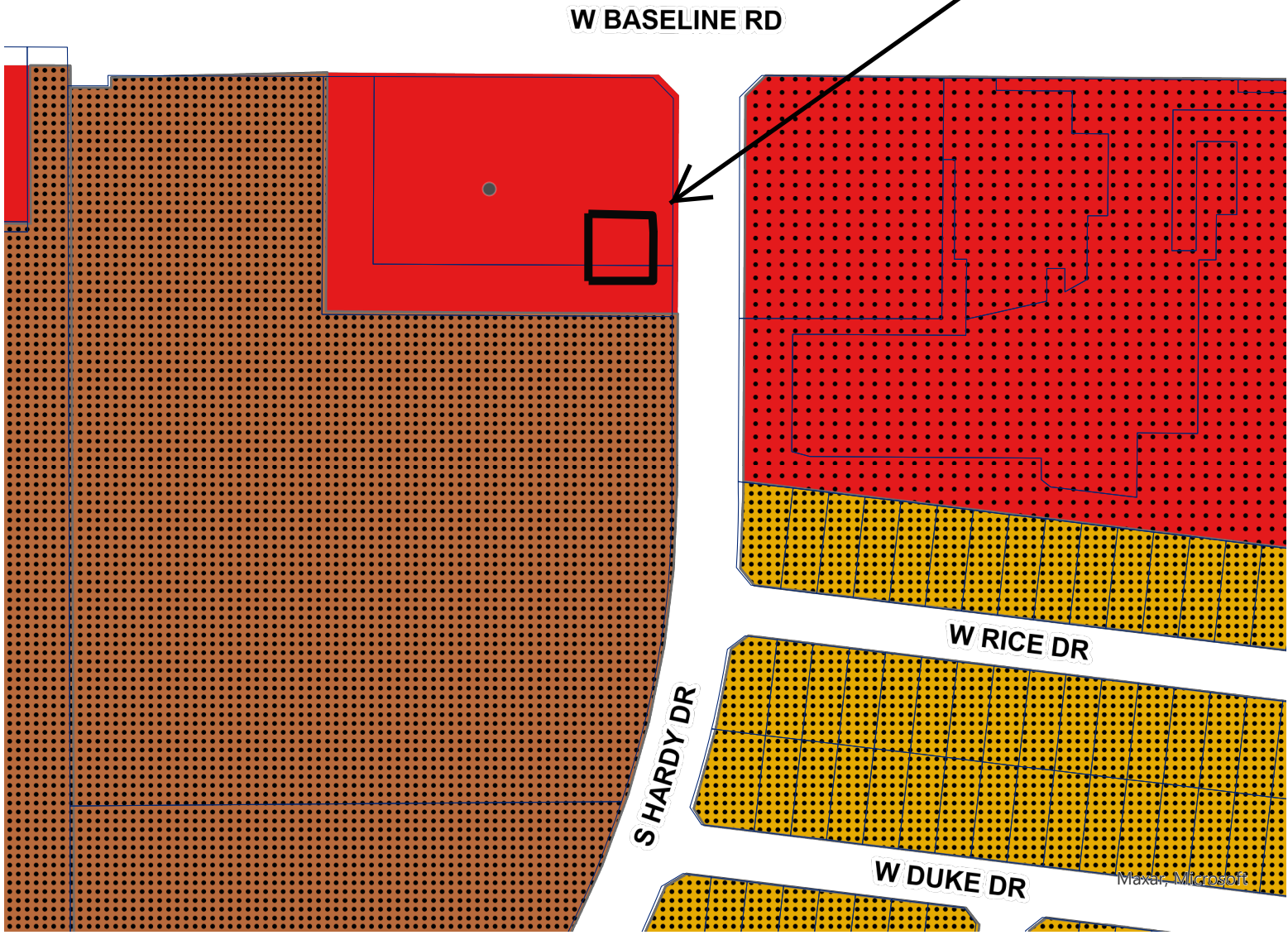
