

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 06/25/2024
Agenda Item: 3**

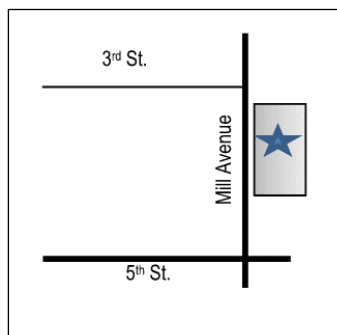
ACTION: Request a Use Permit to allow an intensification of an existing tobacco retailer (smoking establishment use for a private club with consumption and smoking of marijuana) for **HIGH MAINTENANCE SMOKE SHOP**, located at 411 South Mill Avenue, Suite 103. The applicant is HMSS LLC.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: **HIGH MAINTENANCE SMOKE SHOP** (PL240069) is an existing tobacco retailer with a private smoking lounge located on the east side of Mill Avenue, between 3rd and 5th Streets. The Use Permit to allow a tobacco retailer (PL210009 / ZUP210005) was granted by the Development Review Commission at its meeting of February 9, 2021. The Development Review Commission also approved a Use Permit to allow entertainment (singing, dancing, stand-up comedy, DJ, trivia/games) for the business at its May 28, 2024 meeting. The subject request includes the following:

ZUP240044 Use Permit to allow an intensification of an existing tobacco retailer (smoking establishment with a private club with consumption and smoking of marijuana)



| | |
|-------------------------|---|
| Property Owner | MILL ALLEY PARTNERS |
| Applicant | Jason Horn, High Maintenance Smoke Shop |
| Zoning District(s) | CC, TOD (City Center, Transportation Overlay District) |
| Site Area | 3,026 s.f. |
| Suite Floor Area | 2,945 s.f. |
| Lot Coverage | 68.8% (NS% max. allowed) |
| Building Height | 28' (50' max. allowed) |
| Vehicle Parking | No change in demand |
| Hours of Operation | 11 a.m. to 11 p.m. Sunday-Thursday, 11 a.m. to 2 a.m. Friday & Saturday |
| Building Code Occupancy | A-2 |

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Lily Drosos, Planner II (480) 350-8245

Department Director: Jeff Tamulevich, Community Development Director
 Legal review by: N/A
 Prepared by: Lily Drosos, Planner II
 Reviewed by: Michelle Dahlke, Principal Planner

COMMENTS

The High Maintenance Smoke Shop is an existing tobacco retailer that has a private smoking lounge open to members. The existing tobacco retailer Use Permit for the business (PL210009) allows the consumption of tobacco and related products within the premises. On May 28, 2024 the Development Review Commission approved a Use Permit (PL240069) to allow approval of entertainment uses including singing, dancing, stand-up comedy, a DJ, and event nights such as trivia, painting, and board games. All of the proposed entertainment uses will take place indoors only.

On April 24, 2024, the Code Compliance Division notified the business owner of two violations. The first was for the installation of rear patio railing which did not receive City approval. The second was for the intensification of the tobacco retailer Use Permit, which included the consumption and distribution of marijuana products. Staff stipulated a condition of approval for the entertainment Use Permit which would require permits and clearances for the patio modifications prior to commencement of the entertainment use.

With this Use Permit application, the applicant seeks approval to operate as a private club to allow the consumption and smoking of marijuana. Staff is providing a stipulation that requires the applicant to provide evidence that the private club is operated by a private nonprofit organization pursuant to Section 7-104 of the Zoning and Development Code.

PUBLIC INPUT

Since the writing of this report, staff has not received any public comments regarding the Use Permit.

POLICE INPUT

An updated Security Plan is required.

USE PERMIT

The proposed use requires a Use Permit to allow entertainment use within the CC TOD zoning and overlay districts.

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

1. *Any significant increase in vehicular or pedestrian traffic*; the proposed use will be taking place in an existing business, therefore, no significant increase in vehicular or pedestrian traffic is 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 odor emitted from smoking marijuana would not cause any nuisances if it is restricted to indoors only. Additionally, the applicant was required to provide ventilation for the smoking lounge as part of its tenant improvements.
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*; per Zoning and Development Code Section 3-202A (Permitted Uses in Commercial and Mixed-Use Districts), a private club is permitted in the CC zoning district. Therefore, the use does not conflict with the City's goals, objectives, or policies for rehabilitation, redevelopment and conservation.
4. *Compatibility with existing surrounding structures and uses*; the intensification of the tobacco retailer use at this site will be compatible with the existing surrounding uses and structures because it will be taking place in an existing business.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; while the intensification of the existing tobacco retailer use is not expected to cause disruptive behavior, the business is prepared to work with the Tempe Police Department and security team to address any issues if necessary.

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. **This Use Permit for an expansion of use does not modify the prior Use Permits for a tobacco retailer (PL210009) and entertainment (PL240069). All conditions of those approvals remain in effect.**
2. **All existing site modifications, including the rear patio fencing, that have not received City approvals must receive permits and pass inspections prior to the intensification of a smoking establishment use becoming effective.**
3. **Prior to the use becoming effective, provide verification that the private club is operated by a private nonprofit organization, including a club charter or bylaws, within 90 days of this decision.**
4. **The consumption or smoking of marijuana by members of the private club shall be conducted inside the premises only.**
5. 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.
6. 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.
7. Return to the appropriate decision-making body for review of compliance with conditions of approval within six (6) months. The timing for the six-month review period to commence begins when the business is in full operation. Advise Community Development staff when in full business operation.
8. 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 June 27, 2024.
9. Hours of operation to end no later than 11:00 p.m. Sunday-Thursday and 2:00 a.m. Friday and Saturday.
10. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
11. Security vision panels shall be installed in all rear exit doors. 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 High Maintenance Smoke Shop 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.
- 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 products for the smoking lounge tax license.
- 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:

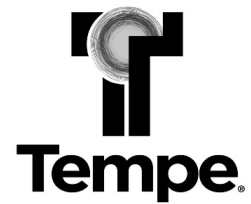
- If the development includes a use listed in [City Code Section 26-70\(c\)](#), the Owner is required to prepare a security plan with the Police Department. The architect should be involved in verifying any modification that would require design revisions. To avoid revisions to permitted construction 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:

| | |
|-------------------|---|
| November 9, 2021 | Development Review Commission approved a Use Permit to allow a tobacco retailer with a smoking lounge for HIGH MAINTENANCE, located at 411 South Mill Avenue, Suite 103 (PL210009). |
| January 17, 2023 | A Certificate of Occupancy was issued for a tobacco retailer and smoking lounge and patio for the business. |
| February 15, 2024 | The business received a code violation (CM232404) for hosting live entertainment events such as poker and trivia, an intensification of the tobacco retailer use permit, and piercing/tattooing taking place on site. |
| February 26, 2024 | The applicant filed a Use Permit application for entertainment. |
| March 12, 2024 | CM232404 was closed. |
| April 24, 2024 | The business received a code violation (CM240871) for the installation of patio railing without City approval; marijuana use, activity, and distribution on the premises; intensification of the tobacco retailer use; and live entertainment without a Use Permit. |
| May 28, 2024 | Development Review Commission approved the Use Permit to allow entertainment (singing, dancing, stand-up comedy, DJ, trivia/games for HIGH MAINTENANCE SMOKE SHOP, located at 411 South Mill Avenue, Suite 103 (PL240069). |
| June 25, 2024 | This request is scheduled to be heard by the Development Review Commission. |

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](#)



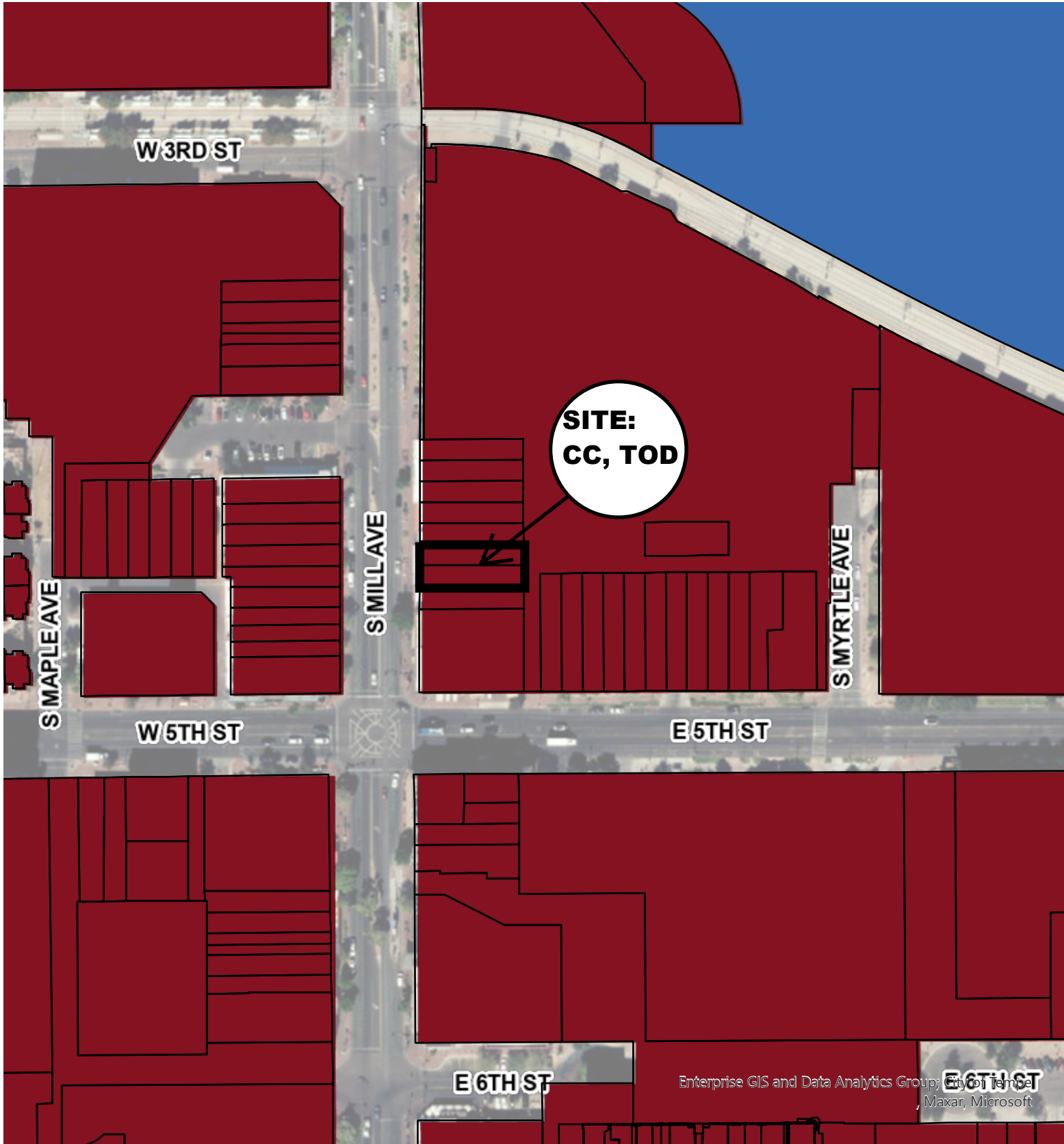
DEVELOPMENT PROJECT FILE
for
HIGH MAINTENANCE
(PL240069)

ATTACHMENTS:

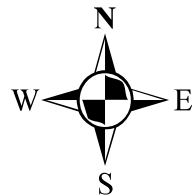
1. Zoning Map
2. Aerial Map
- 3-7. Letter of Explanation
8. Site Plan
9. Floor Plan
- 10-13. Site Context Photos
- 14-16. February 21, 2021 Development Review Commission Approval Letter (for reference)
- 17-19. May 28, 2024 Development Review Commission Approval Letter (for reference)