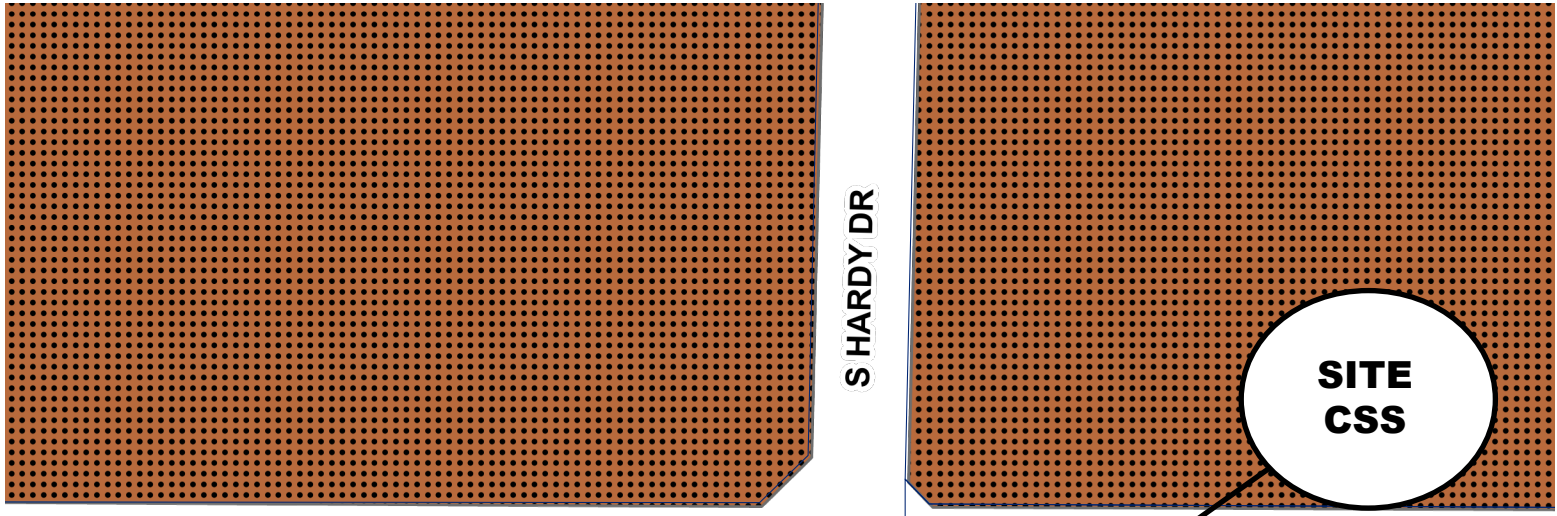
for
STOGIES
(PL220327)