HIGH MAINTENANCE SMOKE SHOP

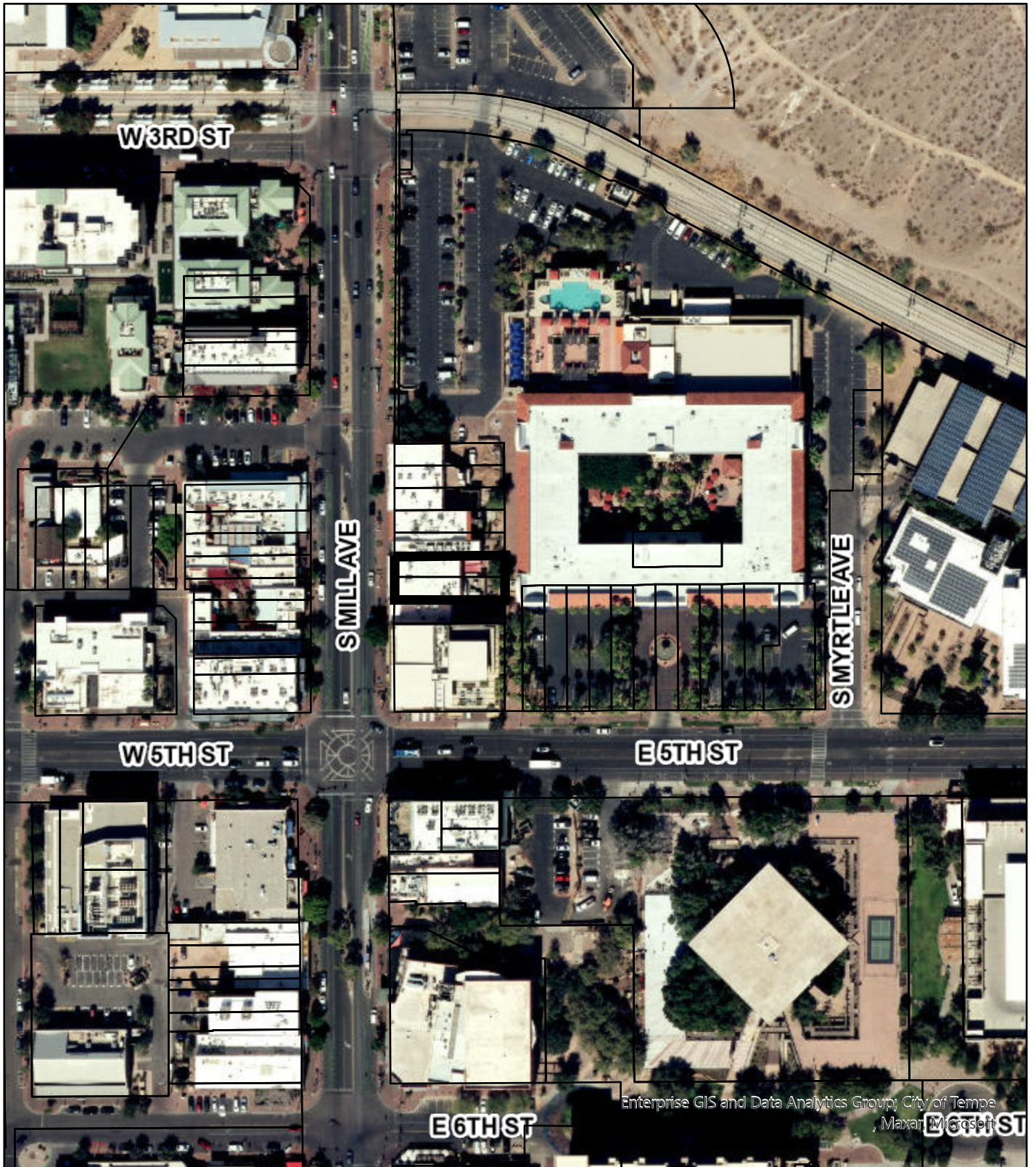


- General Industrial District (GID)
- City Center (CC)



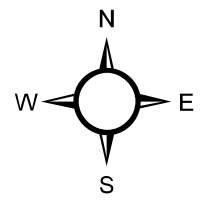
HIGH MAINTENANCE SMOKE SHOP

PL240069



Enterprise GIS and Data Analytics Group; City of Tempe
Maxar Microsoft

Aerial Map



Letter of Explanation

Thank you in advance for your time. Per our conversation, our goal with this Use Permit is to clarify and update our current "Private Smoke Lounge" Use Permit to include consumption of cannabis, as a private social lounge, in accordance with Tempe City Code and Arizona Law. All smoking will take place in areas separately partitioned from the rest of the building ("The Lounge"), including from the Smoke Shop, with a separate ventilation system, approved by The City, which continues to operate in accordance with the current Tempe City Code.

The Lounge is situated in the back of the Smoke Shop behind a single door separating the two (separately partitioned). The Lounge is not in view of the street (Mill Avenue) or any pedestrians thereon, nor is it even in view of the Smoke Shop or any customers therein. The Lounge includes a patio in the back as well, also approved by our current Permit for smoking. Patio is situated in an area with no vehicular traffic and nearly no pedestrian traffic (alleyway). We have a fence that blocks all sight of the patio from the outside, and the exits on the patio are emergency exits only (not for regular entry and exit), further ensuring separation from the public, thereby reducing risk of nuisance.

Per our license as a "Private Smoke Lounge with Smoking Patio," our security plan with Tempe PD as a private establishment, the building being privately owned, and under Arizona Law, we do not technically have "customers." Rather we have members. We are a place where people with a common bond congregate, and we are not open to the general public.

- We use criteria in selecting members, as they must share the goal of socializing with or networking with other members involved in the legal smoking community and business. We do not discriminate against any person on the basis of race, color, religion, gender, sex, sexuality, gender identity, class, nationality, ancestry, or ethnicity. Selection criteria and membership requirements are based on the following:
 1. An interest in engaging socially and networking within the smoking community
 2. Must be age 21 or older
 3. Must provide proper identification
 4. Must provide their own cannabis in all forms (cannabis flower, concentrates, edibles, tinctures, creams, etc.)
 5. Must not over consume cannabis
 6. Must not be under the influence of illegal drugs or alcohol
 7. Weapons are prohibited on premises
 8. Cannabis sales are prohibited premises
 9. Members cannot entertain private or public sales
- Members pay a monthly fee for the ability to enter The Lounge - and attend events (as permitted). We offer monthly membership options for weekdays only, weekends only, or for the entirety of each month, as follows (AZ Officially Registered Facility Agents and Dispensary Agents with proper identification receive discounts on the prices below):

- \$25 - Monthly Weekday Access (Sun-Thurs)
 - \$50 - Monthly Weekend Access (Fri-Sun)
 - \$65 - Monthly All Access (Mon-Sun)
- Our Business Mission is to serve social purposes and Members of the LLC (“Owner”) are paid only in the form of a salary. Our Operating Agreement (bylaws) reflects this:

“Section 1.3:

Mission Statement: To create camaraderie within the smoking community, promote friendship among members, create a feeling of belonging, promote goodwill, and orient new residents and new smokers to the Arizona smoking community and businesses.”