ATTACHMENTS:

1. Location Map
2. Aerial Map
3. Proximity Map
4. Letter of Explanation
5. Site Plan
6. Floor Plan
- 7-10. Context Photos



Stogies



-  Commercial Shopping and Services (CSS)
-  Planned Commercial Center Neighborhood (PCC-1)
-  Single-Family Residential (R1-4)
-  Multi-Family Residential Limited (R-3)

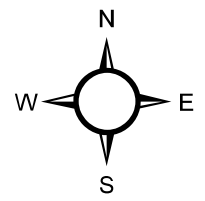




Stogies

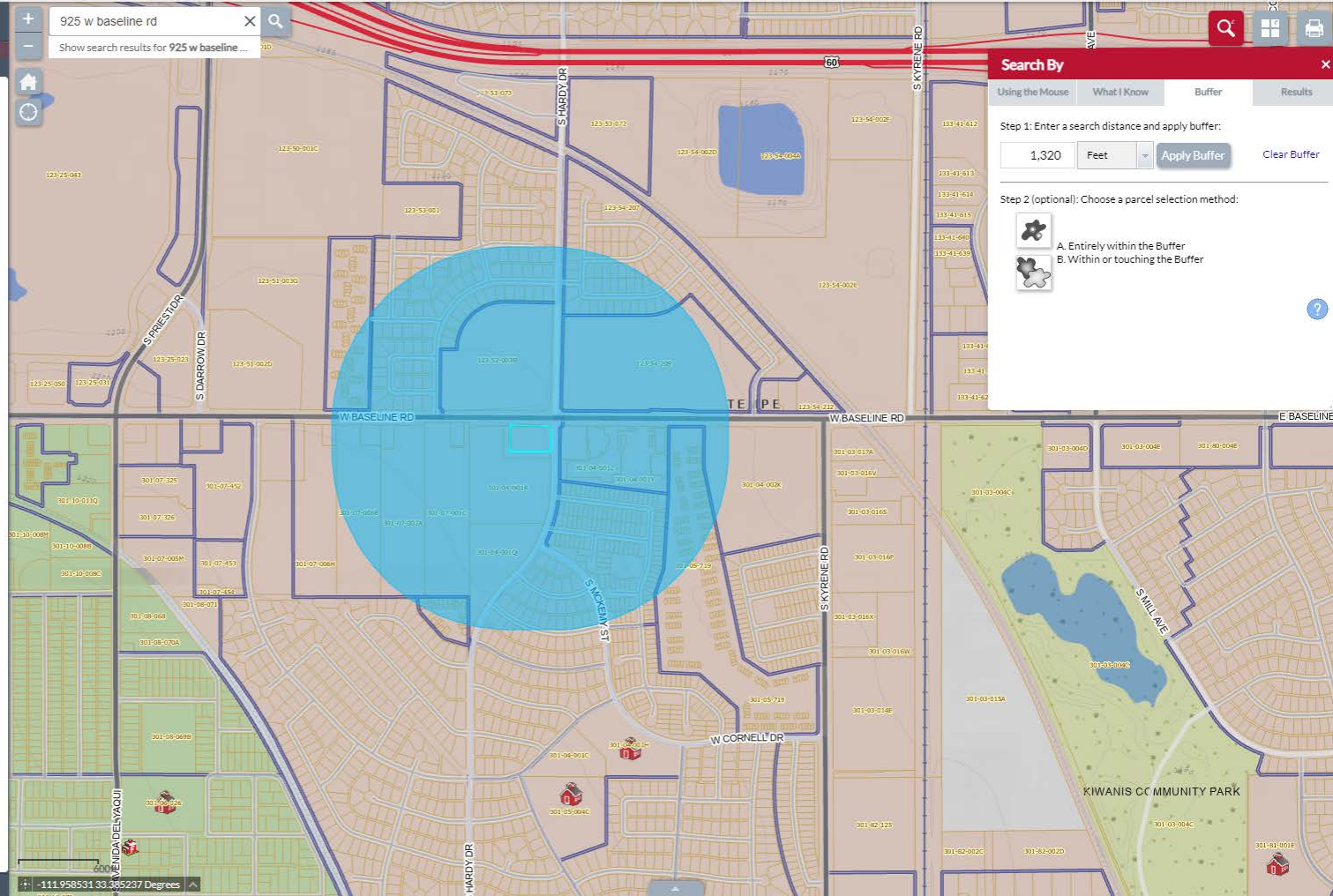


Aerial Map





- Layers
- Search Results: Parcels
 - Sections
 - MapIDs
 - Aerial Flight Dates
 - Annotation
 - Streets
 - Subdivisions
 - Parcels
 - Selectable Layers



Search By

Using the Mouse What I Know Buffer Results

Step 1: Enter a search distance and apply buffer:

1,320 Feet **Apply Buffer** Clear Buffer

Step 2 (optional): Choose a parcel selection method:

- A. Entirely within the Buffer
- B. Within or touching the Buffer

Letter of Explanation

Re: Stogies

925 W Baseline Rd Suite 101

Tempe, Arizona 85283

To Whom It May Concern:

STOGIES will be a retail business engaged in providing our customers with a respectful atmosphere for the purposes of purchasing tobacco and other smoke-related products; vapes, cigarettes, and merchandise. Our business will be open from 9:00 AM until 9:00 PM with at least 1 employee on the premises. Our business operates with strict regard to local and state laws, codes, and mandates. Our customers are exclusively 21 or over. Our business will not infringe on the rights and privileges of our neighbors but also aims to safeguard the respect of their operations by providing a product highly consumed by the demographics surrounding. Our business operation is located beyond the required minimum boundary pertaining to primary, secondary, private, and charter schools. Our business and its location do not cause or assist in the increase of noise pollution, odor, dust, gas, or vibration of the property's current natural state. Further, STOGIES will not initiate or cause the neighborhood surrounding to decrease in safety or value as the products we offer and the environment in which it is sold are executed in a professional manner that stands to protect the integrity of the shopping center, property, and community. Our employees will be delicately selected to protect our inventory and to also protect the innocence of customers entering and exiting the shopping center to drive or walk by STOGIES. We aim to establish a respectful business with exceptional customer service.

THERE WILL BE NO SMOKING INSIDE THE STORE. IT IS RETAIL SPACE ONLY.