“Section 1.4 Purpose:

The purpose of the Company will be to operate a private social smoking lounge/organization to provide social and other facilities to members who pay a membership fee for access and use in the State of Arizona (the “Business”) and to engage in any act or activity incidental to the business.”

“Section 3.2.2 Profits:

Profits will be allocated among the Members as follows:

- (a) Profits will only be allocated in the amount of a fixed and reasonable salary voted on at regular meetings by the Members, requiring Approval of the Members.”

- The Lounge does not provide goods or services to the general public and is primarily supported by membership fees. Other than memberships, our sales are limited to dealing exclusively in the sale of tobacco products and smoking paraphernalia (but only in the smoke shop, which is separately partitioned from The Lounge), including also a limited amount of items, such as chips and sodas made by Coca-Cola Company and Pepsi-Co, as is standard to other smoke shops in Tempe. We are not permitted to nor do we sell any other goods or services, specifically including no sales of non-packaged goods, no sales of food, nor sales of any forms of marijuana or alcoholic beverages.

Our members consume smoking products in accordance with our license as a Private Smoke Lounge under The Code of The City of Tempe, Arizona, including under Chapter 22, Article II, Division 1, Sec. 22-45 (3)-(6). The Lounge is separately partitioned from the rest of the building, including the Smoke Shop, and includes a separate ventilation system, approved by The City, which continues to operate in accordance with the current Tempe City Code. Accordingly, per the Tempe City Code, smoking is regulated at The Lounge to the extent listed in our current Permit (The Code of The City of Tempe, Arizona, Chapter 22, Article II, Division 1, Sec. 22-45 (3)-(6)). We request this Use Permit so that this applicable Code Section may be more clearly understood to the public, to provide the City further means of regulation for private smoke lounges, and to establish that consumption of cannabis is permitted in The Lounge and allowed and regulated by

the City of Tempe per The Code of The City of Tempe, Arizona, Chapter 22, Article II, Division 1, Sec. 22-45 (6), regarding social clubs.

Regarding public opposition comments made online from the May 28th, 2024 Development Review Commission hearing: Three commenters comments made online can be summarized simply as stating that we were operating as a lounge for cannabis consumption and selling cannabis. We have never nor will we ever sell or offer to sell cannabis to any person, including members, as we are not permitted to do so. With this Use Permit Application, we are requesting to update our current "Private Smoke Lounge" Permit to include consumption of cannabis, as a private social lounge, in accordance with Tempe City Code and Arizona Law.

The hours of operation will remain the same, 11am to 11pm Sunday-Thursday and 11am-12am Friday and Saturday. We would have an average of 10 employees. The current customer count is on average 2,000 walk-ins per week and we expect to maintain this traffic.

Currently the space generates \$85,000 per year towards the City of Tempe in Sales Tax. In addition, we create funds for the City with our customers parking in paid meters, including in the large paid lot directly North of the building; employee tax; etc. The location has become a well known attraction on Mill Avenue, housing a Million Dollar Glass Art Collection.

Regarding Zoning and Development Code Criteria Section 6-308(E):

(a.) Vehicular or Pedestrian Traffic:

High Maintenance Smoke Shop and The Lounge has become a staple on Mill Avenue. We take pride in helping watch after the streets, guests, and property of the City. The Use Permit approval will not create a significant impact of any sort on vehicular or pedestrian traffic. We expect to maintain the same traffic at the location. Furthermore, no changes to the space will be made regardless of Use Permit approval, as our current ventilation system is in place and continues to operate in accordance with the Tempe City Code. Accordingly, there will be no changes within or without the building; thus, pedestrian and vehicular traffic will not be affected.

(b.) Nuisance:

We have a Certificate of Occupancy as a Smoke Shop and Private Smoke Lounge with Smoking Patio. Smoking is permitted already - we received the Permit on January 17th, 2023 and have been continually operating since opening on January 20th, 2023. The suite is split into three sections: (1) the front of the suite nearest Mill Avenue is the retail area operating as the Smoke Shop. (2) The middle section hosts the Lounge as well as (3) the back patio section furthest from Mill Avenue. **CANNABIS CONSUMPTION WILL ONLY TAKE PLACE IN THE MIDDLE SECTION (2).** Smoking on the patio will be limited to tobacco and other nicotine products/vaping (approved under current Permit). The doors between the middle section and the front and back sections will remain closed during business hours except for entry and exit. The fence on the patio is 6' tall and is not see-through, providing separation from the public. The back area behind the patio is an alley with no vehicular traffic and minimal pedestrian traffic as well. Gates on the patio are not for entering and exiting and are only for emergency exiting and police/fire use if ever necessary. The suite is and will continue to be equipped with proper ventilation in

accordance with Tempe City Code. The Use Permit approval will thus not create a nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare.

(c.) Deterioration/Property Values:

We contribute to the neighborhood by offering jobs to locals, hiring from within the City, and providing an inviting experience. Our lease is a triple net lease that helps us ensure proper maintenance of the building and preservation of a piece of Mill Avenue history. Our ventilation system keeps all smoke from leaving our premises, and we have not had any complaints regarding smoking nuisance from any neighbors thus far to our knowledge.

(d.) Compatibility with Existing:

We have coexisted with our neighbors since opening, including a dance club named Aura directly above us, which closed in mid 2023. Aura was highly regarded on Mill Avenue before closing down. At Aura (directly above our space, in our building, one floor up) the capacity was more than six times greater than ours and included live entertainment space bordering Mill Avenue. Despite being directly above us, no smoke or odor was ever reported to us as seeping into that space, indicating the ventilation system keeps us compatible with our existing neighbors. We also have a great relationship with Henna Shop to our North. We prefer to work with all businesses on Mill Avenue and run specials with and reach out to those businesses. We are highly recommended by our neighbors and are the only tobacco accessories store and Smoking Lounge on Mill Avenue. Because of the nature of our business, we do not compete with any other businesses on Mill Avenue, and we bring members to Mill Avenue, rather than gaining business from walk-ins off Mill Avenue like so many other businesses; thus, we believe neighboring stores and restaurants benefit greatly from our business, especially in the Summer. We believe this will be even more so if we are able to expand our use as requested here.

(e.) Control of Behavior:

To ensure maintaining adequate control of our business, staff, guests, customers, passersby, etc., we will hire professional security for all of our biggest events (when capacity is expected to be above 30%). We have and we will continue to work with local authorities with our 24 hour Camera and Audio Security System. We will continue to work directly with Tempe Security, Tempe Police, and the City of Tempe; and we will continue to maintain a professional atmosphere and comply with all laws and regulations. Additionally, membership requirements, including the Waiver, age, sobriety, prohibition on bringing weapons, and prohibition on cannabis and other sales, provides further control of behavior.

The use proposed for the existing occupied space will provide a service to the neighborhood, will help with the viability of the neighborhood, and will be fiscally beneficial to the City. We believe the Use Permit criteria are met and request approval of the Use Permit.

Thank You

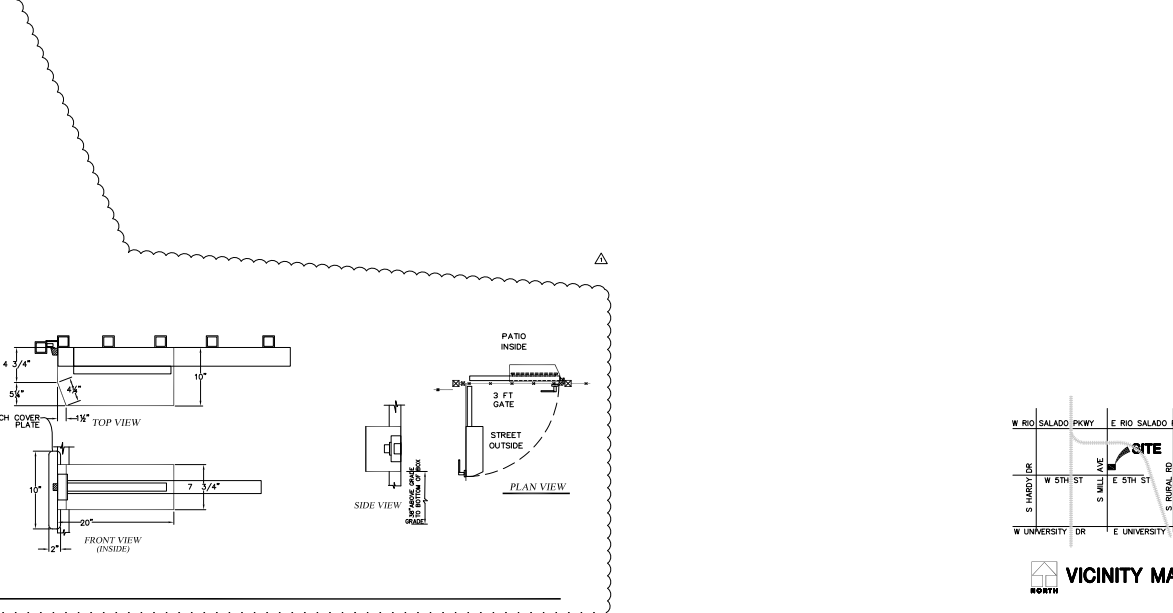
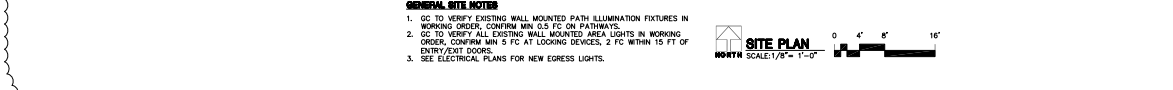
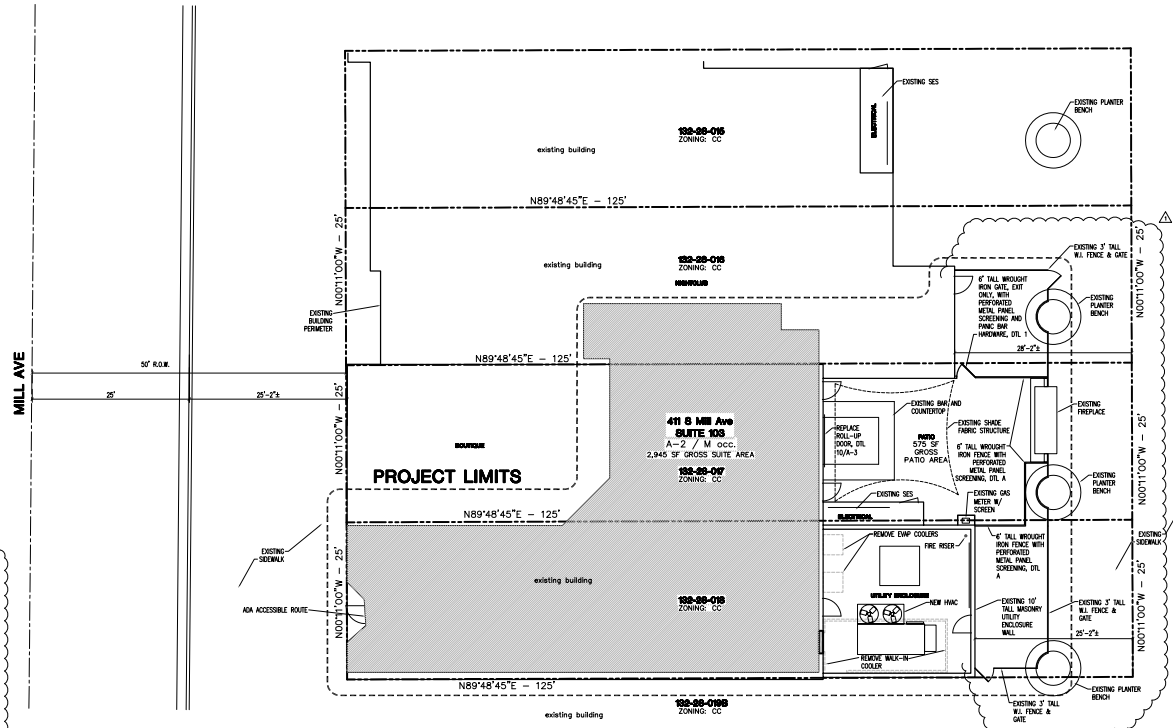
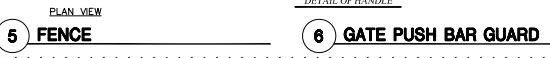
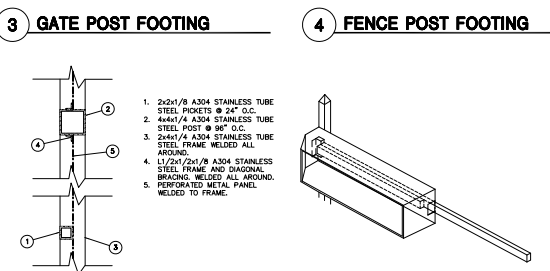
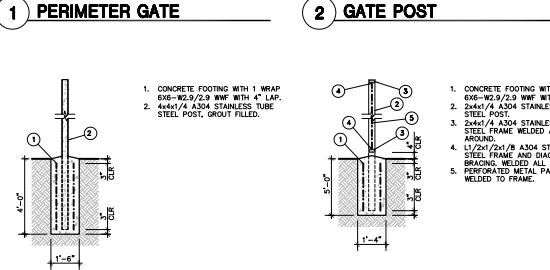
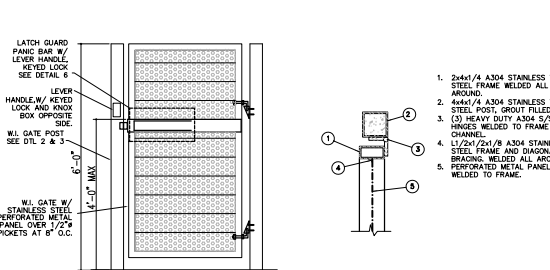
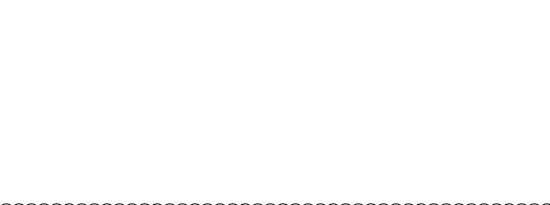
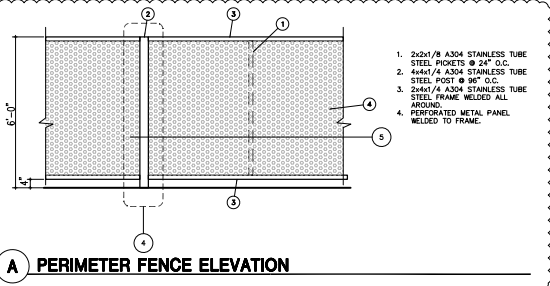
Very Truly Yours,