Antwan Mesrelian



BMO Harris ATM

Cactus Nails

Walgreens Drug store

925 W Baseline Rd, Tempe, AZ 85283

Pink Nails Spa & Wax

Hike In Phoenix

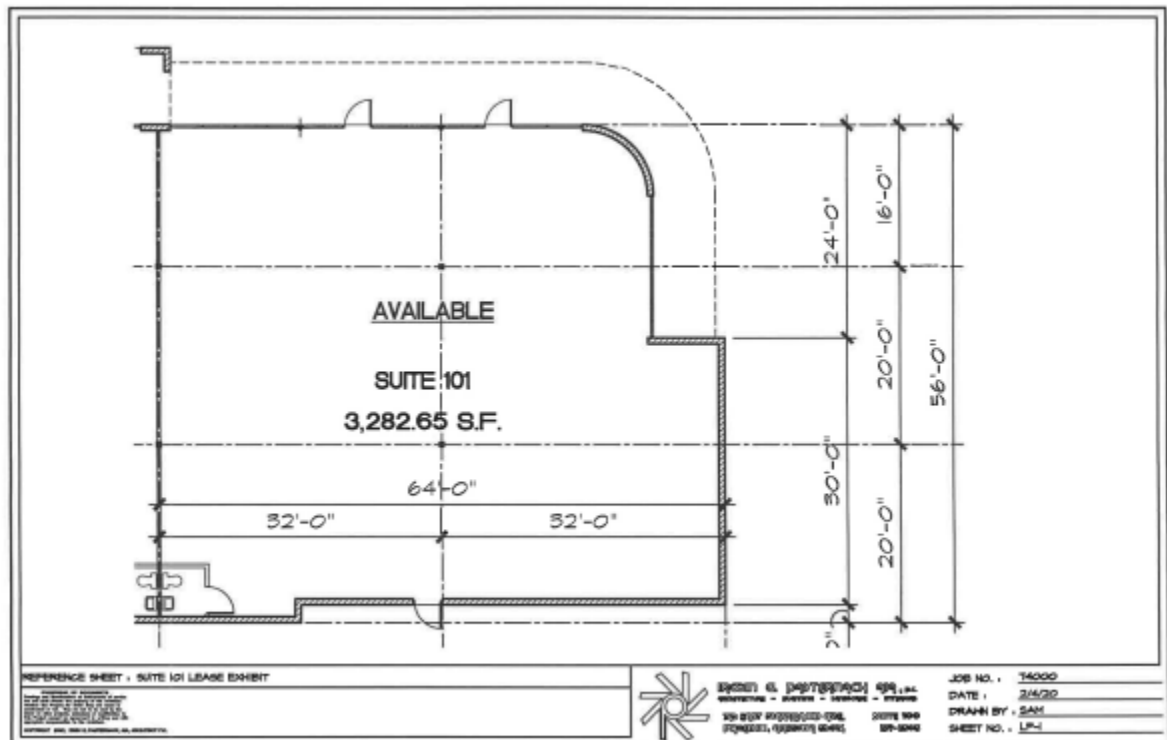
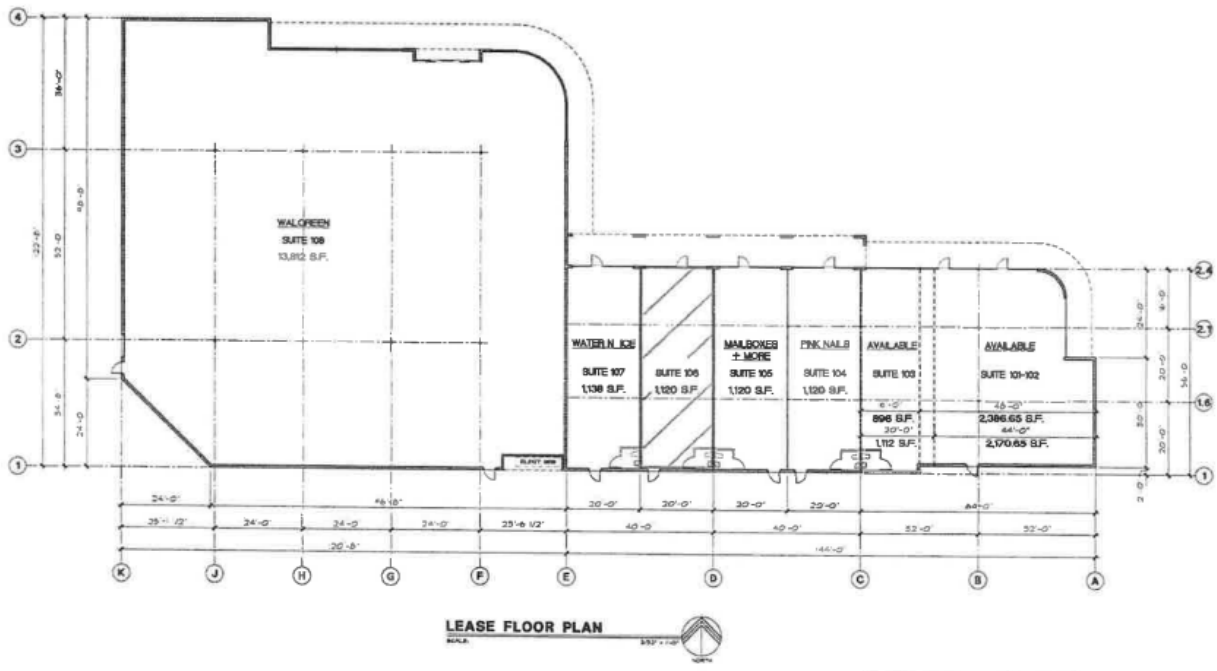
STOGIES

S Hardy Dr

W Apartment

Google

Layers





Above:
Interior facing south
Below:
Interior facing north (entrance)



Location: From Hardy Dr corner with Baseline Rd



Location: Facing south from Baseline Rd



Location: Parking Lot facing east at exit



Location: Parking Lot facing west.



Location: Parking Lot facing north



Location: Parking Lot facing south towards storefront