**Jason Horn &
Joey Horowitz**

PROJECT TEAM

APPLICANT/OWNER
 HANS, LLC
 411 S MILL AVE, SUITE 103
 TAMPA, AZ 85282
 (802) 966-2728
 JASON M. HORN

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 ARCHI-CAD ARCHITECTS PLLC
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 TAMPA, AZ 85282
 (480) 962-3823 office
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 KENNETH R ELLER
 AZ REG. 23481



Tobacco Retail & Lounge
High Maintenance Smoke Shop
411 S Mill Ave, Ste 103

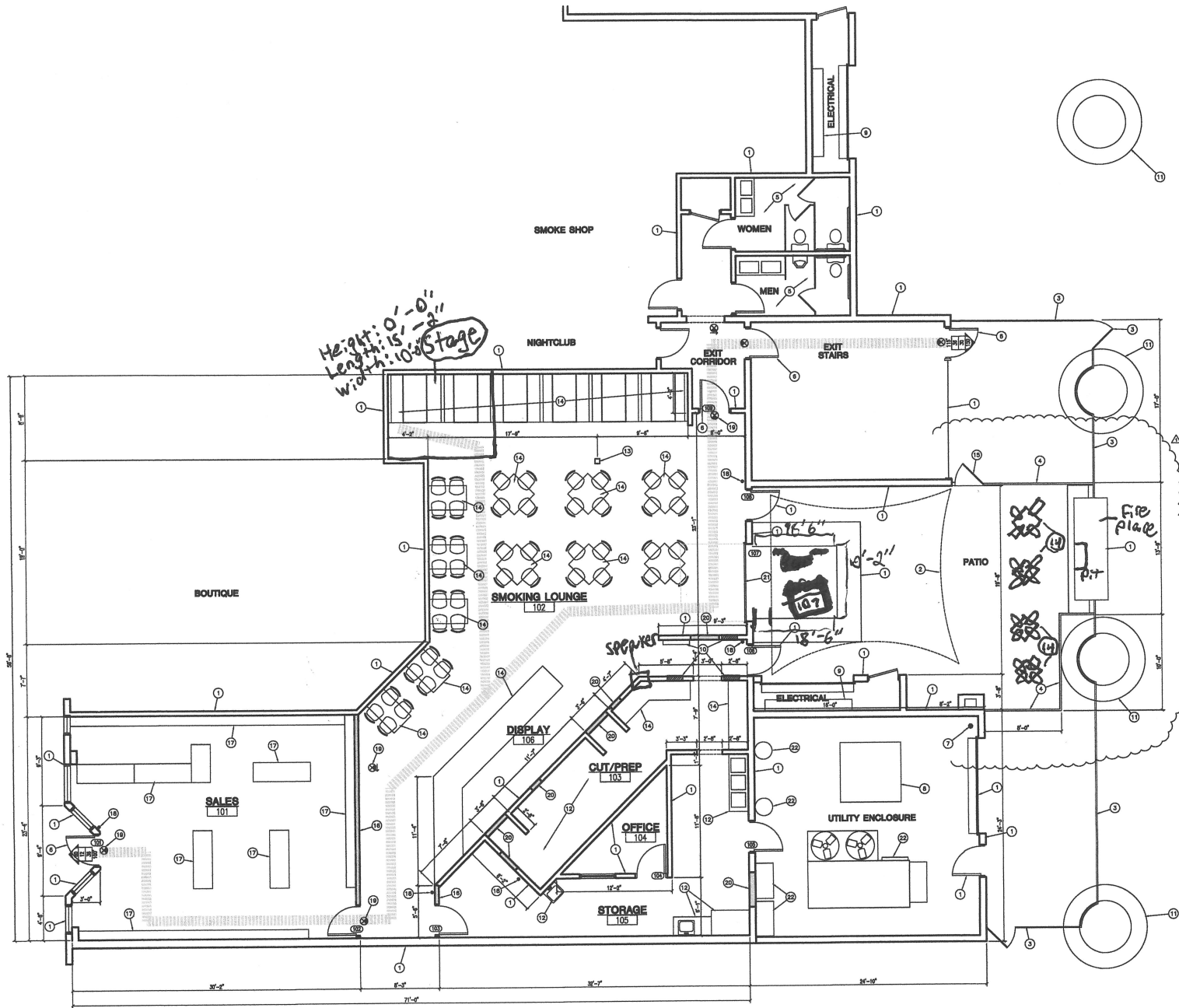
Site Plan
 SHEET NUMBER **A-0**

Archi-CAD
 ARCHITECTS, PLLC
 2101 E Broadway Rd, Suite 36, Tampa, AZ 85282
 Office (480) 962-3823 • archi@archi-cad.com

PROJECT 916
 DATE 7/20/21
 REVISION
 CITY 9/7/21

VICINITY MAP

23481
 KENNETH R. ELLER
 Architect
 Expires: 9/20/23



Height: 0'-0"
 Length: 15'-2"
 Width: 10'-0" Stage

- NOTES**
- EXISTING TO REMAIN, U.L.C.
 - EXISTING BRASS CANOPY TO REMAIN.
 - EXISTING WROUGHT IRON FENCE TO REMAIN.
 - NEW 8" TALL WROUGHT IRON FENCE WITH PERFORATED METAL PANEL SCREENING, TRIMMED, WELDED TO FRAME, IN SA-PLAN STEEL PANELS, 1/2" ROUND ON 11/16" STAGGERED CENTERS, 488 OPEN AREA, PAINTED BLACK, SEE DTL. A/A-1.
 - EXISTING RESTROOMS TO REMAIN, UNCHANGED.
 - EXISTING EXIT DOOR AND EXIT SIGN TO REMAIN.
 - EXISTING FIRE RISER TO REMAIN, UNCHANGED.
 - EXISTING ELECTRICAL HANG-ORDER TO REMAIN.
 - EXISTING ELECTRICAL SERVICE ENTRANCE, CURRENT TO REMAIN.
 - EXISTING ELECTRICAL PANELS TO REMAIN.
 - EXISTING CONCRETE PLANTERS AND BENCH TO REMAIN.
 - EXISTING EQUIPMENT AND FIXTURES TO REMAIN.
 - EXISTING STEEL COLUMN TO REMAIN.
 - EXISTING FURNISHINGS TO REMAIN.
 - NEW 8" TALL WROUGHT IRON GATE WITH PANIC HARDWARE AND PERFORATED METAL PANEL SCREENING, TRIMMED, WELDED TO FRAME, IN SA-PLAN STEEL PANELS, 1/2" ROUND ON 11/16" STAGGERED CENTERS, 488 OPEN AREA, PAINTED BLACK, SEE DTL. 1/A-1.
 - NEW WALL FLOOR TO UNDERSIDE OF CEILING, 3'-0" x 3'-0" MTL. STILES @ 24" O.C., 1/2" GYP ON BOTH SIDES, SEE DTL. 1/A-2, 4/A-3 AND 5/A-3.
 - DISPLAY CASES AND SHELVING AS PROVIDED BY OWNER.
 - FIRE EXTINGUISHER ON WALL BRACKET, MTD @ MAX. 36" AFF. 2A-108.
 - NEW ILLUMINATED EXT. SIGN, SEE ALSO ELECTRICAL PLANS.
 - INSTALL EXISTING OPENING, MATCH EXISTING CONSTRUCTION, FLUSH AND LEVEL, MATCH EXISTING ADJACENT FINISHES.
 - EXISTING KICK-UP DOOR TO BE REPLACED WITH SAME SIZE OVERHEAD SECTIONAL DOOR WITH IRON PANELS, SEE DTL. 5/A-3 & 10/A-2.
 - NEW HVAC EQUIPMENT, SEE MECHANICAL AND ELECTRICAL PLANS.

Tobacco Retail & Lounge
High Maintenance Smoke Shop
 411 S Mill Ave, Ste 103
 Floor Plan
 SHEET NUMBER **A-11**

Archi-CAD
 ARCHITECTS, PLLC
 2301 E Broadway Rd, Suite 20, Tampa, AZ 85282
 Office (480) 982-2823 • archicad@arhcad.com

| | |
|----------|---------|
| PROJECT | 218 |
| DATE | 7/20/21 |
| REVISION | |
| A CITY | 8/1/21 |

1341
 ROBERTA S.
 ELDER
 ARCHITECT
 8/25/21



- LEGEND**
- NUMBER OF OCCUPANTS
 - REQUIRED WIDTH
 - WIDTH PROVIDED
 - TRAVEL DISTANCE
 - EGRESS PATH
 - EXISTING TO REMAIN
 - NEW CONSTRUCTION, MATCH EXISTING ADJACENT U.L.C.

HIGH Maintenance Smoke Shop
Context Picture #1
North West Angle
411 s Mill Ave





HIGH Maintenance Smoke Shop
Context Photo #2
South West Angle
411 s Mill Ave

HIGH Maintenance Smoke Shop

Context Photo #3

North East Angle

411 s Mill Ave



HIGH Maintenance Smoke Shop

Context Photo #4

South East Angle

411 s Mill Ave

Henna
SHOPPE

Henna
SHOPPE

Threading
&
Henna Bar

\$20

Henna
SHOPPE

Henna
SHOPPE



**HIGH SMOKE SHOP
MAINTENANCE**

411
South Mill

HIGH
LOUNGE

HIGH
Maintenance

HIGH
Maintenance

411 S. Mill Ave #103

HIGH Maintenance Smoke Shop

Context Photo #5

Front of Shop
411 s Mill Ave

February 10, 2021

Mr. Jason Horn
HIGH Maintenance Smoke Shop
411 South Mill Avenue
Tempe, AZ 85281
Jason@HMSmokeShop.com

**RE: HIGH MAINTENANCE
411 South Mill Avenue
DS210040 / PL210009 / ZUP210005**

Dear Mr. Horn:

At its meeting of February 9, 2021, the Development Review Commission approved the request for **HIGH MAINTENANCE**, located at 411 South Mill Avenue. The site is in the CC (City Center) zoning district. This approval will allow a tobacco retailer.

The request included the following:
ZUP210005 Use Permit to allow a tobacco retailer.

This approval is subject to the assigned Conditions of Approval as follows:

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. **Consumption of tobacco and related products within the premises shall require the owner/management to adhere to the city Adopted International Mechanical Code. All permits and clearances required by the Building Safety Division shall be obtained prior to the Use Permit becoming effective.**
4. **Live entertainment requires a separate Use Permit.**
5. **An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.**
6. **This use shall not violate the City of Tempe Smoke Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.**

7. **The owner/management shall prevent loitering related to the business along adjacent pedestrian walkways along Mill Avenue and to the rear of the property.**
8. **Hours of operation to begin no earlier than nine o'clock in the morning (9:00am) and end no later than twelve o'clock midnight (12:00am) daily.**

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 High Maintenance 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.
- The gross sale of beverage and snack items may not exceed that of tobacco and hookah products for the hookah lounge tax license.

In sign-related violations, corrections shall be made within five (5) days of Development Review Commission action; in all other matters, corrections shall be made within fifteen (15) days of Development Review Commission action, unless specifically conditioned otherwise by the Development Review Commission. You are further advised that the above does not waive the requirements for obtaining building permits and other clearances as may be necessary.

If you have questions, please contact me at (480) 350-8652 or Dalton_Guerra@tempe.gov.

Sincerely,

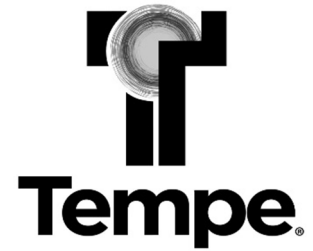
A handwritten signature in black ink that reads "Dalton G". The "D" is large and loops around the "alton", and the "G" is a simple, stylized cursive letter.

Dalton Guerra
Planner I

DG/jb

cc: file

City of Tempe
Community Development Department
Planning Division
Mail Stop 01-7
PO Box 5002
Tempe, AZ 85280-5002
www.tempe.gov



May 30, 2024

Jason Horn
HMSS LLC
3320 East Mountain Vista Drive
Phoenix, AZ 85048
SirJasonHorn@gmail.com

RE: HIGH MAINTENANCE SMOKE SHOP
411 South Mill Avenue, Suite 103
DS240301 / PL240069 / ZUP240023

Dear Mr. Horn:

At its meeting of May 28, 2024, the Development Review Commission approved the request for **HIGH MAINTENANCE SMOKE SHOP**, located at 411 South Mill Avenue, Suite 103. The site is in the CC (City Center) zoning district. This approval will allow a Use Permit to allow entertainment (singing, dancing, stand-up comedy, DJ, trivia/games).

The request included the following:

ZUP240023 Use Permit to allow entertainment (singing, dancing, stand-up comedy, DJ, trivia/games)

This approval is subject to the assigned Conditions of Approval as follows:

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. This Use Permit for entertainment does not modify the previous Use Permit for a tobacco retailer (PL210009). All conditions of that approval remain in effect. An expansion of the tobacco retailer use requires a separate Use Permit.**
- 2. All existing site modifications, including the rear patio fencing, that have not received City approvals must receive permits and pass inspections prior to the entertainment use becoming effective.**
- 3. During performances and events, windows and doors shall be closed with speakers pointing away from building entrances/exits.**
- 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.
- 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.
- Return to the appropriate decision-making body for review of compliance with conditions of approval within six (6) months. The timing for the six-month review period to commence begins when the business is in full operation. Advise Community Development staff when in full business operation.
- The live entertainment use shall take place inside only. No live entertainment will be allowed outside.

8. Live entertainment to cease at 10:55 p.m. Sunday-Thursday and 1:55 a.m. Friday and Saturday.
9. 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 June 27, 2024.
10. Hours of operation to end no later than 11:00 p.m. Sunday-Thursday and 2:00 a.m. Friday and Saturday.
11. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details can be resolved during Building Safety Plan Review.
12. Security vision panels shall be installed in all rear exit doors. 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 High Maintenance Smoke Shop 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.
- 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 products for the smoking lounge tax license.
- 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 [City Code Section 26-70\(c\)](#), 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.

In sign-related violations, corrections shall be made within five (5) days of Development Review Commission action; in all other matters, corrections shall be made within fifteen (15) days of Development Review Commission action, unless specifically conditioned otherwise by the Development Review Commission. You are further advised that the above does not waive the requirements for obtaining building permits and other clearances as may be necessary.

In the event you desire to appeal this decision, you must submit an appeal letter to the Community Development Department within fourteen (14) calendar days of the above hearing date. Identify the condition(s) upon which you are basing your appeal. A fee payable to the City of Tempe is then required prior to scheduling for City Council action.

If you have questions, please contact me at (480) 350-8245 or Lily_Drosos@tempe.gov.

Sincerely,



Lily Drosos
Planner II

LD/jb

cc: file